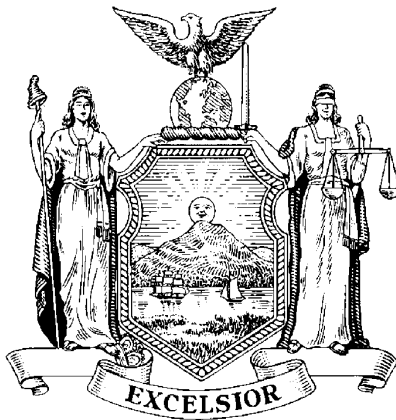


***Annual Report
of the
Superintendent of Insurance
to the
New York Legislature***

Calendar Year 2002



Governor George E. Pataki

Superintendent of Insurance Gregory V. Serio

www.ins.state.ny.us

The One Hundred Forty-Fourth
Annual Report
of the
Superintendent of Insurance

*A Report to the New York State Legislature for the
Year Ending December 31, 2002*

George E. Pataki
Governor

Gregory V. Serio
Superintendent of Insurance

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

**Selected portions of this report are available on the Department's Web site at
www.ins.state.ny.us**

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TABLE OF CONTENTS

Page

I. MAJOR DEVELOPMENTS

A. New Law Introduces Lower Cost Health Insurance for Sole Proprietors.....	1
B. Groundbreaking Online Licensing Procedures Implemented.....	1
C. Continued Response to September 11.....	1
D. Captives.....	3
E. Empire BC/BS Conversion to For-Profit Company.....	3
F. Superintendent Serio Issues CPA Conflict-of-Interest Guidance.....	4
G. Superintendent Unveils Long Term Care Resource Center.....	4
H. Property Bureau (Automobile).....	4
I. Property Bureau (Non-Auto).....	5
J. Health Bureau.....	5
K. Life Bureau.....	6
L. Consumer Services Bureau.....	6
M. Frauds Bureau.....	7
N. Capital Markets Bureau.....	7
O. Systems Bureau – Internet Developments.....	7

II. REVIEW OF NEW YORK STATE INSURANCE BUSINESS

A. Life Bureau

1. Licensed Life Companies.....	9
2. Domestic Life Companies.....	9
3. Organizations Under Life Bureau Supervision.....	9
4. Licensed Fraternal Benefit Societies.....	13
5. Private Retirement Systems.....	14
6. Public Retirement Systems.....	14
7. Segregated Gift Annuity Funds for Charitable Organizations.....	15
8. Employee Welfare Funds.....	15
9. Viatical Settlement Companies.....	16
10. Examinations of Insurers Conducted.....	16
11. Auditing of Financial Statements.....	17
12. Real Estate Review.....	17
13. Actuarial Submission and Reviews.....	18
14. MetLife Settlement.....	19
15. Manhattan Life Conversion.....	19
16. September 11.....	19
17. Life Bureau-Albany.....	19

B. Property Bureau

1. Entities Supervised by Financial Regulation Division.....	25
2. Property and Casualty Business.....	25
3. Financial Guaranty Insurance.....	33
4. Mortgage Guaranty Insurance.....	35
5. Title Insurance.....	37
6. Advance Premium Co-operatives and Assessment Corporations.....	38
7. Special Risk Insurers (Free Trade Zone).....	39
8. Risk Retention Groups.....	39
9. Examinations of Insurers.....	40
10. Lloyd's of London.....	40

11. Certified Capital Companies.....	40
12. Filings Involving Rate Changes, Policy Forms, etc.	42
13. New York Property Insurance Underwriting Association	46
14. Medical Malpractice Insurance.....	47
15. Workers' Compensation.....	49
16. Insurance Availability Issues.....	50
17. Automobile Insurance Auto Unit.....	52
18. Homeowners Insurance.....	57
19. Market Conduct Activities.....	59
20. Excess Line Insurance.....	63
21. Reports and Publications.....	68
22. Regulations & Circular Letters	69
23. Individual Policyholder Complaints, Inquiries & FOIL Requests.....	71
24. Response to September 11.....	71
25. Casualty Actuarial Unit.....	74
a. Private Passenger Automobile Insurance.....	75
b. New York Automobile Insurance Plan.....	79
c. Workers' Compensation Insurance.....	85
d. P/C Insurance Security Fund (PCISF) Net Value and Contributions.....	89
C. Health Bureau	
1. Entities Under Health Bureau Supervision.....	90
2. Accident and Health Insurers.....	90
3. Article 43 and Article 44 Corporations.....	91
4. Examinations Conducted by the Health Bureau.....	94
5. Review of Accident and Health Policy Forms.....	94
6. Review of Rate Filings by the A&H Rating Section.....	95
7. Inquiries and Complaints.....	95
8. The External Appeal Law & Program.....	95
9. U.S. Supreme Court Review of State External Appeal Programs	97
10. Market Stabilization Mechanisms.....	97
11. Health Care Reform Act of 2000 – Individual Market Reform.....	98
12. Health Care Reform Act of 2000 – The Healthy NY Program.....	99
13. Child Health Plus.....	102
14. Utilization Review Reports.....	102
15. Electronic Imaging & Recordkeeping System.....	103
16. Medicare+Choice Terminations.....	103
17. Continuing Care Retirement Communities.....	103
18. Long Term Care Insurance	104
19. Medicare Supplement Insurance.....	104
20. Specified Disease Coverage.....	104
21. Health Insurance Laws	105
22. Financial Risk Transfer Agreement.....	105
23. Federal Initiatives.....	106
24. Second Interactive Health Consumer Guide Produced.....	106
D. Consumer Services Bureau	
1. Consumer Complaints.....	107
2. Prompt Payment Statute.....	109
3. External Review.....	109
4. The Healthcare Roundtable.....	109
5. Availability of Snowmobile Coverage.....	110
6. Groundbreaking Online Licensing Procedures Implemented.....	110

7. Investigations.....	111
8. Other Bureau Activities.....	111
E. Insurance Frauds Bureau.....	115
F. Liquidation Bureau.....	123
G. Information Systems & Technology Bureau.....	124
H. Capital Markets Bureau.....	129
I. Captive Insurance Group.....	133
J. Motor Vehicle Accident Indemnification Corporation.....	134
III. INSURANCE LEGISLATION ENACTED.....	139
IV. REGULATIONS PROMULGATED OR REPEALED.....	153
V. CIRCULAR LETTERS ISSUED.....	161
VI. MAJOR LITIGATION.....	165
VII. 2003 LEGISLATIVE RECOMMENDATIONS.....	168
VIII. REGULATORY ACTIVITIES	
A. Operating Statistics.....	175
1. Licenses Issued During Year.....	175
2. Results of Examinations for Licenses.....	177
3. Changes in Authorized Insurers.....	178
4. Examination Reports Filed.....	187
5. Rehabilitations, Liquidations, etc.....	190
6. Insurance Department Receipts and Expenditures.....	193
7. Security Funds Income and Disbursements.....	196
B. DEPARTMENT STAFFING.....	199
C. PUBLICATIONS.....	200

TABLES

Table Number/Title	Page
Life Bureau	
1. Admitted Assets, Life Companies, Selected Years.....	9
2. Balance Sheet, Selected Years.....	10
3. Total Life Insurance in Force in NYS, Selected Years.....	10
4. Sources of Income, Life Companies, Selected Years.....	11
5. Operating Results, Selected Years.....	12
6. Life Insurance in Force in NYS, Selected Years.....	12
7. Admitted Assets/Insurance in Force, Domestic Life Companies, Selected Years.....	13
8. Fraternal Benefit Societies.....	13
9. Private Pension Funds, Selected Years.....	14
10. Public Retirement Systems/Pension Funds, Selected Years.....	15
11. Segregated Gift Annuity Funds, Selected Years.....	15
12. Examinations Conducted by Life Bureau.....	16
13. Companies Licensed by the Life Bureau.....	17
14. Number of Policy Forms Received and Processed.....	20
15. Policy Form-Related Filings Received	21
Property Bureau	
16. Entities Regulated by Property Bureau.....	25
17. Net Premiums/Surplus to Policyholders, P&C Insurers.....	26
18. Underwriting Results, P&C Insurers.....	27
19. Investment Income/Capital Gains, P&C Insurers.....	28
20. Aggregate Underwriting/Investment Exhibit, P&C Insurers.....	29
21. Selected Annual Statement Data, P&C Insurers.	30
22. Direct Premium Written, P&C Insurers.....	31
23. Net Premiums/Surplus to Policyholders, Financial Guaranty.....	33
24. Underwriting Results, Financial Guaranty.....	33
25. Investment Income/Capital Gains, Financial Guaranty.....	33
26. Aggregate Underwriting/Investment Exhibit, Financial Guaranty.....	34
27. Selected Annual Statement Data, Financial Guaranty.....	35
28. Net Premiums/Surplus to Policyholders, Mortgage Guaranty.....	35
29. Aggregate Underwriting/Investment, Mortgage Guaranty.....	36
30. Selected Annual Statement Data, Mortgage Guaranty.....	37
31. Selected Annual Statement Data, Domestic Title Insurers.....	37
32. Selected Annual Statement Data-Advance Premium & Assess. Co-ops.....	38
33. Net Premium Written.....	39
34. Examinations Conducted by Property Bureau.....	40
35. Number of Filings, by Type.....	42
36. Effects of Principal Rate/Loss Cost Changes, Rate Service Organizations.....	43
37. Medical Malpractice Insurance Pool	49
38. Market Conduct Investigations, by Type	59
39. Market Conduct Fines Collected & Processed.....	60
40. Excess Line Premiums Written	65
41. Private Passenger Auto Rate Changes	76
42. Liability and Collision Earned Car Years.....	79
43. PP Earned Car Years (ECYs) by Voluntary, Assigned Risk Markets	80
44. Liability & Collision ECYs in Voluntary & Assigned Risk Markets	81
45. Percentage of PP Autos Insured through Assigned Risk Plan, by Territory	83

46. Workers' Compensation Dividend Plans Approved	85
47. Workers' Compensation Rate History	86
48. Workers' Compensation Approved Rate Deviations.....	87
49. PCISF Contributions.....	89
Health Bureau	
50. Selected Annual Statement Data.....	91
51. Health Service Corporations, Selected Data.....	92
52. Medical & Dental Expense Indemnity Corps, Selected Data.....	92
53. Line of Business HMOs, Selected Data.....	93
54. HMOs/Not Line of Business, Selected Data.....	93
55. A&H Policy Forms Processed.....	94
56A. External Appeal Determinations, by Type of Appeal.....	96
56B. External Appeal Determinations, by Agent.....	97
Consumers Services	
57. Cases Involving Loss Settlements or Policy Provisions.....	113
58. Cases Not Involving Loss Settlements or Policy Provisions.....	114
Frauds Bureau	
59. Civil Enforcement Program Activity.....	119
Capital Markets	
60. Analytical Evaluations & Reports.....	130
61. DUP Reviews.....	130
62. Major Training Programs.....	131
Motor Vehicle Accident Indemnification Corporation	
63. Sources of Funds.....	135
64. Transactions.....	136
65. Newly Reported Cases, by Type.....	137
66. Settled Cases With Payment, by Type.....	138
Regulatory Activities	
67. Licenses Issued During Year.....	175
68. Results of Examinations for Licenses.....	177
69. Departmental Receipts.....	193
70. Insurance Tax Receipts.....	194
71. Department Expenditures.....	195
72. P/C Insurance Security Fund, Income and Disbursements.....	196
73. PMV Liability Security Fund, Income and Disbursements.....	197
74. Workers' Comp. Security Fund, Income and Disbursements.....	198
75. NYS Insurance Department, Department Staffing, by Bureau.....	199

CHARTS

A. NYPIUA - Policies Issued.....	46
B. Sources of Applications for No-Fault Requests for Arbitration	55
C. Pending No-Fault Arbitration/Conciliation Cases.....	56
D. Top Three Excess Line Insurers, by Percentage of Premium Volume.....	64
E. New York Excess Line Premiums.....	66
F. Purchasing Group Filings.....	68
G. Total Complaints & Investigations Closed, Consumer Services Bureau.....	108
H. Department Web Site Activity.....	125

I. Major Developments

A. New Law Introduces Lower Cost Health Insurance for Sole Proprietors

On September 20, 2002, Governor George E. Pataki signed into law a bill that will make more affordable health insurance available to New York businesses that are owned and operated by a single person. The new law creates a new premium rate for sole proprietors that is significantly lower than the individual rates they were previously paying.

The law requires health insurers that offer group coverage through New York's chambers of commerce or association groups to provide the same policies to sole proprietors. Under the new law, the rate charged to sole proprietors must be within 20% of small group rates. The rate will be considerably less expensive than the individual premiums that were paid by many sole proprietors.



Governor George E. Pataki

B. Groundbreaking Online Licensing Procedures Implemented

In 2002, the Department instituted new online capabilities to meet the licensing needs of brokers, agents and other licensees. Under the new system, agents and brokers can renew their licenses on a 24-hour-a-day, seven-day-a-week basis. Other licensing enhancements include online temporary adjuster permits, online applications for original licenses, online renewals for brokers and agents, and licensing through the National Insurance Producer Registry (NIPR) for nonresident brokers and agents. The Department's 2002 licensing achievements include:

- In June 2002 almost 60% of agents were renewing online; first-time applicants for agents and brokers licenses *and appointments* were able to apply online; and nonresident agents were able to apply for licensure online through the NIPR.
- In July 2002 brokers were able to renew online; more than 18,000 took advantage of this new capability.
- In August 2002, insurers were able to process appointments online for existing agents.
- The issuance of licenses now has been reduced from months to within 24 to 48 hours.

C. Continued Response to September 11

No single event in the 143-year history of the New York State Insurance Department has had the impact of September 11. The attack on the World Trade Center and the anticipated claims to follow prompted the Insurance Department to activate its newly formed Insurance Emergency Operations Center (IEOC). The IEOC, developed in the spring of 2001, was designed to expedite the claims-making process for disaster victims and their families. It also serves as a mechanism through which the Insurance Department can assess the financial impact of New York State catastrophes. Command centers have been established in Manhattan and Albany, each with state-of-the-art videoconferencing and telecommunications capabilities.

In October 2002 the Department, along with the State Emergency Management Office (SEMO), was awarded the "Governor's Office of Employee Relations Workforce Award" for its efforts to create the Insurance Emergency Operations Center.

1. Federal Terrorism Risk Insurance Act of 2002 (TRIA)

From an insurance perspective, the events of September 11 resulted in the largest property insurance loss event in our nation's history. These events, coupled with the hardening of the insurance market over the past few years, have raised significant issues for both the industry and its regulators, none more important than that of addressing the issue of comprehensive coverage for terrorist acts. Beginning just days after the tragic events, the New York Insurance Department strongly supported passage of a federal terrorism backstop package, noting that it was imperative that Congress take some meaningful action to avert further disruptions of the insurance marketplace and the national economy.

After September 11, but prior to passage of the Terrorism Risk Insurance Act of 2002 (TRIA), the Department received 152 form filings for terrorism exclusions. In testimony before Congress in February 2002, Superintendent Serio again expressed the serious regulatory concerns raised by the catastrophic exposure arising from potential terrorist attacks, but also noted the equally compelling public policy priority of protecting businesses and consumers from retaining the exposure themselves. On November 26, 2002, after 14 months of negotiations between the House and Senate, President George W. Bush signed the TRIA into law, effective immediately.



*Superintendent
Gregory V. Serio*

The Terrorism Risk Insurance Act of 2002 is a temporary federal property/casualty reinsurance program for losses resulting from specifically defined acts of terrorism. Under the Act, insurers must make terrorism coverage for "insured losses" available to their commercial insureds and inform them of the premiums for such coverage. Once the deductible is satisfied, the federal government will cover 90% of remaining losses up to a combined aggregate program limit of \$100 billion annually.

2. New York Insurance Network

In 2002, the New York Insurance Department developed and implemented the New York Insurance Network (NYIN) as a response to the events of September 11. The Network is the main conduit through which the Department communicates intelligence reports and other critical but sensitive information on terrorism to the New York insurance community. NYIN was implemented subsequent to the establishment of the federal Office of Homeland Security and New York's Office of Public Security, which was initiated by Governor George E. Pataki to address safety and security issues on a statewide basis.

The creation of these offices led to an unprecedented flow of critical information on matters related to this nation's preparedness and safety. In order to maximize the value of this information, it was imperative that the Department establish the necessary infrastructure to distribute time-sensitive information to all authorized insurer representatives as quickly as possible.

To that effect, the Insurance Department created a password-protected area, NYIN, accessible on its Web site containing directives, advisories and other terrorism-related information addressed to New York's authorized insurers. The New York Information Network also includes a mailbox that enables all participants to exchange intelligence and other terrorism-related information with the Department as well as query the Department on any intelligence reports they have received.

3. Market Conduct Examinations

In the aftermath of September 11, the Department received complaints that some insurers were either refusing to write or renew commercial risks or were improperly canceling or non-renewing such risks in New York State and, in particular, the New York Metropolitan area. There were also complaints

regarding large premium increases. As a result, the Property Bureau's Market Conduct Unit commenced a series of investigations into insurer compliance with Section 3426 of the Insurance Law.

4. Life Insurance Option for Families of September 11 Victims

Chapter 4 of the Laws of 2002 gives family members of victims of September 11 the opportunity to provide funding to certain charitable organizations. The law permits agents and brokers to waive their commissions from the sale of life insurance products to immediate family members of victims. The insurer, at the election of the policyowner, may then deduct the commission from the premium or contribute the commission to a charitable organization, formed for the purpose of assisting other families of victims of the attack.

5. Fraud

The Department's Frauds Bureau has been fast-tracking suspicious claims related to September 11 in order to ensure they receive prompt attention. The Insurance Department has actively coordinated with other law enforcement agencies to make certain a strong line of communication exists among all agencies involved in this issue. Considering the scope of the disaster, the Frauds Bureau opened a relatively small number of September 11-related investigations, 66, during 2002.

6. Public Forums

In 2002, the Department conducted a series of state-wide public forums to assess the impact of September 11 on the insurance marketplace. The forums addressed the availability and adequacy of coverage to homeowners, small businesses and large commercial risks.

D. Captives — Insurance Options for New York's Business Community

On August 7, 1997, Governor George E. Pataki signed into law Chapter 389 of the Laws of 1997, which permits the formation and operation of captive insurance companies (captives) in New York State. Captive insurance companies are insurers owned by insureds and organized for the purpose of self-funding an owner's risk.

In order to foster growth in New York's captive market, Superintendent Serio has begun a new initiative with the creation of a dedicated captive group and Web site. This group is responsible for the licensing of all captive insurers in New York. The dedicated group provides a direct link to decision-makers, promises a streamlined licensing process and the easing of administrative burdens. The Department launched a new captives Web site, www.NYCaptives.com, which contains applications, captive formation information and contact information.

The Department also proposed revisions to the New York Insurance Law to spur growth of captives in New York State and Governor Pataki has submitted the revisions to the New York Legislature. These changes are designed to enhance the appeal of New York as a domicile for new captives.

E. Empire BC/BS Conversion to For-Profit Company

On October 8, 2002, the Department announced regulatory approval of an amended plan by Empire Blue Cross and Blue Shield to convert from an Article 43 non-profit insurer to an Article 42 for-profit company. The Department held public hearings on Empire's original plan of conversion in August and, as a result of testimony presented at those hearings, ordered changes to be made to the Plan to protect policyholders, including limitations on individual direct pay indemnity products, an extended time period for minimum loss ratios for Medicare Supplement policies, requirements for the composition of the new public company's Board of Directors, and restrictions on executive compensation.

F. Superintendent Serio Issues CPA Conflict-of-Interest Guidance

On February 21, 2002, Superintendent Serio announced the Department had issued guidance to the insurance industry concerning the disclosure of consulting work performed by independent certified public accountants (CPA) engaged to provide an opinion on annual financial statements. The financial statements filed by insurers with the Insurance Department are required by law to be audited by independent CPA firms. The conflict-of-interest allegations that have arisen regarding the auditing work undertaken by CPA firms for Enron and other publicly traded companies underscores the critical need for the CPA firm to maintain independence and integrity when auditing financial statements. Therefore, in order to adequately assess any potential conflicts, the Department requires every insurer to disclose fees paid for all services — both audit and consulting work — performed by the CPA firm engaged to audit the insurer's financial statement. Details of this new initiative appear in Circular Letter No. 7 (2002).

G. Superintendent Unveils Long Term Care Resource Center

In April 2002, Superintendent Serio unveiled the Department's new "Long Term Care Resource Center" on its Web site, www.ins.state.ny.us, as part of the Department's ongoing effort to promote consumer education about this important coverage. The Center is designed to provide consumers with comprehensive information on long term care coverage in New York. The Center answers key questions regarding who needs long term care coverage, what services are covered by long-term care policies, factors to consider when purchasing long-term care policies, and which insurers are offering these policies. With some estimating that more than five million Americans need long term care due to chronic or serious illness, disability or simple old age, the Long Term Care Resource Center is an important source for consumers assessing their needs for long term care insurance.

H. Property Bureau (Automobile)

1. Revised No-Fault Regulation Promulgated

The Department sought to promulgate a significant revision to Regulation 68 to take effect in September 2001. This revision followed an initial revision to Regulation 68 that briefly took effect in February 2000 (this revision was ultimately vacated by the Court for procedural reasons). This initial revision was challenged in large part because it reduced the time limits to provide written notice of claim from 90 to 30 days from the date of the accident and it reduced the time limit to provide written proof of claim for health provider bills from 180 to 45 days.

The new revision contains the 30-day period for notice of claim and the 45-day period for health provider billing and also includes consumer safeguards that will ensure legitimate claimants have their claims paid. The same group of plaintiffs that challenged the previous revision once again challenged the Department's effort to promulgate the revised regulation. The New York State Supreme Court upheld the legality of the new revision to Regulation 68 on February 19, 2002. The revised regulation took effect on April 5, 2002 in accordance with the Court's decision.

2. Decline in Pending No-Fault Arbitration Cases

The inventory of no-fault arbitration cases continued to grow through March 2002 when it reached just under 116,200 cases. From that point, the inventory declined each month and by December 31, 2002, the inventory of cases pending in the No-Fault arbitration program fell to about 89,900 cases, a 19% decrease from the number of cases pending at the start of the year. The decrease resulted from a major reform package that was introduced at the beginning of 2002. The initiative was designed to expedite settlement of no-fault insurance disputes, reduce abuses to the system by health providers and attorneys, and compel more efficient and effective management of claims by insurers.

3. New York Automobile Plan Changes

The New York Automobile Insurance Plan was directed on March 29, 2002 to address several areas of concern, including the battle against fraud, increasing Plan accountability, lowering costs to all drivers and reducing the Plan's population. Changes include the addition of three public members and three insurer members to the Plan's Governing Committee.

I. Property Bureau (Non-Auto)

1. Market Conduct Investigations

The Property Bureau's Market Conduct Unit continued its program of reviewing insurance company underwriting, rating and claims practices to determine compliance with the Insurance Law and Department regulations. The Unit also conducted an extensive series of investigations into insurer compliance with the New York State Department of Motor Vehicle's (DMV) Insurance Information and Enforcement System (IIES). In addition, the Unit devoted a significant amount of time to monitoring post-September 11 events related to the hardening of the insurance market.

2. Privacy Investigations

Title V of the Gramm-Leach-Bliley Act requires financial institutions, including insurers, to protect the privacy of customers. It also requires that all state insurance authorities establish appropriate consumer privacy standards for insurance providers. As a result, the Insurance Department promulgated Regulation 169, setting forth these standards. During 2002, the Market Conduct Unit investigated insurers to assess their procedures to ensure compliance with privacy regulatory requirements. Privacy investigations will continue in 2003 to ensure continued compliance.

J. Health Bureau

1. External Appeal Program

New York's External Appeal Program completed its third year in 2002. Since the program's inception, New York consumers have submitted over 5,400 external appeal requests. Of the 41 states and the District of Columbia with external appeal programs currently in place, only California has received more external appeal requests than New York.

2. U.S. Supreme Court Review of State External Appeal Programs

In 2002, the United States Supreme Court (*Moran v. Rush Prudential HMO, Inc.*) considered whether state external appeal programs are preempted by the Employee Retirement Income Security Act of 1974 (ERISA), a federal law that regulates employee benefit plans, including employer-provided health coverage, and generally preempts state laws relating to such plans.

The petitioner, Rush Prudential HMO, argued that state external appeal laws (which enable consumers to seek an independent review of health plan coverage denials) conflict with ERISA because ERISA requires plans to provide a mechanism for internal review of benefit denials and a right to subsequent judicial relief. The respondent, Ms. Moran, argued that an external review option does not interfere with any remedy available under ERISA.

On June 20, 2002, the U.S. Supreme Court held, in a 5-4 decision, that state external appeal programs are not preempted by ERISA. The decision marked an important victory for consumers by enabling them to continue to appeal health plan denials through state external appeal programs instead of relying solely on the costly judicial remedies available under ERISA.

3. Healthy NY

The Healthy NY program is a unique and ambitious approach to address the problem of the uninsured. All HMOs licensed in New York State are required to offer a standardized comprehensive health insurance benefit package to qualifying small employers, sole proprietors and individuals. The eligibility criteria for the program differs significantly depending upon whether the applicant is a working uninsured individual, a sole proprietor or a small-employer group.

The Insurance Department is solely responsible for oversight of the Healthy NY program. Throughout calendar year 2002, the Department continued to provide education and guidance to the industry on program requirements. The Department continued to monitor the program for areas of potential improvement and implemented standardized enhancements to improve the enrollment process. Enhancements included industry outreach, education, and improvements to the Web site.

K. Life Bureau

1. Speed to Market

a. Certification Procedure

The Life Bureau continued its aggressive pursuit of speed to market initiatives through the use of the prior-approval-with-certification procedure. The certification procedure, which is designed to assist insurers in bringing products to market quickly, requires insurers to complete detailed product checklists for each policy form submitted and provide a signed certification of compliance with all applicable statutes and regulations. Over 1,500 policy forms were processed under the certificate filing procedure in 2002 and it took, on average, just over 31 days for the Bureau to render a decision on each policy form submission.

b. Triage Procedure on Web Site

In 2002, the Life Bureau, in furtherance of its speed to market objective, also issued its triage procedure on the Department's Web site. The triage procedure was designed to expedite the processing of simple policy form submissions. Approximately 20% of all files submitted to the Life Bureau qualify for such triage procedure.

2. MetLife Settlement

In August 2002, the Insurance Department announced it had reached a settlement with MetLife to compensate policyholders that were in the past treated differently because of their race. The settlement results from an investigation by the Department, initiated in 2000, into allegations of race-based underwriting of life insurance by its licensees. As a result of the settlement, approximately 1.8 million policies are likely to receive benefits in the form of cash payments, increased policy death benefits or special settlement death benefits. The total value of the settlement is estimated to be as high as \$140 million to \$160 million. The settlement involves all policyholders and certain beneficiaries of certain policies that insured non-Caucasians, namely policies issued between 1901 and 1972 for face amounts ranging from less than \$1,000 to \$5,000.

L. Consumer Services Bureau

1. Availability of Snowmobile Coverage

In 2002, the Consumer Services Bureau was called upon to resolve a serious availability problem in the snowmobile trail liability insurance market. The problem began at the height of snowmobile season in December when the only insurer providing insurance coverage to the snowmobile clubs maintaining the state's snowmobile trails announced that it would no longer offer clubs new policies. In

addition, the insurer advised that an endorsement in the policies essentially excluded coverage for claims involving snowmobile accidents. As a result, many of New York State's snowmobile trails were forced to close, which severely impacted several upstate economies dependent on revenue from this recreation. The Bureau worked to convince the insurer to offer coverage to all New York snowmobile clubs and to revise its endorsement to cover trail liability arising from snowmobile accidents, which led to the reopening of the trails.

2. The Healthcare Roundtable

Superintendent Serio spearheaded the Healthcare Roundtable in an attempt to regularly bring together health insurers and healthcare providers to discuss ways in which both sides can reach agreement on issues that jointly affect payers and payees. The Insurance Department identified several issues on which both insurers and providers needed to reach consensus. These are issues that engendered conflict between the parties and generated several legislative proposals regarding the payment of health care claims. The Roundtable registered a milestone achievement in 2002 by devising a definition of a "clean claim" that was acceptable to both the Medical Society and the industry.

3. Annual Health Consumer Guide

The Department publishes an Annual Consumer Guide to Health Insurers that ranks insurers and HMOs based on complaints upheld by the Consumer Services Bureau and contains a separate ranking based on upheld prompt payment complaints. The Bureau also plays an integral role in producing a companion HMO guide and the first Interactive Guide to HMOs available in the United States. The Interactive guide can be accessed through the New York Insurance Department's Web site at www.ins.state.ny.us.

M. Frauds Bureau: Arrests Reach All-Time High

The Frauds Bureau combined forces with prosecutors and law enforcement agencies with greater frequency in 2002 and these stepped-up collaborative efforts led to more arrests this past year than at any time in the Bureau's history. Throughout the year, the Bureau pooled resources with insurer Special Investigations Units (SIUs), the U.S. Attorney's Office, the Workers' Compensation Inspector General's Office, District Attorneys, the State Police, and Sheriff's Departments across the State to conduct investigations that contributed to the Bureau's record-breaking total of 707 arrests.

N. Capital Markets Bureau: Monitoring Derivatives Use

In 2002, in addition to keeping abreast of deteriorating quality of certain fixed income investments and the protracted downturn in the equity market, the Capital Markets Bureau oversaw the increasing use of derivatives by insurers and the suitability of asset allocations. In order to identify analytical frameworks that would further enhance the efficiency of the evaluation of diverse portfolios, Capital Markets staff continued to meet with companies marketing sophisticated risk-measurement systems.

O. Systems Bureau – Internet Developments

The Department's main Web site (www.ins.state.ny.us) remains a key priority of the Department. Visits to the site steadily increased during 2002 to 3.8 million constituents, almost one million more than the previous year. In the past year, Department sites were significantly enhanced to include the password-protected New York Information Network (NYIN) Web site, the unique Captives site, an improved Healthy NY site, an online World Trade Center claim satisfaction survey on the Department's main site, an improved interactive insurer directory, and the second annual interactive health insurance consumers guide.

II. Review of New York State Insurance Business

A. LIFE BUREAU

1. Licensed Life Companies

There were 143 life insurance companies licensed to transact business in New York State as of December 31, 2002. The total admitted assets of licensed life insurers amounted to approximately \$1.68 trillion at December 31, 2001, a ten-year gain of 82.4%. Bonds totaled \$715.3 billion; stocks \$50.1 billion; mortgage loans \$142.3 billion; real estate \$14.8 billion; policy loans \$56.2 billion, and short-term holdings \$20.9 billion. Other admitted assets totaled \$680.3 billion.

2. Domestic Life Companies

Domestic life insurance companies had admitted assets of \$608.7 billion on December 31, 2001, an increase of 84.7% since 1991. Insurance in force at December 31, 2001 of \$3.82 trillion represents an increase of 72.5% since December 31, 1991.

3. Organizations Under Life Bureau Supervision

The Life Bureau supervised 460 organizations as of December 31, 2001. These organizations consisted of: 145 licensed life insurance companies--90 domiciled in New York and 55 foreign; 49 fraternal benefit societies--6 domiciled in New York, 42 foreign and 1 United States Branch of a Canadian Society; 12 retirement systems--four private pension funds and eight governmental systems; eight governmental variable supplements funds; 156 segregated gift annuity funds; 23 employee welfare funds; 9 viatical settlement companies and 58 accredited reinsurers.

Table 1
ADMITTED ASSETS
Life Insurance Companies Licensed in New York State
Selected Years, 1991-2001
(dollar amounts in billions)

Admitted Assets	2001	2000	1996	1991
Total	\$1,680.0	\$1,652.4	\$1,301.1	\$920.9
Percent increase from 1991	82.4%	79.4%	41.3%	---
Type of asset				
Bonds	\$715.3	\$661.6	\$593.2	\$398.2
Stocks	50.1	54.1	43.9	31.0
Mortgage Loans	142.3	141.0	135.5	188.2
Real Estate	14.8	16.1	29.2	27.7
Policy loans/liens	56.2	55.1	60.7	41.5
Short-term holdings	20.9	28.1	20.5	19.9
Other	680.3	696.4	418.1	214.4

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

Source: New York State Insurance Department

Table 2
BALANCE SHEET
Life Insurance Companies Licensed in New York State
Selected Years, 1996-2001
(in billions)

	2001	2000	1996
Assets	\$1,680.0	\$1,652.4	\$1,301.1
Liabilities	1,588.6	1,562.9	1,233.5
Capital & Surplus	91.3	89.5	67.6

Source: New York State Insurance Department

Table 3
TOTAL LIFE INSURANCE IN FORCE
Life Insurance Companies Licensed in New York State
Selected Years, 1991-2001
(dollar amounts in billions)

Class of Business	2001	2000	1996	1991
Total insurance in force	\$9,963.6	\$8,852.3	\$7,324.1	\$5,772.5
Percent increase from 1991	72.6%	53.4%	26.9%	---
Ordinary	\$5,437.2	\$4,803.8	\$3,860.4	\$2,777.5
Group	4,462.1	3,977.5	3,383.3	2,913.5
Credit	57.4	63.9	72.7	72.8
Industrial	6.9	7.1	7.7	8.3

Source: New York State Insurance Department

Table 4
SOURCES OF INCOME*
Life Insurance Companies Licensed in New York State
Selected Years, 1996-2001
(dollar amounts in millions)

Source of Income	2001		2000		1996	
	Amount	Percent of Total	Amount	Percent of Total	Amount	Percent of Total
Group life	\$17,139.8	6.2%	\$15,116.2	4.3%	\$12,078.5	4.7%
Group annuities	65,878.0	23.7	100,386.4	28.3	63,355.1	24.5
Group A & H	20,914.5	7.5	21,034.4	5.9	24,792.1	9.6
Ordinary life	40,808.0	14.7	45,642.5	12.9	42,855.3	16.6
Individual annuities	41,160.1	14.8	41,892.5	11.8	27,729.4	10.7
Individual A & H	3,183.3	1.1	4,485.9	1.3	3,420.5	1.3
Credit life	276.3	0.1	287.1	0.1	293.1	0.1
Industrial life	228.2	0.1	229.9	0.1	216.1	0.1
Total Premiums	\$189,588.2	68.1%	\$229,074.9	64.6%	\$174,740.1	67.7%
Supplementary contracts	388.9	0.1	9,840.4	2.8%	7,652.1	3.0%
Net investment income	71,446.1	25.7	71,875.9	20.3	63,357.0	25.3
Other income	17,060.6	6.1	43,811.5	12.4	10,545.8	4.1
TOTAL	\$278,483.8	100.0%	\$354,602.6	100.0%	\$256,295.0	100.0%

* As of 2001, deposit type funds — which were a component of group annuities — and supplementary contracts without life contingencies are no longer classified as income.

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

Source: New York State Insurance Department

Table 5
OPERATING RESULTS*
Life Insurance Companies Licensed in New York State
Selected Years, 1996-2001
(in millions)

	2001	2000	1996
Total premiums	\$189,588.1	\$229,074.9	\$174,740.1
Investment income	71,446.1	71,875.9	65,357.0
Supplementary contracts	388.9	9,840.4	7,652.1
Other income	17,060.7	43,811.5	10,545.8
Total income	278,483.8	354,602.6	258,295.0
Net gain from operations	7,050.0	12,312.9	6,840.9
Net income	6,280.9	13,239.2	7,226.6

*As of 2001, deposit type funds and supplementary contracts without life contingencies are no longer classified as income.

Source: New York State Insurance Department

Table 6
LIFE INSURANCE IN FORCE IN THE STATE OF NEW YORK
Life Insurance Companies Licensed in New York State
Selected Years, 1991-2001
(dollar amounts in billions)

Insurance In Force	2001	2000	1996	1991
Total	\$1,231.0	\$1,190.0	\$907.0	\$702.1
Percent increase from 1991	75.3%	69.5%	29.2%	---
Class of business				
Ordinary	\$749.2	\$694.8	\$550.9	\$388.2
Group	473.5	488.2	349.0	300.0
Credit	7.5	6.2	6.2	12.9
Industrial	0.8	0.8	.9	1.0

Source: New York State Insurance Department

Table 7
ADMITTED ASSETS / INSURANCE IN FORCE
DOMESTIC LIFE INSURANCE COMPANIES
Selected Years, 1991-2001
(dollar amounts in billions)

Domestic Life Insurers	2001	2000	1996	1991
Admitted assets	\$608.7	\$585.7	\$476.5	\$329.5
Percent increase from 1991	84.7%	77.8%	44.6%	---
Insurance in force	\$3,818.9	\$3,345.2	\$3,044.0	\$2,214.2
Percent increase from 1991	72.5%	51.1%	37.5%	---

Source: New York State Insurance Department

4. Licensed Fraternal Benefit Societies

At the close of 2001, 49 fraternal benefit societies were licensed to conduct insurance business in New York State. Of these, 6 were domestic, 42 were foreign and 1 was an alien society. In the ten-year period ending December 31, 2001 the admitted assets of licensed societies roughly doubled, rising from \$29.4 billion to \$58.9 billion. Insurance in force rose \$90 billion over the period to \$264.6 billion, an increase of 52%.

Table 8
FRATERNAL BENEFIT SOCIETIES
Selected Years, 1991-2001
(in billions)

Fraternal Benefit Societies	2001	2000	1996	1991
Admitted assets	\$58.9	\$55.9	\$45.3	\$29.4
Insurance in force	\$264.6	\$255.9	\$223.2	\$174.6

Source: New York State Insurance Department

5. Private Retirement Systems

At the close of 2001, four private retirement systems were under the supervision of the Insurance Department.

The four systems, which are private pension funds of nonprofit organizations, were made subject to Insurance Department regulation by special legislative enactments. At the end of 2001, the assets of these four private pension funds totaled approximately \$154.9 billion. The following table shows data for the private pension funds for selected years from 1991 to 2001.

Table 9
PRIVATE PENSION FUNDS
Regulated by NYS Insurance Department
Selected Years, 1991-2001
(in millions)

Private Pension Funds	2001	2000	1996	1991
Total admitted assets	\$154,922.4	\$173,411.7	\$102,057.0	\$51,241.3
Payments to annuitants and beneficiaries	\$9,875.5	\$11,103.5	\$4,487.5	\$2,017.4

Source: New York State Insurance Department

6. Public Retirement Systems

The eight actuarially funded public retirement systems under the supervision of the Insurance Department at the close of 2001 are governmental systems that provide retirement, death and disability benefits to the employees of New York State and those of its political subdivisions that have elected to provide such benefits for their employees. The aggregate assets of the eight governmental systems as of the end of their respective fiscal years ending in 2001 were approximately \$290 billion. During the period from 1991 to 2001, the assets of these retirement systems increased at the compound rate of 8.8% per year.

The governmental retirement systems cover a total of 1.8 million active and retired members. The number of active employees in the public retirement systems in 2001 increased by less than one percent from its 1991 level, while the number of pensioners increased by 24% in the same period. The substantial increase in pensioners, as compared with a decrease in the work force, reinforces the need for maintaining adequate actuarial reserves.

The New York City Administrative Code provides for five active nonpension funds known as variable supplements funds, financed by the transfer of earnings from the equity portfolios of the New York City Police and Fire Department Pension Funds and the Employees' Retirement System. If at any time the earnings so transferred are insufficient, the payment of the variable supplements benefits is guaranteed by the City. These variable supplements funds provide retirement benefits in addition to those received from the pension funds and the retirement system. The variable supplements funds, all of which are under the supervision of the Insurance Department, had assets as of June 30, 2001 totaling \$3.7 billion.

The following table shows data for the public employee retirement systems, excluding the variable supplements funds, for selected years from 1991 to 2001:

Table 10
PUBLIC RETIREMENT SYSTEMS AND PENSION FUNDS
Regulated by NYS Insurance Department
Selected Years, 1991-2001
(in millions)

Public Retirement Systems & Pension Funds	2001	2000	1996	1991
Total admitted assets	\$289,695	\$322,561 ^r	\$199,235	\$124,913
Payments to annuitants and beneficiaries	\$13,214	\$11,863 ^r	\$9,648	\$6,037

^r Revised from 2001 Annual Report of the Superintendent
Source: New York State Insurance Department

7. Segregated Gift Annuity Funds for Charitable Organizations

At the end of 2001, 156 charitable annuity societies held permits under Section 1110 of the Insurance Law. In return for, or conditioned upon, the receipt of gift funds, such organizations agree to pay an annuity to the donor, or a nominee. These agreements must provide to the issuer, upon the death of the annuitant, a residue equal to at least one-half the original gift or other consideration for such annuity. Due to a change in the law, requiring a higher level of reserves, a number of organizations have relinquished their permits in the past year. In the ten-year period ending December 31, 2001, admitted assets of these funds increased by 493% and the annual payments increased by 441%. This reflects the rapid growth in the number of licensed societies during the period under review.

Table 11
SEGREGATED GIFT ANNUITY FUNDS
Selected Years, 1991-2001
(in millions)

Segregated Gift Annuity Funds	2001	2000	1996	1991
Total admitted assets	\$1,003.4	\$956.0	\$471.3	\$185.5
Annual payments to annuitants	\$92.4	\$83.9	\$37.1	\$15.7

Source: New York State Insurance Department

8. Employee Welfare Funds

Twenty-three employee welfare funds covering 194,816 employees were supervised by the Department at the close of 2001. These funds are jointly administered by management and labor representatives. The employee welfare funds cover government employees for benefits financed by contributions from New York governmental authorities. Government employee welfare funds were not pre-empted by the federal Employee Retirement Income Security Act of 1974 (ERISA) as most private pension funds were.

Contributions to employee welfare funds amounted to \$329.4 million in 2001. Benefits paid totaled \$328.9 million and included life insurance; medical, surgical and hospital coverage; major medical coverage; optical, dental and prescription drug plans; disability insurance, and legal services. Administrative expenses totaled \$18.4 million representing 5.6% of contributions.

9. Viatical Settlement Companies

Regulation 148 and Article 78 of the Insurance Law became effective as of July 6, 1994 for the purpose of regulating viatical settlement companies and brokers. At the end of 2001, nine companies were licensed or authorized to act as viatical settlement companies in New York.

As of December 31, 2001, these companies had combined assets of \$433 million, with the largest company accounting for \$424 million. The assets were primarily in the form of life insurance policies purchased. Costs of purchasing these policies amounted to \$394 million, which comprised about 36.6% of the \$1.076 billion total face value.

10. Examinations of Insurers Conducted in 2002

Table 12
EXAMINATIONS CONDUCTED
Life Bureau
2002

	Total	Regularly Scheduled		Other	
		Initiated		Special	On Organi- zation*
		In 2002	Prior to 2002		
Life insurance companies	44	25	17	2	0
Fraternal benefit societies	1	1	0	0	0
Retirement systems and pension funds	2	2	0	0	0
Segregated gift annuity funds of charitable organizations	11	11	0	0	0
Welfare funds	4	4	0	0	0
Total	62	43	17	2	0

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

11. Auditing of Financial Statements

a. Audit and Analysis

As of December 31, 2002, 437 companies were licensed to conduct business in New York State, as detailed below. These companies are required to file their Annual Statements for audit and analysis.

Table 13
COMPANIES LICENSED BY THE LIFE BUREAU
December 31, 2002

Life - New York.....	87
Life - Other States.....	56
Accredited Reinsurers.....	57
Fraternal - New York.....	6
Fraternal - Other States.....	41
Fraternal - Canadian, U.S. Branch.....	1
Charitable Annuities.....	161
Retirement Systems.....	20
Viaticals.....	8
Total.....	437

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

b. New York Supplements to the Annual Statements

New York Supplements to the Life and Accident & Health Annual Statement and the Fraternal Benefit Society Annual Statement were developed for use beginning with the 1986 Annual Statement filing. The Supplements for 2001 were updated to meet current needs and requirements. Copies of the Supplements are now distributed through the Department's Web site to all life companies and Fraternal Benefit Societies licensed to do business in New York State.

12. Real Estate Review

During 2002, the real estate unit submitted eight reports relative to the valuation and condition of real estate-related assets held by companies under examination.

In addition, recommendations were made in connection with the fairness of leases between members of holding company systems, the valuation of transferred assets, the approval of the acquisition and construction of home office real estate, the valuation of continuing care retirement communities and changes in Regulation 140, the valuation of loan collateral and changes in the investment policy for closed block assets.

13. Actuarial Submissions and Reviews

The actuarial staff of the Life Bureau's New York City office review submissions made by licensed life insurance companies and fraternal benefit societies to secure the Insurance Department's approval of separate account plans of operation for individual and group annuity and for variable life insurance products; methods of allocation of investment income by annual statement lines of business and by product lines; synthetic guaranteed investment contracts ("synthetic GICs"); and plans of operation and actuarial projections in connection with the licensing of a company, merger of two or more companies or acquisition of control of one company by another. During 2002, the actuaries updated the guidelines for actuarial projections so as to streamline them and make them more consistent with the NAIC's Uniform Certificate of Authority concept.

The actuarial staff also review company filings mandated by Section 4228 of the Insurance Law, which deals with expense limitations, agent compensation plans, agent training allowance plans and expense allowance plans. Numerous filings are required under Section 4228. During 2002, the actuaries implemented an all-electronic filing procedure for Section 4228 submissions, involving forms posted on the Department's Web site. The filer downloads the form, completes it and transmits it to a dedicated mailbox in the Lotus Notes e-mail system. The system has worked well, although it has been used by only about 10% of filers.

The actuaries evaluate the actuarial aspects of life insurer demutualizations and reorganizations of foreign insurers as mutual holding companies. Those have been relatively few in number but extremely time consuming. Among other things, this work involves the selection of legal, investment banking and actuarial consulting firms, ongoing monitoring of their work and evaluation of their final work product. It is believed nearly all life insurers intending to reorganize in this manner have already submitted their plans. Consequently it is anticipated there will be much less activity in this area in future years.

The actuaries perform the required regulatory functions concerning the various New York State and New York City public employee retirement systems, each of which is governed by different chapters of law (mainly New York State Retirement and Social Security Law and New York City Administrative Code), as explained in more detail in the section on public retirement systems.

The staff also participates in on-site examinations scheduled by the Field Examinations Unit to ascertain the organizations' actuarial practices.

Separate account submissions continued to comprise the majority of filings reviewed by the actuarial staff. The number of such submissions increased slightly in 2002 from the previous year. That may at first seem surprising, given the declines in the equities markets and a perceived increase in the number of risk-averse consumers. However, a large number of those submissions involved the addition of various protections and guarantees, including guarantee of principal (on withdrawal, not just on death), guaranteed minimum annuitization amounts and other variations. Such guarantees may help accommodate the public's desire to avoid risk in separate account products, but they also increase the insurers' financial risk. The Bureau continues to evaluate the degree of this risk and to consider possible enhanced reserve standards on its account.

Submissions under New York's agent compensation law (Section 4228) comprised the next greatest number of actuarial filings again in 2002. The Bureau experienced a 27% year-to-year increase in such submissions in 2002, perhaps reflecting an increased interest on the part of the public in life insurance, given current economic and other uncertainties. Submissions related to mergers, acquisitions and new company formations decreased by 15% during 2002. There were seven synthetic GIC submissions during 2002, three fewer than in 2001.

14. MetLife Settlement Announcement

In August 2002, the Insurance Department announced it had reached a settlement with MetLife to compensate policyholders that were in the past treated differently because of their race. The settlement results from an investigation by the Department, initiated in 2000, into allegations of race-based underwriting of life insurance by its licensees. As a result of the settlement, approximately 1.8 million policies are likely to receive benefits in the form of cash payments, increased policy death benefits or special settlement death benefits.

The total value of the settlement is estimated to be as high as \$140 million to \$160 million. The settlement involves all policyholders and certain beneficiaries of certain policies that insured non-Caucasians, namely industrial insurance policies issued between 1901-1964 with face amounts of less than \$1,000; ordinary policies issued between 1901-1972 with less-than-standard risk classifications; and, Metropolitan Series policies issued between 1960-1972 with face amounts between \$4,500 and \$5,000.

The Department had insisted that relief reach back to 1901, and fully compensate those who paid more because of race-based underwriting. The Department also insisted that MetLife pay interest with respect to certain policies that have matured or terminated, and that the life insurer provide relief automatically to the extent possible.

15. Manhattan Life Conversion

On April 16, 2002, the Department announced that it had approved the Manhattan Life Insurance Company's plan to convert from a guarantee capital life insurer to a stock life insurer. The Department determined the plan did not violate the Insurance Law, was fair and equitable to policyholders, shareholders and the public, and that the reorganized company would have the amount of capital and surplus necessary to meet solvency requirements. The Department held a public hearing on the conversion plan on February 22.

16. September 11

Assembly Bill A11835 was passed as Chapter 4 of the Laws of 2002 in order to give family members of victims of the September 11, 2001 terrorist attacks the opportunity to provide funding to certain charitable organizations. The law permits agents and brokers to waive their commissions from the sale of life insurance products to immediate family members of victims. The insurance company, at the election of the policyowner, may then deduct the commission from the premium or contribute the commission to a charitable organization, formed for the purpose of assisting other families of victims of the attacks. This provision is set to expire one year from its effective date.

17. Life Bureau - Albany

a. Processing of Life Insurance, Annuity Contracts and Other Financial Products

In 2002, the Life Bureau in Albany processed 7,291 and received 7,162 life and annuity policy forms and other financial products offered by life insurance companies, fraternal benefit societies, charitable annuity societies and viatical settlement companies. Over the last five years, the Life Bureau has processed an average of 7,418 forms and received an average of 7,153 forms annually. Of the 7,291 forms processed in 2002, approximately 61.3% were approved, deemed approved or filed for reference, 20.5% were filed for out-of-state use and 18.2% were disapproved, rejected, withdrawn or replaced.

Table 14
NUMBER OF POLICY FORMS RECEIVED AND PROCESSED
2002*

Product Type	Received	Processed
Individual Life	2,318	2,459
Group Life	955	1,087
Individual Annuity	1,919	1,852
Group Annuity	1,420	1,387
Credit Insurance	161	187
Viatical Settlement	20	20
Miscellaneous	369	299
Total	7,162	7,291

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

Source: New York State Insurance Department

b. Review of Actuarial and Other Form-Related Filings

In conjunction with the policy form approval process, the Life Bureau received 378 other filings related to the policy form approval process and products offered for sale in New York, including 90 rate and actuarial filings, 85 inquiries and complaints, 56 FOIL requests, 50 prefilings under Circular Letter 64-1 and 40 compensation filings.

Table 15
POLICY FORM-RELATED FILINGS RECEIVED
2002

Fraternal Benefit Societies [Constitution, Articles of Incorporation, Bylaws, Etc.]	13
Calculation of Life Estates	12
Circular Letter 64-1	50
Compensation Filings	40
Conversion Filing (Unaffiliated Insurer)	1
FOIL Requests	56
Inquiries & Complaints	85
Rate Filings & Actuarial Memorandum	90
Violations & Market Conduct	31
Total	378

c. Speed to Market

The Life Bureau continued its aggressive pursuit of speed-to-market initiatives through the use of the prior-approval-with-certification procedure established by Circular Letter No. 27 (2000) and the publication of the “triage” procedure on the Department’s Web site. The certification procedure is designed to assist insurers in bringing products to market quickly. It requires insurers to complete detailed product checklists for each policy form submitted and provide a signed certification of compliance with all applicable statutes and regulations.

In 2002, the Life Bureau processed 1,555 policy forms under the certified filing procedure, with an average disposal time of 31.7 days.

During the year, the Life Bureau updated product checklists used in the certification procedure established by Circular Letter 27 and the corresponding product outlines, which set forth the procedural and substantive review requirements applicable to each product. All product checklists and outlines are available to insurers and consumers on the Department’s Web site.

In furtherance of the speed to market objective, the Life Bureau in 2002 published guidance on the Web site outlining the Life Bureau’s internal “triage” procedure for expediting the processing of simple policy form submissions made under the Section 3201(b)(1) prior approval filing method. Approximately 20% of all files submitted to the Life Bureau qualify for such triage procedure.

The Life Bureau also published guidance on the Web site for insurers making address changes, name changes and changes that occur upon corporate reorganizations, such as mergers and acquisitions. This guidance has allowed for a more streamlined review of submissions resulting from corporate reorganizations.

d. Life Bureau's Use of Electronic Filing System Goes Full Speed Ahead

In 2002, the Life Bureau implemented additional system changes to accept electronic form filings through the use of the NAIC sponsored System for Electronic Rate and Form Filing (SERFF). By the summer of 2002, the Life Bureau completed the necessary systems work to accept SERFF submissions for all types of individual and group life and annuity products, as well as compensation filings. The Life Bureau published detailed filing guidelines for SERFF submissions on the Department's Web site to assist insurer in making such filings with the Department. During the year, the Life Bureau processed 139 forms and approved 70 forms submitted under SERFF.

e. Restrictions on Fixed Account Availability in Deferred Annuity Contracts

In 2002, the Life Bureau began to approve restrictions on the availability of fixed accounts in deferred annuity contracts. The most common restriction permitted insurers to discontinue accepting new contributions or transfers to the fixed account in the event that the yield on fixed income assets declined to a level that would not support the statutory 3.0% minimum interest rate prescribed by Section 4223(c)(2) of the Insurance Law. If current market conditions persist and legislative relief is not enacted, fixed annuity contracts and variable annuity products with fixed account investment options may become unavailable in New York. For the 2003 legislative session, a bill has been introduced in both houses (A.4129/S.912) that would lower the statutory minimum nonforfeiture rate from 3% to 1.5% for deferred annuity contracts entered into after the law is enacted. A similar bill (A.10410/S.6370) was introduced in 2002 but did not advance out of committee. Filing guidance on fixed account restrictions will appear in the product outlines on the Department's Web site in 2003.

f. New Guidelines for Variable Annuities That Offer Guaranteed Living Benefits

In 2002, the Life Bureau in Albany saw a substantial increase in the number and variety of submissions providing for guaranteed living benefits in variable annuity contracts. Insurers offer guaranteed living benefits to make variable annuities more attractive to risk averse consumers who are unwilling to assume risks associated with market value fluctuation. The recent decline in the equities market has demonstrated the importance and/or value of such guarantees to consumers and the cost and/or risk to insurers.

Guaranteed living benefits typically provide for minimum account values during the accumulation phase or minimum income benefits upon annuitization. Such guaranteed benefits are in addition to the guarantees associated with incidental death benefits in variable annuity contracts. The quantity of submissions and complexity in design has caused the Life Bureau to develop review guidelines for contracts that offer guaranteed minimum income benefits in 2002. It is anticipated that the guidelines will be incorporated into the next revision of Regulation 47.

g. Expansion of Dependents' Eligibility and Increases in Children's Coverage Limits for Group Life Insurance

In October 2002, Section 4216(f) of the Insurance Law was amended to allow employees to purchase group life coverage on the lives of dependents other than spouses and children. The pool of eligible dependents has been expanded to include, in addition to spouses and children of employees, "any other person dependent upon the insured employee or member." The Life Bureau is revising the group life product outlines and checklists to reflect the new law. Ostensibly, "any other person dependent" may include domestic partners, foster children, stepchildren, children for whom the insured employee or member is the guardian, parents and grandchildren. The new law increases the amount of insurance under a group policy that can be purchased for a child from \$4,000 to \$25,000 and changes the amount that can be purchased for dependent spouses and other dependents. The Life Bureau has handled a number of product submissions and inquiries following passage of the new law, and expects many more in 2003.

h. Increasing Availability of 30-year level term in New York

On April 31, 2002, Section 4221 (o)(1)(F) of the Insurance Law was amended to exempt 30-year level term policies from cash value requirements. Under the new law, cash values are not required for term life policies which provide level premiums and level face amounts for 30 years (or less) expiring before age 81. The Life Bureau posted filing guidance on the Department's Web site, recommending that such filings be made under the prior approval with certification procedure. As a result, the Life Bureau approved an unusually high number of 30-year level term life insurance policies in 2002 on an expedited basis.

i. Post-Approval Review

Consistent with Office of General Council Opinion 01-06-30 issued on 06/29/2001, the Life Bureau deferred the review of those aspects of the policy form prior approval process that were determined to be more appropriate as part of a post-approval review. In 2002, the Life Bureau began the review of these deferred items as recommended by Opinion 01-06-30. On a sample basis, reviews were performed for an entire company as part of the normal exam process. In addition, specific approved forms were reviewed on a sample basis.

j. Statutory Examinations

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

In addition, the Albany staff has been expanding its analysis of life insurers' risks beyond the traditional analysis of minimum statutory formula reserves and asset/liability matching. Historically, the Life Bureau has relied on the requirements of Regulation 126 to ensure reserve adequacy under moderately adverse conditions. Regulation 126 requires asset adequacy analysis, which necessitates the need to consider asset and liability cash flows under various economic scenarios. Given the current economic environment, the Bureau has required a series of additional sensitivity tests to be performed, in addition to the regular asset adequacy analysis, for variables related to policyholder behavior and investment assumptions. This type of additional analysis will better determine an insurer's susceptibility to deteriorating economic conditions.

Internally, the Bureau has developed a risk matrix approach to benchmark life insurers' overall risk characteristics. Both sides of the balance sheet (assets and liabilities) are considered. This type of analytical tool further enhances the Bureau's ability to prioritize and focus our resources on insurers that are more susceptible to deteriorating economic conditions. During the year, surveys were sent out regarding the management of liquidity risk, current and guaranteed interest-crediting rates, and managing risk with respect to providing variable annuities with guarantees on the performance of the underlying funds. All of these tools combined allow for more timely identification of risk. During 2003, the Bureau will be continuing its efforts to further improve its risk-based examination focus.

k. Financial Indicators

The Risk-Based Capital (RBC) Formula and Model Act that was adopted by the National Association of Insurance Commissioners (NAIC) and the New York Legislature went into effect for the December 31, 1993 Annual Statement filings. The RBC formula is updated yearly by the Life Risk-Based Capital Working Group of which New York is a member. Updates are needed to reflect new products and improvements in risk measurement.

The decline in equity markets has coincided with efforts to update the formula for risk associated with guarantees on variable annuities. The American Academy of Actuaries has proposed that a company use its own models to determine risk based capital requirements for variable annuities with guarantees. The Life Bureau in Albany has been actively involved in the regulatory specifications that would be needed to implement this proposal. If adopted as proposed, the Life Bureau will review results and recommend changes as needed to ensure the consistency and adequacy of the capital requirements determined using company models.

B. PROPERTY BUREAU

1. Entities Supervised by the Financial Regulation Division

As of December 31, 2002, the Financial Regulation Division side of the Property Bureau exercised regulatory authority over some 1,650 insurer and noninsurer entities.

The Bureau regulated 958 insurer entities as of year-end 2002. Table 16 provides a breakdown:

Table 16
ENTITIES REGULATED BY PROPERTY BUREAU
2002

Number of Regulated Entities	Type of insurer/reinsurer/entity
76	Accredited reinsurers*
18	Advance premium co-operatives
27	Assessment co-operatives
11	Associations, pools, and syndicates
4	Captive insurers
15	Financial guaranty insurers
5	Medical malpractice insurers
24	Mortgage guaranty insurers
1	Property Insurance Underwriting Association (FAIR Plan)
740	Property/casualty insurers
23	Title insurers (including two accredited reinsurers)
14	United States branches

*Lloyd's of London (Lloyd's), included as an accredited reinsurer, is comprised of individual underwriting syndicates, each of which must meet the requirements for recognition as an accredited reinsurer. As of December 31, 2002, the Department recognized 70 active Lloyd's syndicates as accredited reinsurers.

In addition, the Bureau oversaw the operation of 49 risk retention groups in 2002, 219 reinsurance intermediaries, 9 insurer-controlling producers, and 403 managing general agents.

The Property Bureau received 30 applications for licensing and three applications for recognition as an accredited reinsurer during 2002. Twenty-one insurers were newly licensed including 1 domestic stock company, 1 domestic financial guaranty insurer, 2 foreign mutual insurers, 1 foreign title company and 16 foreign stock insurers. In addition, 6 insurers were accredited, one of which was a mutual company. At the close of the year, 4 domestic stock companies, one of which is a domestic reciprocal guaranty insurer, 1 foreign mortgage guaranty insurer, 1 foreign title insurer and 17 foreign stock insurers had license applications pending with the Department.

2. Property and Casualty Business

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

a. Premium Volume and Surplus to Policyholders

Net premiums written during 2001 by all New York-licensed property and casualty insurers aggregated was \$235.6 billion, of which 75.8% represents stock company writings. The following underwriting and investment results deal with the countrywide business of New York-licensed companies:

Table 17
NET PREMIUMS WRITTEN AND SURPLUS TO POLICYHOLDERS
Property and Casualty Insurers Licensed in New York State
1996-2001
(dollar amounts in millions)

Year	Stock Companies				Mutual Companies			
	No. of Cos.	Net Premiums Written (during year)	Surplus/ Policy-holders (end of year)	Ratio of Premiums to Surplus	No. of Cos.	Net Premiums Written (during year)	Surplus/ Policy-holders (end of year)	Ratio of Premiums to Surplus
1996	614	\$143,254	\$139,288	1.0	75	\$53,094	\$60,928	0.9
1997	623	146,706	168,327	0.9	73	53,644	76,793	0.7
1998	620	144,788	175,313	0.8	76	53,453	85,503	0.6
1999	647	146,569	174,440	0.8	71	55,697	88,998	0.6
2000	683	160,173	168,969	0.9	74	57,305	85,206	0.7
2001	710	178,615	175,383	1.0	75	57,015	72,721	0.8

Source: New York State Insurance Department

b. Underwriting Results

Results for 2001 show a **net** underwriting loss of \$32.2 billion for stock companies and a **net** underwriting loss of \$9.0 billion for mutual companies.

Table 18
UNDERWRITING RESULTS
Property and Casualty Insurers Licensed in New York State
1998-2001
(dollar amounts in millions)

Year	<u>Stock Companies</u>		<u>Mutual Companies</u>		
	Number of Companies	Amount	Number of Companies	Amount	
1998	Underwriting gains	174	\$ 2,852.1	16	\$ 910.0
	Underwriting losses	392	11,216.1	58	3,456.4
	No gain or loss	54	0.0	2	0.0
1999	Underwriting gains	144	\$ 1,709.7	10	\$ 117.5
	Underwriting losses	441	14,062.9	61	5,484.9
	No gain or loss	62	0.0	0	0.0
2000	Underwriting gains	135	\$ 1,270.1	8	\$ 65.9
	Underwriting losses	495	17,251.3	66	6,920.0
	No gain or loss	53	0.0	0	0.0
2001	Underwriting gains	123	\$ 1,722.9	6	\$ 33.3
	Underwriting losses	518	33,916.8	69	9,037.4
	No gain or loss	69	0.0	0	0.0

Source: New York State Insurance Department

c. Investment Income and Capital Gains

Investment income and net capital gains for stock and mutual companies from 1998 to 2001 are as follows:

Table 19
INVESTMENT INCOME AND CAPITAL GAINS
Property and Casualty Insurers Licensed in New York State
1998-2001
(in millions)

Year		Stock Companies	Mutual Companies
1998	Net investment income	\$24,169.0	\$ 7,043.8
	Realized capital gains	10,436.1	3,216.5
	Unrealized capital gains	<u>4,319.4</u>	<u>6,038.3</u>
	Net gain from investments	<u>\$38,924.5</u>	<u>\$16,298.6</u>
1999	Net investment income	\$25,328.2	\$ 6,535.4
	Realized capital gains	7,003.3	3,117.2
	Unrealized capital gains	<u>-3,516.1</u>	<u>2,922.7</u>
	Net gain from investments	<u>\$28,815.4</u>	<u>\$12,575.3</u>
2000	Net investment income	\$26,717.1	\$ 6,486.8
	Realized capital gains	5,494.5	5,249.9
	Unrealized capital gains	<u>-12,761.2</u>	<u>-3,475.7</u>
	Net gain from investments	<u>\$19,450.5</u>	<u>\$ 8,261.0</u>
2001	Net investment income	\$23,689.3	\$ 5,735.7
	Realized capital gains	3,353.5	565.6
	Unrealized capital gains	<u>-7,792.4</u>	<u>-7,065.7</u>
	Net gain from investments	<u>\$19,250.4</u>	<u>\$ -764.4</u>

Source: New York State Insurance Department

d. Underwriting and Investment Exhibit

During 2001, dividends to stockholders amounted to \$9.7 billion; for the same period, dividends to policyholders aggregated to \$1.5 billion. The aggregate contribution to surplus for 2001 was \$13.2 billion compared with \$4.1 billion for 2000.

Table 20
AGGREGATE UNDERWRITING AND INVESTMENT EXHIBIT
Property and Casualty Insurers Licensed in New York State
2000 and 2001
(in millions)

	Stock Companies		Mutual Companies	
	2001	2000	2001	2000
Net gain or loss from:				
Underwriting	\$-32,193.9	\$-15,981.2	\$-9,004.1	\$-6,854.1
Investments ^a	27,042.8	32,211.6	6,301.3	11,736.7
Other income	<u>1,069.3</u>	<u>687.6</u>	<u>504.3</u>	<u>296.6</u>
Net gain or loss	\$-4,081.8	\$ 16,909.0	\$-2,198.5	\$ 5,179.2
Less:				
Dividends to policyholders	809.6	822.0	672.9	1,781.1
Federal income taxes incurred	<u>-1,015.1</u>	<u>2,072.3</u>	<u>-285.5</u>	<u>659.3</u>
Net income	\$-3,876.3	\$ 14,014.7	\$-2,585.9	\$ 2,738.7
Surplus changes other than net income:				
Dividends to stockholders				
• Cash	\$-9,668.4	\$-13,214.3	\$ 0.0	\$ 0.0
• Stock	-28.1	-391.5		
US Branches - Net remittance to/from home office	<u>-18.9</u>	<u>-70.1</u>	<u>0.0</u>	<u>0.0</u>
Total dividends and remittance	\$-9,715.5	\$-13,675.8	\$ 0.0	\$ 0.0
Unrealized capital gains/losses	-7,789.7	-12,761.2	-7,065.7	-3,475.7
Cumulative effect of changes in accounting principles ^b	5,510.4	—	7.7	—
Changes in statutory over case basis ^c	—	85.5	—	25.7
Miscellaneous items ^d	4,506.3	-21.6	2,452.8	-836.6
Contributions to surplus	<u>13,671.7</u>	<u>4,125.4</u>	<u>7.1</u>	<u>0.3</u>
Total other sources	<u>\$ 6,183.2</u>	<u>\$-22,247.7</u>	<u>\$-4,598.1</u>	<u>\$-4,286.3</u>
Net increase or decrease in surplus	<u>\$ 2,306.9</u>	<u>\$ -8,233.0</u>	<u>\$-7,184.0</u>	<u>\$-1,547.6</u>

^a Excludes unrealized capital gains.

^b This account is new in the 2001 NAIC Annual Statement Blank.

^c This account was deleted from the 2001 NAIC Annual Statement Blank.

^d In 2001, "Changes in net deferred income tax" was added to the NAIC Annual Statement Blank and is included here in "Miscellaneous items," while "Extraordinary amounts of taxes for prior years" was a deleted item.

Source: New York State Insurance Department.

e. Selected Annual Statement Data

From 1998 to 2001 aggregate net premiums written increased by 18.9%; admitted assets increased 7.1%; unearned premium and loss reserves increased 8.9%; and other liabilities increased 44.8%. Capital and surplus to policyholders decreased by 4.5%.

Table 21
SELECTED ANNUAL STATEMENT DATA
Property and Casualty Insurers Licensed In New York State
1998-2001
(dollar amounts in millions)

	2001	2000	1999	1998
Stock Companies				
Number of insurers	710	683	647	620
Net premiums written	\$178,615	\$160,173	\$146,569	\$144,788
Admitted assets	574,923	511,202	504,597	509,872
Unearned premium & loss reserves	327,186	295,849	285,537	288,693
Other liabilities	72,353	46,383	44,619	45,867
Capital	5,025	4,932	4,782	4,343
Surplus funds	175,383	168,969	174,440	175,313
Mutual Companies				
Number of insurers	75	74	71	76
Net premiums written	\$ 57,015	\$ 57,305	\$ 55,697	\$ 53,453
Admitted assets	168,215	192,189	193,235	183,986
Unearned premium & loss reserves	73,067	80,098	80,872	78,892
Other liabilities	22,427	26,939	23,366	19,591
Surplus to policyholders	72,721	85,206	88,998	85,503

Source: New York State Insurance Department

f. Direct Premiums Written, by Line

Some of the biggest increases in property/casualty writings in New York State occurred in 2001 as direct premiums written for all property/ casualty lines increased by 12%. In contrast, direct premiums for all property/casualty lines increased by just 5% between 1997 and 2000. Major lines with above average year-to-year increases in 2001 included commercial automobile (18%), other liability (14%), commercial multi-peril (13%) and private passenger bodily injury and property damage liability (13%).

Table 22
DIRECT PREMIUMS WRITTEN BY PROPERTY/CASUALTY INSURERS
New York State — 1997-2001¹
(dollar amounts in millions)

Property and Casualty Lines	1997	1998	1999	2000	2001	Percentage Change	
						1997-2001	2000-2001
All Premiums Written	22,087	22,944	22,012	23,112	25,844	17%	12%
Private Passenger Auto Bodily Injury and Property Damage Liability	8,078	8,219	8,165	8,173	9,018	12	10
Comprehensive and Collision	5,422	5,479	5,368	5,352	6,040	11	13
Commercial Auto	2,656	2,739	2,797	2,821	2,978	12	6
General (Other) Liability	1,413	1,412	1,429	1,491	1,755	24	18
Commercial Multi-Peril	2,091	2,734	1,825	2,148	2,447	17	14
Workers' Compensation	2,031	2,071	2,002	2,085	2,349	16	13
Homeowners' Multi-Peril	2,725	2,686	2,725	3,154	3,283	20	4
Medical Malpractice	2,133	2,181	2,230	2,326	2,469	16	6
Inland Marine	795	873	859	815	858	8	5
Ocean Marine	489	487	527	519	607	24	17
Fidelity and Surety	461	421	353	351	404	-12	15
Accident and Health	317	330	348	357	380	20	6
Fire	398	393	410	442	498	25	13
Product Liability	300	269	256	277	334	11	21
Financial Guaranty ²	141	111	103	111	140	-1	26
Allied Lines	318	389	381	449	664	109	48
Aircraft	126	104	122	135	173	37	28
Boiler and Machinery	44	41	40	47	56	27	19
Credit	62	59	56	62	76	23	23
Burglary and Theft	44	44	45	41	39	-10	-4
All Other ³	13	10	10	10	9	-34	-14
	108	110	123	119	286	165	140

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

¹ New York State business of all New York State licensed companies. Excludes Mortgage Guaranty (\$203 million in 2001). Includes Federal employee health benefits program premium.

² Includes monoline and non-monoline insurers.

³ Includes Farmowners Multi-Peril, Multi-Peril Crop, Federal Flood, Earthquake, and Aggregate Write-Ins.

g. Audit and Analysis

The 2001 Annual Statements of the companies authorized to transact business in the State of New York were filed for audit and analysis in 2002, as were those of reinsurers accredited in this State. Issues arising during the audits were resolved with the companies. As a result of the audits, some filed statements were adjusted to bring reported figures into compliance with New York requirements.

All property/casualty insurers are required to file quarterly statements. Insurers licensed pursuant to Section 6302 of the New York Insurance Law (NYIL) are also required to file a supplemental schedule of special risks. Approximately 2,850 quarterly statements were received, reviewed for completeness and accuracy, and the financial data analyzed.

h. State Insurance Fund

All purchases and sales of stocks and bonds by the State Insurance Fund are subject to the approval of the Superintendent. During 2002, the State Insurance Fund acquired stocks and bonds totaling \$30.2 billion and sold stocks and bonds totaling \$7.5 billion. Upon review, the Property Bureau recommended the approval of the total acquisitions of \$30.2 billion and the total sales of \$7.5 billion. In 2001, the Bureau recommended approval of acquisitions totaling \$22.7 billion and sales totaling \$12.1 billion.

i. CPA-Audited Financial Statements

NYIL Section 307(b) requires licensed insurers to file an annual financial statement, certified by an independent certified public accountant (CPA), on or before May 31 of each year. CPA-audited financial statements were received and reviewed for 896 companies. There were 13 companies entitled to exemption from the filing requirements.

j. Public Inspection of Records

The Financial Division of the Property Bureau provides public access to various Insurance Department documents pursuant to the Freedom of Information Law (FOIL). In 2001, 134 FOIL requests to review and copy records maintained by the Financial Division were received from members of the public.

k. Holding Company-Related Transactions

Pursuant to Article 15 of the New York Insurance Law and Department Regulation 52, the Property Bureau is responsible for the review and approval of transactions within holding company systems. During 2002, 145 holding company transaction files, and 350 holding company registration statements and amendments, were reviewed and closed by the Property Bureau. In addition, 25 notices of acquisition of control of domestic insurers were reviewed and closed by the Property Bureau.

3. Financial Guaranty Insurance

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

As of December 31, 2001, there were seven domestic and six foreign financial guaranty insurers licensed in New York.

Table 23
NET PREMIUMS WRITTEN AND SURPLUS TO POLICYHOLDERS
Financial Guaranty Insurers Licensed in New York State, 1998-2001
(dollar amounts in millions)

Year	Net Premiums Written (during year)	Surplus to Policyholders (end of year)	Ratio of Premiums to Surplus
1998	\$1,299.0	\$6,425.0	0.20
1999	1,297.2	7,162.5	0.18
2000	1,404.5	7,372.8	0.19
2001	1,894.7	8,223.1	0.23

Source: New York State Insurance Department

Table 24
UNDERWRITING RESULTS
Financial Guaranty Insurers Licensed in New York State, 1999-2001
(dollar amounts in millions)

	2001		2000		1999	
	<u>Underwriting</u> Gain	<u>Loss</u>	<u>Underwriting</u> Gain	<u>Loss</u>	<u>Underwriting</u> Gain	<u>Loss</u>
Number of Companies	8	5	8	6	8	4
Amount	\$791.6	\$50.4	\$569.0	\$32.5	\$618.1	\$25.1

Source: New York State Insurance Department

Table 25
INVESTMENT INCOME AND CAPITAL GAINS
Financial Guaranty Insurers Licensed in New York State, 1998-2001
(in millions)

	2001	2000	1999	1998
Net investment income	\$1,067.3	\$1,096.1	\$860.2	\$791.6
Realized capital gains	109.8	355.2	48.9	93.4
Unrealized capital gains	12.2	-344.0	34.9	51.0
Net gain from investments	<u>\$1,189.4</u>	<u>\$1,107.2</u>	<u>\$944.1</u>	<u>\$935.9</u>

Source: New York State Insurance Department

Table 26
AGGREGATE UNDERWRITING AND INVESTMENT EXHIBIT
Financial Guaranty Insurers Licensed in New York State
1998-2001
(in millions)

	2001	2000	1999	1998
Net gain or loss from:				
Underwriting	\$ 741.3	\$ 536.5	\$ 593.0	\$ 401.8
Investments ^a	1,177.1	1,451.2	909.2	885.0
Other Income	<u>10.8</u>	<u>3.5</u>	<u>-8.7</u>	<u>155.8</u>
Net gain or loss	<u>\$1,929.2</u>	<u>\$1,991.2</u>	<u>\$1,493.4</u>	<u>\$1,442.5</u>
Less:				
Dividends to policyholders	0.0	0.0	0.0	0.0
Federal income taxes incurred	<u>506.6</u>	<u>337.1</u>	<u>318.1</u>	<u>304.6</u>
Net income	<u>\$1,422.7</u>	<u>\$1,654.1</u>	<u>\$1,175.4</u>	<u>\$1,137.9</u>
Surplus changes other than net income:				
Dividends to stockholders				
• Cash	\$ -506.1	\$-1,020.2	\$-360.0	\$-135.4
• Stock	<u>-12.5</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
Total dividends and remittance	<u>\$ -518.6</u>	<u>\$-1,020.2</u>	<u>-360.0</u>	<u>-135.4</u>
Unrealized capital gains	12.2	-344.0	34.9	51.0
Cumulative effect of changes in accounting principles ^b	-43.6	—	0.0	—
Changes in statutory over case basis ^c	—	0.0	—	0.3
Miscellaneous items ^d	-390.5	-811.6	-577.3	-685.6
Contributions to surplus	<u>317.5</u>	<u>4.1</u>	<u>469.2</u>	<u>409.1</u>
Total other sources	<u>\$ -623.0</u>	<u>\$-2,171.7</u>	<u>\$-433.2</u>	<u>\$-360.7</u>
Net increase or decrease in surplus	<u>\$ 799.6</u>	<u>\$ -517.6</u>	<u>\$ 742.1</u>	<u>\$ 777.3</u>

^a Excludes unrealized capital gains.

^b This account is new in the 2001 NAIC Annual Statement Blank.

^c This account was deleted from the 2001 NAIC Annual Statement Blank.

^d In 2001, "Changes in net deferred income tax" was added to the NAIC Annual Statement Blank and is included here in "Miscellaneous items," while "Extraordinary amounts of taxes for prior years" was a deleted item.

Source: New York State Insurance Department

Table 27
SELECTED ANNUAL STATEMENT DATA
Financial Guaranty Insurers Licensed In New York State
1998-2001
(dollar amounts in millions)

	2001	2000	1999	1998
Number of Companies	13	14	12	12
Exposure	\$1,855,915.0	\$1,668,180.0	\$1,532,586.0	\$1,322,940.0
Net premiums written	1,894.7	1,404.5	1,297.1	1,299.0
Admitted assets	22,690.8	20,048.5	18,207.9	16,319.4
Unearned premium & loss reserves	7,227.5	6,613.2	5,925.8	5,560.6
Other liabilities	7,240.1	6,062.5	5,119.5	3,395.0
Capital	231.0	211.0	203.5	203.6
Surplus funds	8,223.1	7,372.8	7,162.5	6,425.0

Source: New York State Insurance Department

4. Mortgage Guaranty Insurance

At year-end 2001, there were one domestic and 22 foreign companies licensed to transact mortgage guaranty business in New York.

Table 28
NET PREMIUMS WRITTEN AND SURPLUS TO POLICYHOLDERS
Mortgage Guaranty Insurers Licensed in New York State
1998-2001
(dollar amounts in millions)

Year	Net Premiums Written (during year)	Surplus to Policyholders (end of year)	Ratio of Premiums to Surplus
1998	\$2,662.5	\$2,975.7	0.89
1999	2,691.0	2,809.5	0.96
2000	2,925.0	3,591.2	0.81
2001	3,211.1	4,090.8	0.78

Source: New York State Insurance Department

Table 29
AGGREGATE UNDERWRITING AND INVESTMENT EXHIBIT
Mortgage Guaranty Insurers Licensed in New York State
1998-2001
(in millions)

	2001	2000	1999	1998
Net gain or loss from:				
Underwriting	\$1,505.1	\$1,515.4	\$1,248.2	\$ 896.4
Investments ^a	746.9	640.1	582.2	625.8
Other Income	9.3	-55.1	12.8	7.2
Net gain or loss	<u>\$2,261.4</u>	<u>\$2,100.4</u>	<u>\$1,843.2</u>	<u>\$1,529.4</u>
Less:				
Dividends to policyholders	0.0	0.0	0.0	1.4
Federal income taxes incurred	350.3	260.7	480.9	212.0
Net income	<u>\$1,911.1</u>	<u>\$1,839.7</u>	<u>\$1,362.4</u>	<u>\$1,316.0</u>
Surplus changes other than net income:				
Dividends to stockholders				
• Cash	\$ -258.4	\$ -52.5	\$ -495.0	\$ -169.2
• Stock	0.0	0.0	0.0	0.0
Total dividends	<u>\$ -258.4</u>	<u>\$ -52.5</u>	<u>\$ -495.0</u>	<u>\$ -169.2</u>
Unrealized capital gains	35.6	23.5	97.3	19.1
Cumulative effect of changes in accounting principles ^b	78.8	—	0.0	—
Changes in statutory over case basis ^c	—	0.0	—	1.0
Miscellaneous items ^d	-1,164.6	-991.8	-941.4	-941.1
Contributions to surplus	<u>10.5</u>	<u>-56.9</u>	<u>-115.7</u>	<u>-18.4</u>
Total other sources	<u>\$-1,298.1</u>	<u>\$-1,077.7</u>	<u>\$-1,454.8</u>	<u>\$-1,110.6</u>
Net increase or decrease in surplus	<u>\$ 613.0</u>	<u>\$ 762.0</u>	<u>\$ -92.4</u>	<u>\$ 205.4</u>

^a Excludes unrealized capital gains.

^b This account is new in the 2001 NAIC Annual Statement Blank.

^c This account was deleted from the 2001 NAIC Annual Statement Blank.

^d In 2001, "Changes in net deferred income tax" was added to the NAIC Annual Statement Blank and is included here in "Miscellaneous items," while "Extraordinary amounts of taxes for prior years" was a deleted item.

Source: New York State Insurance Department

Table 30
SELECTED ANNUAL STATEMENT DATA
Mortgage Guaranty Insurers
1998-2001
(dollar amounts in millions)

	2001	2000	1999	1998
Number of companies	23	24	22	24
Net premiums written	\$ 3,211.1	\$ 2,925.0	\$ 2,691.0	\$ 2,662.5
Admitted Assets	17,102.7	14,718.2	12,580.6	11,812.8
Unearned premium & loss reserves	5,269.9	4,724.6	4,391.7	4,293.3
Other liabilities	7,741.9	6,402.4	5,379.4	4,543.8
Capital	62.0	63.8	58.8	102.9
Surplus	4,090.8	3,591.2	2,809.5	2,975.7

Source: New York State Insurance Department

5. Title Insurance

Ten domestic and 14 foreign companies were licensed to write title insurance in this State at the close of 2001.

Table 31
SELECTED ANNUAL STATEMENT DATA
Domestic Title Insurance Companies
1998-2001
(dollar amounts in millions)

	2001	2000	1999	1998
Number of Companies	10	10	10	10
Net premiums written	\$613.1	\$496.3	\$559.1	\$486.2
Admitted assets	440.1	417.4	429.1	396.3
Liabilities	273.4	254.4	241.4	216.7
Capital	10.9	10.8	10.8	10.3
Surplus	166.7	163.0	189.0	179.6

Source: New York State Insurance Department

6. Advance Premium Co-operative and Assessment Corporations

At year-end 2001, there were 18 advance premium corporations under the supervision of the Property Bureau. The total number of advance premium corporations remained unchanged from 2000 to 2001. The net premium volume of the advance premium corporations increased by 8.9% from the prior year.

A total of 28 assessment corporations were under the Bureau's supervision at year-end 2000, that number remains the same for 2001. The net premium volume of these 28 companies increased by 10.7% from the prior year.

During 2002, the Bureau initiated ten examinations of the advance premium and assessment corporations.

Table 32
SELECTED ANNUAL STATEMENT DATA
Advance Premium Co-operative and Assessment Companies
1998-2001
(dollar amounts in millions)

Year		Total	Advance Premium Companies	Assessment Co-operative Companies
1998	Number of companies	48	19	29
	Total assets	\$1,155.8	\$974.3	\$181.5
	Net premiums written	479.1	416.3	62.8
	Surplus funds	508.5	399.0	109.5
1999	Number of companies	46	18	28
	Total assets	\$1,184.0	\$991.4	\$192.6
	Net premiums written	471.1	406.8	64.3
	Surplus funds	547.0	428.0	119.0
2000	Number of companies	46	18	28
	Total assets	\$1,228.0	\$1,024.7	\$203.3
	Net premiums written	497.9	429.6	68.3
	Surplus funds	568.3	443.8	124.5
2001	Number of companies	46	18	28
	Total assets	\$1,294.1	\$1,079.0	\$215.1
	Net premiums written	543.4	467.8	75.6
	Surplus funds	559.9	431.5	128.4

Source: New York State Insurance Department

7. Special Risk Insurers (Free Trade Zone)

Calendar year 2001 marked the 23rd full year of operation for the companies licensed as special risk insurers pursuant to Section 6302 of the Insurance Law. There were 187 licensed companies as of December 31, 2001. Net premiums written during the year amounted to \$407.6 million, bringing the net premiums written since inception to approximately \$6.1 billion. Net premiums written (in millions) since inception are as follows:

Table 33
NET PREMIUM WRITTEN
by Special Risk Insurers in the Free Trade Zone
1978-2001
(dollar amounts in millions)

1978-1996	\$3,894.2
1997	398.9
1998	466.2
1999	482.6
2000	423.9
2001	407.6
Total	\$6,073.4

Source: New York State Insurance Department

8. Risk Retention Groups

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

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

As of December 31, 2001, 46 risk retention groups had notified the Department of their intention to do business in New York under the provisions of the federal legislation.

In calendar year 2001, 46 risk retention groups filing financial statements with this Department reported total direct premiums written of \$546.5 million and total net premiums written of \$288.1 million. These risk retention groups reported direct premiums written of \$61.7 million in New York State during this same period.

9. Examinations of Insurers

**Table 34
EXAMINATIONS CONDUCTED
by the Financial Regulation Division of the Property Bureau
2001**

	<u>Regularly Scheduled</u>			<u>Other Financial Exams</u>		
	Total	Started in 2002	Started Prior to 2002	Special	On Organi- zation ¹	Increase in capital ² and other
Property and casualty insurers, including financial guaranty insurers	147	66	77	2	2	0
Other insurers	0	0	0	0	0	0
Title and mortgage guaranty insurers	4	1	3	0	0	0
Total	151	67	80 ³	2	2	0

¹ Examination conducted when insurer is first incorporated in New York State.

² Examination conducted when insurer increases its capital.

³ This total includes 40 reports with completed field work that were not filed as of 1/1/03.

10. Lloyd's of London

Underwriters at Lloyd's (Lloyd's of London) consist of underwriting syndicates at Lloyd's which meet the requirement for recognition as accredited reinsurers in New York. As of December 31, 2002, 70 active syndicates at Lloyd's were recognized as accredited reinsurers by the Department. Each syndicate is required to maintain a trust fund in New York and the amount deposited in each trust fund is required to equal each syndicate's gross liabilities for U.S. situs reinsurance business. In addition, all syndicates together must maintain a minimum surplus in trust, on a joint and several basis, of not less than \$100 million, for the protection of United States ceding insurers.

11. Certified Capital Companies

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

New York's CAPCO Program, originally established by Chapter 389 (Sections 142 through 145) of the Laws of 1997, intended to spur the growth of businesses and employment in New York State by

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

As of December 31, 2001, the CAPCOs invested approximately \$83.7 million in 74 qualified businesses: Program One CAPCOs invested 50.9% of their total \$100 million certified capital; Program Two CAPCOs invested 34.5% of their \$30 million total; and Program Three CAPCOs invested 6.7% of their \$150 million certified capital.

The qualified businesses were predominately high technology companies; significant investments were also made in media, financial services and manufacturing. Thirty-nine businesses had less than \$1 million in assets at the time of a CAPCO initial investment; the CAPCOs' investments in these businesses accounted for approximately 47% of the total invested. Fifty early-stage businesses, as defined by the statute, received approximately \$50.6 million (60.4%). Forty-two qualified businesses, headquartered in Manhattan, received 55% of the dollars invested; 12 businesses located in the Capital District received 15.6%. Of the \$21.9 million Program Three investments made, 46% were made outside of New York County, defined by the CAPCO statute as "underserved areas." No Program Three investments were made in Empire Zones. Overall, the number of New York employees in these businesses decreased by 88 positions since inception of the CAPCO Program.

The 2003-2004 proposed Executive Budget presented to the Legislature by Governor Pataki provides for the establishment of a CAPCO Program Four with an aggregate allocation of \$250 million in tax credits for calendar year 2005 to encourage investments in high technology.

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

a. Number of Filings

During 2002, the Market Regulatory Section of the Property Bureau received 8,004 filings involving changes in rates, rating rules, policy forms, rate classifications and rating territories submitted by rate service organizations, joint underwriting associations and insurers. The filings were submitted for the following lines of business:

**TABLE 35
NUMBER OF FILINGS RECEIVED, BY TYPE*
Market Regulatory Section of the Property Bureau
2002**

Line of Business	Rates & Rules	Policy Forms	Classes and Territories	Totals
Fire and Allied Lines	409	316	0	725
Farmowners Multiple Peril	48	28	1	77
Homeowners Multiple Peril	429	248	0	677
Multiple Line	62	78	0	140
Commercial Multiple Peril	434	332	3	769
Inland Marine	193	177	0	370
Medical Malpractice	421	91	0	512
Earthquake	3	2	0	5
Flood	4	5	0	9
Rain	2	4	0	6
Workers' Compensation & Employer's Liability	126	80	0	206
Other Liability	1225	800	2	2027
Motor Vehicle Insurance	1072	587	2	1661
Aircraft	1	9	0	10
Fidelity & Surety	193	63	0	256
Glass	4	5	0	9
Burglary & Theft	226	97	0	323
Boiler & Machinery	32	20	0	52
Credit	1	0	0	1
Animal Mortality	6	8	0	14
Mortgage Guaranty	25	15	0	40
Residual Value	1	0	0	1
Title	3	2	0	5
Financial Guaranty	4	90	0	94
Prepaid Legal Service Plan	5	7	0	12
Warranty Reimbursement	1	2	0	3
Totals	4,930	3,066	8	8,004

*These figures include approximately 227 consent-to-rate filing applications; 73 group property & casualty filings; 73 manuscript policy form filings; and 125 rating plans submitted in 2002. During 2002, 406 policy form filings and 409 rate or rating rule filings were disapproved. In addition, the Bureau developed speed-to-market initiatives and accepted electronic submission of filings through the System for Electronic Rate and Form Filing (SERFF). The Bureau handled 557 form and rate filings by these means.

b. Advisory Rate/Loss Cost Changes

The following table lists major revisions in rates or loss costs that were approved or acknowledged during 2002. Loss costs apply to the voluntary market and are advisory, *i.e.*, they do not have to be adopted by any insurer. They reflect the experience of all companies that report to the rate service organization. Loss costs are used by the majority of insurers for most lines of business as a basis for their individual company rate revisions.

**Table 36
MAJOR EFFECT OF PRINCIPAL RATE & LOSS COST CHANGES
Filed in 2002 by Property and Casualty
Rate Service Organizations**

	Percent Changes in Average State-Wide Rates
<u>AUTOMOBILE</u>	
Automobile Insurance Plans Service Office	
Private Passenger Automobile	
(Rates Revised)	
Bodily Injury Liability	+13.5
Property Damage Liability	+10.0
Personal Injury Protection	+30.0
Uninsured Motorists	+11.8
Liability Subtotal	+20.0
Comprehensive	-4.0
Collision	+4.0
Physical Damage Subtotal	+0.3
Total All Coverages	+19.5
Effective May 1, 2002	
Automobile Insurance Plans Service Office	
Commercial Automobile – Public Livery	
(Rates Revised)	
Taxis	
Bodily Injury Liability	0.0
Property Damage Liability	0.0
Personal Injury Protection	0.0
Medicars and Ambulettes	
Bodily Injury Liability	+15.0
Property Damage Liability	+15.0
Personal Injury Protection	+15.0
Remainder of Social Service	
Bodily Injury Liability	+15.0
Property Damage Liability	+15.0
Personal Injury Protection	+15.0
Limousines and Van Pools	
Bodily Injury Liability	0.0
Property Damage Liability	0.0

Personal Injury Protection	0.0
School and Church Buses	
Bodily Injury Liability	+10.6
Property Damage Liability	+10.6
Personal Injury Protection	+10.6
Total All Vehicle Types and Coverages	
Effective March 1, 2002	+9.5
Insurance Services Office, Inc.	
Commercial Automobile	
Loss Costs Revised	
Commercial Cars	
Single Limit Liability	+5.0
Personal Injury Protection	+15.0
Liability Subtotal	+5.4
Comprehensive	0.0
Collision	+5.0
Physical Damage Subtotal	+3.5
Total Commercial Cars	+5.1
Garages	
Single Limit Liability	0.0
Personal Injury Protection	0.0
Liability Subtotal	0.0
Physical Damage – Garage Dealers	
Comprehensive	0.0
Collisions	0.0
Physical Damage – Garage Keepers	
Comprehensive	0.0
Collision	0.0
Phy. Dam. – Grge. Dealers & Keepers Subtotal	0.0
Total Garages	0.0
Private Passenger Types	
Single Limit Liability	+10.0
Personal Injury Protection	+15.0
Liability Subtotal	+10.3
Comprehensive	-10.0
Collision	0.0
Physical Damage Subtotal	+10.3
Total Private Passenger Types	+5.9
Total All Coverage	+5.1
Total Liability	+6.2
Total Physical Damage	+0.1
Effective February 1, 2003	

**Insurance Services Office, Inc.
Commercial Automobile
Loss Costs Revised
Zone-Rated Risks**

Liability	+63.6
Comprehensive	-65.9
Collision	-25.9
Physical Damage Subtotal	-42.9

Total All Coverages +20.3
Effective February 1, 2003

LIABILITY OTHER THAN AUTOMOBILE

**American Association of Insurance Services
Commercial Liability Program
Loss Costs Revised**

Effective December 1, 2002 +17.01

**Insurance Service Office, Inc.
Commercial General Liability
Basic Limits Loss Cost Revised**

Manufacturers and Contractors	+6.8
Owners, Landlords and Tenants	+8.5
Total Premises/Operations	+7.6
Products	+2.0
Local Products/Completed Operations	+10.0

Total Products/Completed Operations +7.9

Total All Coverages +7.6

Effective November 1, 2001

General Liability

Underwriters Rating Board

Introduction of Rates for Blanket Addn'l Insured
Endorsements

New

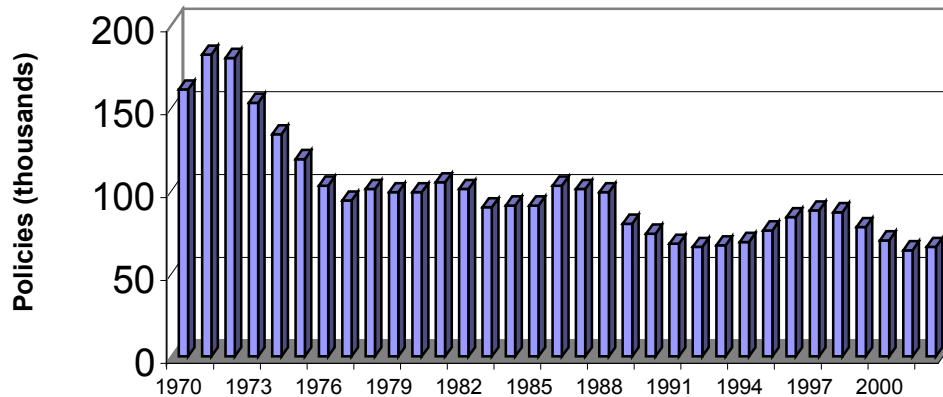
Effective August 20, 2002

13. New York Property Insurance Underwriting Association (NYPIUA)

a. Policies Issued

The following graph illustrates the number of policies issued by the New York Property Insurance Underwriting Association from 1970 through 2002:

Chart A
NYPIUA - Policies Issued
1970-2002



Following the peak year of 1971 (182,000 policies), there was a steady decline through 1977 in the number of policies issued annually by the Association. The period 1977 through 1982 saw comparative stability, with the number of policies ranging between 94,000 and 105,000. The sharp decline experienced from 1982 to 1983 can be attributed to soft market conditions, while 1986 showed a sharp increase in policies issued as the voluntary insurance market hardened. Another soft insurance market accounted for the large decrease in the number of policies issued by the Association in 1989 and continued through 1994 as many NYPIUA policies were rewritten in the voluntary market. The number of NYPIUA policies began to increase again in 1993 reflecting, in part, the ongoing concern for adequate coastal property insurance coverage. In 1998, 1999, 2000 and 2001 the number of NYPIUA policies had declined. However, the number of policies issued by the Association has increased slightly in 2002.

b. Financial Information

For the fiscal year ending December 31, 2002, the Association's Financial Report indicated premiums earned of \$26,376,985 and a net underwriting gain of \$1,236,760. Other income of \$5,599,995, comprised of net investment income of \$5,276,855; premium balances charged off \$38,524; bond amortization loss of \$196,695; gain on sale of securities of \$431,904; and policy installment fees of \$126,455, resulted in net income before taxes of \$6,836,755. The change in assets not admitted of \$7,545 and taxes incurred of \$255,691 resulted in a net change in the Members' Equity Account of \$6,573,519. The cumulative operating profit as of December 31, 2002 was \$118,201,297. After all assessments (net of distribution of \$40,268,192), the net Members' Equity Account totaled \$77,933,105.

In accordance with Section 5405(c) of the New York Insurance Law, the Association estimated a surplus from operations of \$4,061,000 for the calendar year 2003. There will be no need to credit the

Association with any funds from the New York Property/Casualty Insurance Security Fund for the year beginning January 1, 2002, since its assets exceed its liabilities.

After the Department's review of the data submitted, it was determined that there would be an operating surplus of \$4,488,000 from the operations of NYPIUA. In view of these results, no estimated deficit from operations was approved for the Association for the fiscal year ending December 31, 2003.

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

c. Rate Revisions

During 2002, there were no rate revisions approved for the Association.

d. Plan of Operation Revisions

During 2002, the Department approved a revision to the plan of operation wherein the \$300,000 occupied dwelling coverage limit at time of application was raised to \$500,000.

e. Pilot Grant Program

In order to promote orderly community development and address the needs of NYPIUA policyholders, who are not financially able to independently fund electrical repairs or other improvements to eliminate hazards, a pilot grant program was implemented in January 2003. Under this program, a total of 100 grants will be given limited to \$1,500 per applicant and on a matching fund basis. Application for the grant will be available to all qualifying policyholders. A committee of NYPIUA executives will review these applications and the grant will be issued in a non-discriminatory manner. The funding for this program will come from members equity and not from operating expenses.

14. Medical Malpractice Insurance

a. Establishment of Rates and Premium Surcharges

Chapter 1 of the Laws of 2002 extended for one year the authority of the Superintendent of Insurance to establish rates for policies providing coverage for physicians and surgeons medical malpractice liability insurance. This legislation also extended the provision that allowed for the application of surcharges of up to 8% annually, beginning July 1, 1989, upon the then-established rates if required to satisfy any deficiency for the policy periods July 1, 1985 through June 30, 2003.

The Department has established primary medical malpractice insurance rates in New York for the 7/1/02 – 6/30/03 policy year. Although most physicians' rates remained unchanged from the previous year, simultaneously approved classification and territory changes for all insurers in the voluntary market resulted in rate changes for some insureds that ranged between -10.0% and +20.0%.

This was the sixth consecutive year that rates, for the most part, remained unchanged.

b. Claims-Made Factors and Optional Tail Factors

The claims-made rate is obtained by multiplying the established occurrence rate by the claims-made factor. This factor varies depending on the number of years the insured has been covered by the claims-made program. The rate for the optional tail coverage required to be offered upon termination of coverage is based on the number of years the physician has completed in the claims-made program, and is obtained by multiplying the established occurrence rate by the factor established by the Superintendent. For the 2002-2003 policy year, it was determined that no change was needed to these factors.

c. Refund of Premium for Physicians Excess Medical Malpractice Insurance

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

d. Physicians Excess Medical Malpractice Insurance for '02-'03

Chapter 1 of the Laws of 2002 continued the excess medical malpractice program provided for in §18 of Chapter 266 of the Laws of 1986, as amended for the period April 1, 2002 through June 30, 2003. The following changes were made:

- the minimum limits of primary malpractice insurance coverage that eligible physicians, surgeons, or dentists must have in force increased from \$1,000,000/\$3,000,000 to \$1,300,000/\$3,900,000.
- the Superintendent established a rate of 5.0% above the \$1,000,000/\$3,000,000 premium for this new primary limit of coverage.
- all physicians, surgeons, and dentists participating in the excess medical malpractice insurance program must participate in a proactive risk management program. The Superintendent promulgated the Third Amendment to Regulation 124 which contains standards for the establishment and administration of the proactive risk management program.

e. Dissolution of the Medical Malpractice Insurance Association

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

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

The New York Medical Malpractice Insurance Plan (Plan) has been established by Department Regulation 170 (11 NYCRR 430) to provide medical malpractice insurance to eligible health care practitioners and facilities otherwise unable to obtain coverage in the voluntary market. All insurers licensed in New York and writing medical malpractice insurance in the State are required to be members of the Plan. Regulation 170 also permits the members to participate in an independent pooling mechanism whereby, rather than getting individual assignments, writings, expenses, fees and losses will be shared proportionately among the members. For the year 2002, it was once again the unanimous decision of all members of the Plan to join the Medical Malpractice Insurance Pool of New York State (Pool). (Any member company that chooses not to join the Pool would be required to provide medical malpractice coverage to individual insureds.) For 2002, the Pool insured 2,406 individuals (including professional corporations) compared with 1,103 the previous year. A breakdown of the individual insureds by type follows:

**Table 37
MEDICAL MALPRACTICE INSURANCE POOL OF NEW YORK STATE
Insured Individuals (including professional corporations)
2000-2002**

Type of Insured	Policies as of 12/31/02	Policies as of 12/31/01	Policies as of 12/31/00
<u>Primary Insureds</u>			
Physicians	551	572	675
Dentists	168	135	195
Podiatrists	64	47	65
Nurse-Anesthetists	5	5	6
Nurse-Midwives	2	0	0
Professional Corporations	29	28	33
Total Primary Insureds	819	787	974
<u>Excess Layer Insureds</u>			
First Layer Excess	292	151	2,444
Second Layer Excess	1,295	165	231
Total Exc. Layer Insureds	1,587	316	2,675
Total All Insureds	2,406	1,103	3,649

Note: Most of the increase in the number of excess layer insureds from 12/31/01 to 12/31/02 resulted from one voluntary insurer nonrenewing its second excess layer book of business for the policy year beginning July 1, 2002.

In addition to these individuals, the Pool insured 132 facilities, up from 74 the year before. The increase in the number of these insureds is attributable to an increase in the number of adult homes and nursing homes not able to obtain coverage in the voluntary market.

15. Workers' Compensation

a. Workers' Compensation Rate Credits for Managed Care Programs

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

A managed-care program can control associated workers' compensation costs through careful review of utilization and case management, safety programs, return-to-work policies and other loss control techniques. Since the initial program was approved, the Department has approved rate credits for 39 other insurance carriers desiring to offer managed care programs. However, the number of insurance companies that have a managed care premium credit program in place has decreased to 34 as of year end 2002.

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

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

b. Workers' Compensation Drug-Free Workplace Credit Program

In 1996, the Department began approving a 5% workers' compensation premium rate modification for those insured employers implementing a drug-free workplace program. Consideration for this program was based upon a significant number of studies on how drugs and alcohol affect an employer's workplace by adversely increasing the frequency and severity of accidents and claims. A drug free credit program is thus a useful tool in efforts to reduce the cost of workers' compensation claims. Subsequently, the Department has received requests and approved a 5% credit for 31 other insurance carriers desiring to implement a similar program through 2002.

16. Insurance Availability Issues

While liability insurance coverages continued to be generally available during 2002, there was a hardening that affected certain markets. The Department continued to monitor market conditions and addressed individual problems as they arose.

a. Availability Survey

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

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

Beginning in 2000, the survey included a new section that requested information on Free Trade Zone business written during the year. By adding this section to the availability survey, the Department eliminated the prior need for insurers to complete separate hard-copy questionnaires to provide this

information. The data gathered from the survey is used to produce the Department's Annual Free Trade Zone Update.

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

b. Contractors

The market for liability coverage for contractors has been affected by the hardening of the market during the past few years. Several factors have contributed to the problems evident in the market. Competitive conditions that prevailed in recent years may have delayed insurers' recognition of nascent deterioration in loss trends. In addition, judicial interpretations of the provisions of Sections 240 and 241 of New York's Labor Law (often referred to as the "Scaffolding Law") have had a negative impact on some insurers' inclination to actively participate in underwriting risks that are subject to the law. The strict liability imputed to employers affected by the Scaffolding Law has caused insurers to reconsider both their willingness to provide coverage for contractors as well as the pricing of coverage that they are prepared to provide. Amending the Labor Law to more accurately define liability for employee injuries may help to alleviate the problem. This development in the contractor's market was further exacerbated following the events of September 11.

The Department has continued to monitor form and rate filings affecting this market. Additionally, pursuant to Section 308 of the Insurance Law, two special surveys of insurers were conducted during 2002. These surveys were sent to selected insurer groups and individual companies that had responded to recent Insurance Availability Surveys indicating that they provided a market for contractors liability insurance. A total of 46 individual companies and 25 groups, representing a total of 178 companies, responded to the latest survey.

Responses to these surveys indicate that the number of policies in force by geographic regions of New York State appear to have remained stable in Long Island and the Capital District, whereas other areas have experienced a drop-off in the third quarter of 2002. New York City and the North Country are most noteworthy with a decrease in policies in force during the first three quarters of 2002 of approximately 10%.

Insurers responding to the surveys pointed to the provisions of the Labor Law, poor loss experience and reinsurance and capacity restraints as reasons for reconsidering their positions in the market.

A review of contractors liability data provided by the Insurance Services Office (ISO), the principal statistical agent for this business, showed that overall the contractors classes have very high loss ratios and have deteriorated over the period reviewed. This supports the conclusion that loss experience is a significant factor in companies withdrawing from or reducing their writings in the contractors classes.

c. Standby JUA Authority

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

While coverages continued to be generally available in 2002, there were some difficulties in several key markets, particularly for properties located in coastal areas of the State. Accordingly, the CMAP, a homeowners market assistance program for coastal risks, was extended for an additional year to alleviate market pressures in that arena during 2002. The Department's efforts to find workable solutions to the coastal problem are detailed in Section 18 (Homeowners Insurance) of this section of the Annual Report.”

17. Automobile Insurance

a. Private Passenger Automobile Issues

New York Automobile Insurance Plan Amendments

The New York Automobile Insurance Plan (Plan) was directed on March 29, 2002 to address several areas of concern, including the battle against fraud, increasing Plan accountability, lowering costs to all drivers and reducing the Plan's population. To further these efforts, six members (three insurers and three public members) were added to the Plan's Governing Committee, bringing the total to 21. In his March 29th letter to the Governing Committee, the Superintendent directed that one of the new public members should serve as a consumer representative.

b. Public Automobile Issues

In 2002, the Insurance Department hosted two more meetings of the New York Taxi & Livery Advisory Committee. Both meetings were well attended by representatives from all segments of the marketplace, including individual drivers, driver and owner associations, producers, insurance companies, and legislators. Also attending were representatives from the Department of Motor Vehicles (DMV) and the New York City Taxi & Limousine Commission (TLC).

These meetings have continued to be a useful vehicle for the facilitation and continuation of meaningful dialogue of the issues and developments affecting the livery industry. Examples of topics discussed included the current state of the livery market, the progress of the newly implemented staggered vehicle registration format as well as the continuing efforts to combat fraud and abuse of the automobile insurance market.

c. No-Fault Motor Vehicle Insurance Law Activity – 2002

i. Optional Arbitration System

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

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

The volume of filings compromised the Department's ability to effectively administer the conciliation process and oversee the operation of the No-Fault reparations system. Therefore, by promulgating the 24th Amendment to Insurance Department Regulation 68, the Department outsourced the administration of this process to the American Arbitration Association (AAA), effective with all arbitration requests filed on and after December 1, 1999. However, the No-Fault arbitration system continued to be burdened by dramatic increases in the filing of requests for arbitration and delays in resolving disputes. By December 31, 2001, the inventory of cases pending in the No-Fault arbitration system totaled 110,993 cases.

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

- Cases arising out of the same event and cases with the same litigants are being consolidated in order to increase efficiency and resolve multiple disputes simultaneously while also affording arbitrators an opportunity to identify fraudulent or abusive claims;
- All arbitration requests are being thoroughly reviewed when received in order to ensure that they are complete and accurate and to improve processing speed and efficiency;
- Earlier submission of all forms and supporting evidence is now required in order to promote quicker and more efficient dispute resolution;
- Insurers are permitted the right to negotiate attorney's fees, subject to specified limitations, in order to resolve disputed claims prior to the transmittal of disputes to arbitration;
- Arbitrators have been granted the authority to impose the costs of administration upon an applicant if the arbitrator concludes that the applicant has filed an arbitration that was frivolous or totally without merit in order to deter abuse of the arbitration process;
- Expedited hearings for injured claimants and health care providers that submit bills within 90 days of denial or nonpayment can be conducted to rapidly resolve disputes for those injured persons and health care providers who are truly interested in the prompt resolution of their disputes;
- Direct referrals of arbitration decisions to the Department's Frauds Bureau by arbitrators who have written decisions that identify fraudulent behavior;
- The new prescribed assignment of benefits forms will protect injured persons from those providers who have utilized improper assignment forms to recover unnecessary or illegal charges directly from those injured persons;
- The number of no-fault arbitrators has more than doubled and there is now a total of 102 arbitrators who have been appointed to resolve No-Fault disputes; and
- Insurers were mandated to develop action plans to address their entire pending inventory of arbitration cases in a prompt and efficient manner.

In 2002, there were 77,566 new filings of requests for no-fault arbitration. This represents a decrease of 8.7% from the total of 84,977 filings in 2001. This decline follows several years of increases in the number arbitration requests that were filed. Chart B illustrates the number of requests for arbitration filed each year since 1994.

In 2002, 24,119 cases were closed through conciliation and 76,502 cases were closed in arbitration. These totals represent an increase of almost 50% in the number of dispositions in conciliation and a more than 100% increase in the number of cases closed in arbitration compared to the totals for the year 2001. Therefore, in 2002, there were more than 100,000 case dispositions in both phases of the arbitration process.

The inventory of no-fault arbitration cases continued to grow through March 2002 when it reached 116,172 cases. From that point, the inventory declined each month through the year and by December

31, 2002, the inventory of cases pending in the No-Fault arbitration program totaled 89,868 cases, a 19% decrease from the number of cases that were pending at the start of the year. Chart C illustrates the total inventory level and the inventory levels in both conciliation and arbitration throughout the year 2002.

ii. No-Fault Regulatory Changes

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

The Department sought to promulgate another revision to Regulation 68 to take effect September 1, 2001. The new revision contains the 30-day period for notice of claim and the 45-day period for health provider billing and also includes consumer safeguards that will ensure legitimate claims are paid. These consumer safeguards include changing the standard for an excuse of late submission from one that required a demonstration of impossibility for non-compliance to one which requires clear and reasonable justification; requiring insurers to create reasonable and objective standards for review of late submissions; requiring insurers to conduct a supervisory review of claims denied for late submission; and creating a new expedited arbitration process for the resolution of disputes that involve late submission of notice.

The same group of plaintiffs that challenged the previous revision once again challenged the Department's attempt to promulgate the revised regulation. New York State Supreme Court Justice William Wetzel upheld the legality of the new revision to Regulation 68 on February 19, 2002. The revised regulation took effect on April 5, 2002 in accordance with Justice Wetzel's decision. Subsequently, the Appellate Division, 1st Department, unanimously upheld Justice Wetzel's decision. Recently, the Court of Appeals has decided to hear a further appeal of Justice Wetzel's decision.

CHART B

Sources of Applications for No-Fault Requests for Arbitration 1994 — 2002

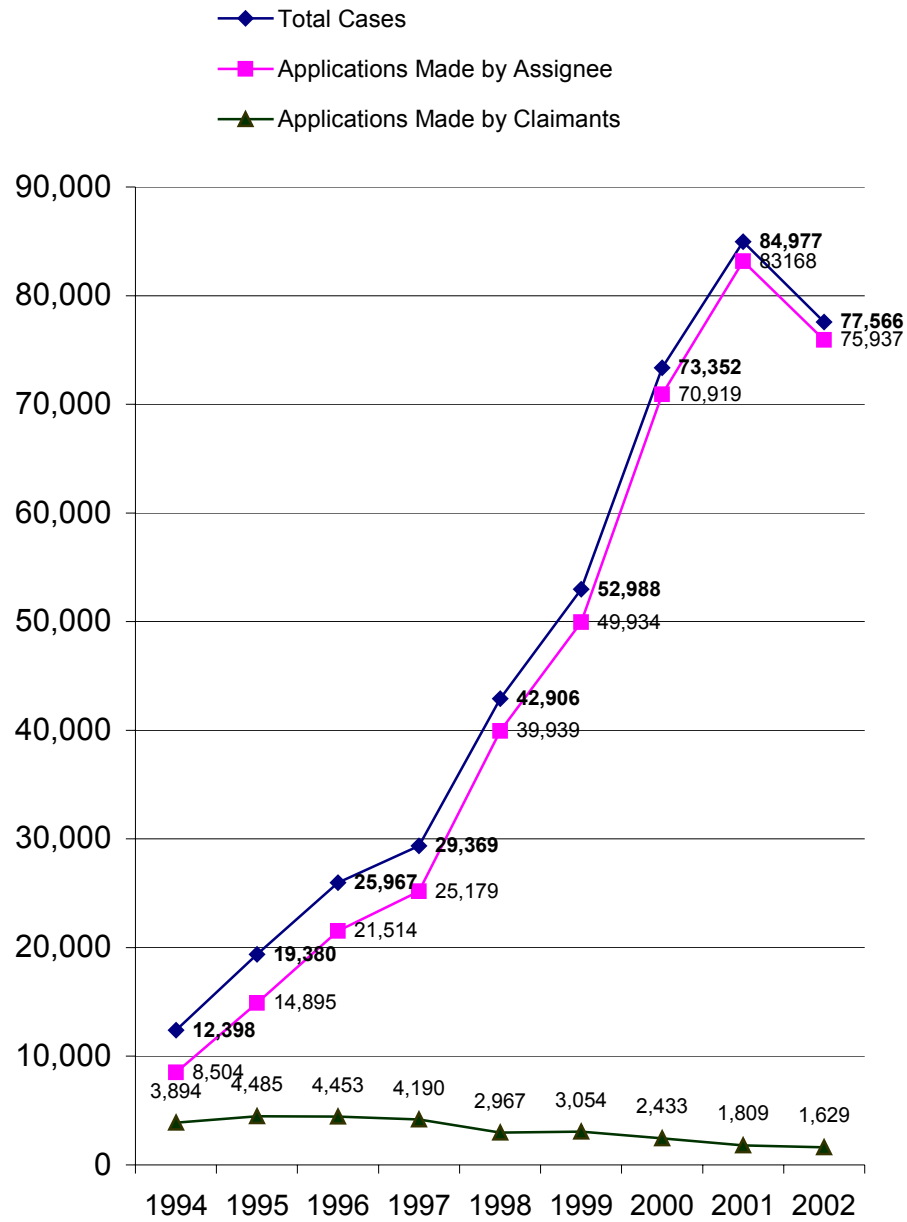
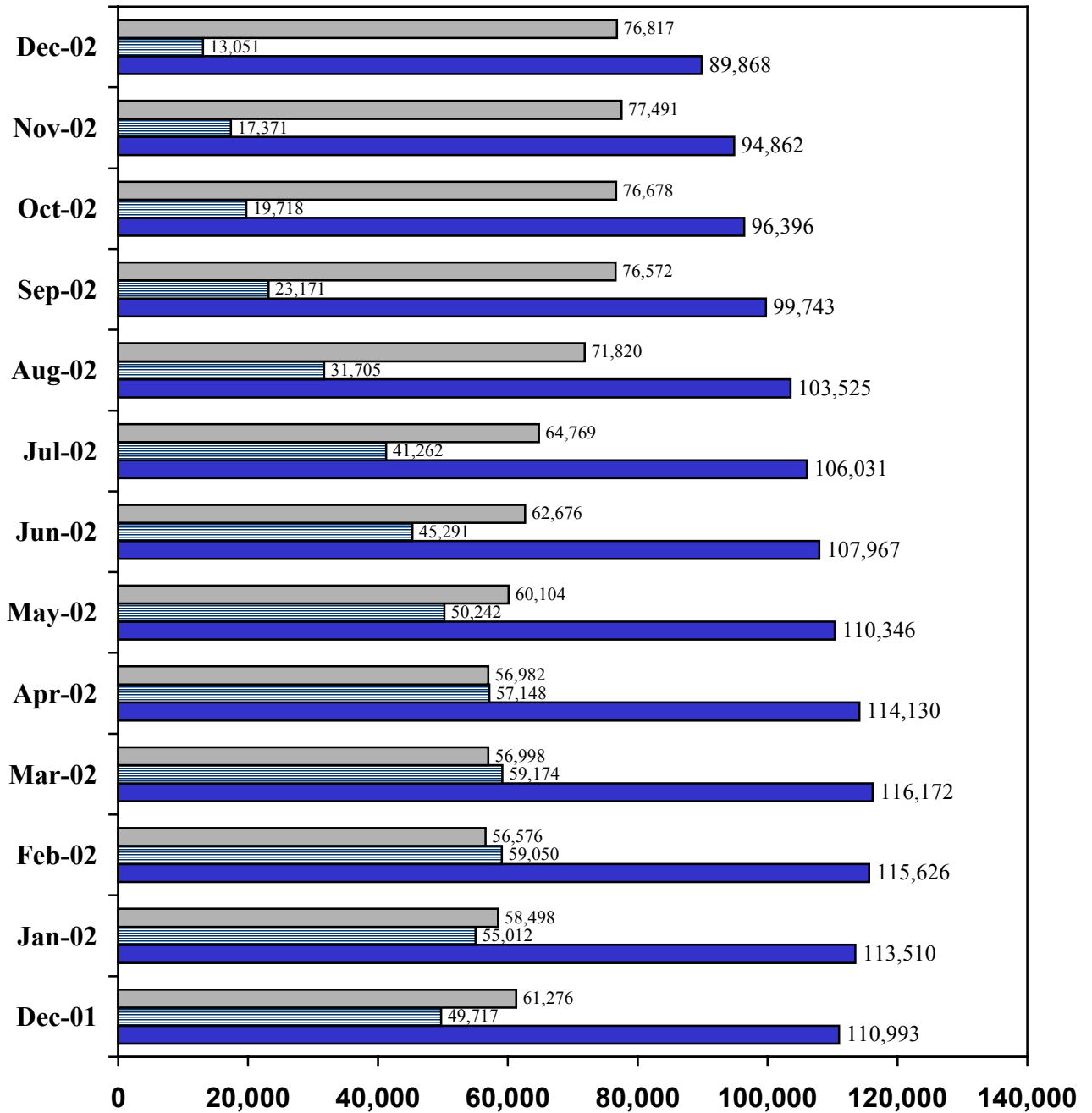
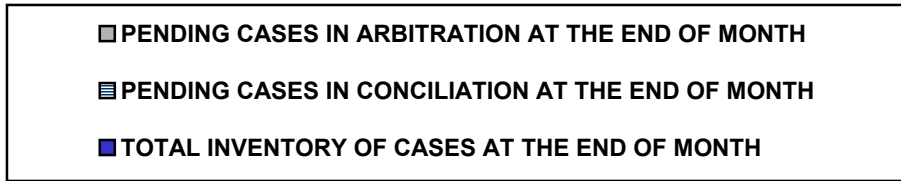


CHART C

Pending No-Fault Arbitration/Conciliation Cases December 2001-December 2002



18. Homeowners Insurance

a. New York's Coastal Areas

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

The Department continues to carefully monitor the availability of coastal insurance. Staff continues to meet with interested parties to discuss the problems and arrive at workable solutions. In addition, the Department continues to respond to inquiries from producers and property owners received either by mail, in person, or on the Bureau's hotline (212-480-6400). Where appropriate, the Bureau has intervened to resolve disputes involving incorrect policy rating and declination of initial or renewal coverage. The Department's objectives have been—and continue to be—maximizing consumer protections, encouraging risk management, emphasizing responsible underwriting, and facilitating voluntary market homeowners insurance coverage in shore communities.

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

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

Participating insurers have agreed to write 5,000 policies in total through the C-MAP program. From April 1996 through December 31, 2002, C-MAP has issued 4,129 policies. The Department believes C-MAP will continue to help consumers secure vital homeowners coverage while still addressing insurers' coastal area concerns.

b. Legislation and Regulations

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

Chapter 25 of the Laws of 2001 extended the life of a special advisory panel, originally established in accordance with Chapter 42 of the Laws of 1996, through April 30, 2003. The Panel submitted

reports on problems affecting the availability and affordability of homeowners insurance to the Governor and the Legislature in 2000 and 2001. Copies of these reports may be downloaded from the Insurance Department's Web site.

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

c. Computer Hurricane Simulation Models in Rate Filings

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

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

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

d. Reinsurance Cost Factors in Homeowners Insurance Rate Filings

The Department permits insurers to reflect the cost of catastrophe excess-of-loss reinsurance in homeowners insurance rate filings, provided an insurer can reasonably allocate the cost of such reinsurance to its New York policyholders. As of the end of 2002, the Department has accepted homeowners rate filings in which reinsurance costs were among the factors reflected in the ratemaking methodology for nearly all major homeowners insurers. Most of these companies had previously used reinsurance costs in the development of their rates.

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

e. Mineola Office

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

19. Market Conduct Activities

a. Summary of Market Conduct Investigations Conducted and Fines Collected

The Property Bureau’s Market Conduct Unit continued its program of reviewing insurance company underwriting, rating and claims practices to determine compliance with the Insurance Law and Department regulations. The Unit also conducted an extensive series of investigations into insurer compliance with the New York State Department of Motor Vehicle’s (DMV) Insurance Information and Enforcement System (IIES), discussed in more detail at item (f) below. In addition, the Unit devoted a significant amount of time monitoring post-September 11 events related to the hardening of the insurance market, discussed in more detail at item (h) below.

There were 59 market conduct investigations and 25 IIES investigations in progress at the beginning of 2002. One hundred-seven market conduct investigations and 26 IIES investigations were initiated during the year. One hundred sixty-two market conduct investigations were closed during the course of the year, 111 of which were targeted or focused investigations and 51 of which were IIES compliance investigations. Fifty-five market conduct investigations were in progress at year-end. All current IIES investigations were completed by year-end and more are scheduled for 2003. Seventy-six stipulations were entered into during the year, resulting in fines collected for admitted violations totaling \$1,282,064. In addition, \$35,500 in fines were received from insurers and self-insurers for failure to pay arbitration awards in a timely manner. The following table provides a breakdown of the market conduct activities for Calendar Year 2002:

**Table 38
MARKET CONDUCT INVESTIGATIONS
by Type of Investigation
2002**

Type of Investigation	Outstanding 1/1/2002	Initiated during 2002	Completed during 2002	Outstanding at 12/31/2002
Claims	28	14	30	12
Rating/Underwriting	8	5	6	7
Public Automobile	3	0	3	0
Focused Underwriting	0	11	0	11
Privacy	4	11	4	11
Frauds	13	14	15	12
Section 3425 Compliance	0	6	6	0
Internet Web site Reviews	3	42	45	0
Workers Compensation	0	4	2	2
Large Deductible IIES Compliance	25	26	51	0
Total	84	133	162	55

The following table details the fines collected or processed and the stipulations entered into during Calendar Year 2002:

Table 39
MARKET CONDUCT FINES COLLECTED & PROCESSED
by Type of Investigation
2002

Type of Investigation	Number	Amount
DMV's IIES Investigations	56	\$913,475
Claims	11	266,889
Underwriting/Rating	2	15,325
Section 3425	6	61,375
Public Automobile	1	25,000
Total	76	\$1,282,064
Penalties: Failure to Timely Pay N.F. Arbitration Awards	142	35,500
Total Fines Collected/Penalties Processed	218	\$1,317,564

b. Penalties Imposed Under Insurance Law Section 3425

Section 3425 limits the total number of nonrenewals of personal automobile insurance policies that an insurer is allowed. Generally, an insurer is permitted to nonrenew up to 2% of the total number of covered policies that the insurer had in force at the previous year end in each such insurer's rating territory in use in this State. As a result of an analysis of reports to the Superintendent required by Section 3425(l)(1) of the New York Insurance Law, six stipulated fines totaling \$61,375 were collected during calendar year 2002 (included in the total fines collected in item (a) above).

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

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

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

Insurers were also advised that in accordance with Section 109(c)(1) of the Insurance Law, a penalty would be imposed on insurers for each complaint made where no justifiable reason for nonpayment or late payment was furnished to the Department. In addition, these complaints are recorded for the purpose of calculating the complaint ratios that form the basis of the Department's annual automobile complaint ranking. During calendar year 2002, the Department processed fines totaling \$35,500 from 40 insurers and self-insurers for their failure to pay arbitration awards in a timely manner in 142 instances.

d. Underpayments Remitted to Claimants

As a result of findings of previous market conduct investigations verifying compliance with Insurance Department Regulations 64 and 68, three insurers signed stipulations whereby they agreed to review all automobile no-fault and/or automobile physical damage claim files as designated in the stipulations, and remit all underpayments to insureds and/or claimants. As a result of the terms of the stipulations, the three insurers remitted \$309,904.

e. Insurer Internet Web site Monitoring

The Market Conduct Unit continued the monitoring and review of insurer Internet Web sites during 2002. Forty-five insurer Web sites were reviewed during the course of 2002. In addition, as part of these reviews, the Unit has been verifying the accuracy of quotes generated online. As part of Circular Letter Number 31, dated October 29, 1998, the Department advised the industry of the general guidelines that would be followed when monitoring the marketing of insurance products on the Internet. Supplement Number 1 to Circular Letter 31 was issued May 28, 1999. This further advised the industry that Web-based activities would be reviewed and/or monitored by the Department and that these reviews would be incorporated into the market conduct and financial review processes.

f. Insurance Information & Enforcement System (IIES)

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

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

During 2002 the Department continued an extensive series of investigations into insurers who failed to load their automobile liability book of business with DMV and commence ongoing reporting of their automobile liability insurance transactions by the statutorily mandated deadline of September 12, 2000. Fifty-one IIES investigations were conducted during calendar year 2002, 25 of which carried over from the prior year. All 51 investigations were finalized during 2002. The Department met with many of these insurers during 2002 and, after hearing arguments and reviewing various mitigation documents, the Department imposed fines against 10 insurers/groups that were ultimately found to be in non-compliance. The next step in the process is to conduct investigations into the quality and timeliness of the data being submitted by insurers to DMV. Based on information received from DMV, insurers who have been found to submit poor quality data and/or late data will be subject to disciplinary action. It is expected that this series of investigations will commence during 2003.

g. Privacy

Title V of the Gramm-Leach-Bliley Act requires financial institutions, including insurers, to protect the privacy of consumers and customers. It also requires that all state insurance authorities establish appropriate consumer privacy standards for insurance providers. As a result, the Insurance Department promulgated Regulations 169 and 173, setting forth these standards. During calendar year 2002, the Market Conduct Unit continued its investigations of insurers to assess their policies and procedures to ensure compliance with privacy regulatory requirements. Eleven privacy investigations were initiated during 2002, four carried over from the prior year and four were completed during 2002. In general, insurers investigated to date appear to be in compliance with the provisions of Regulations 169 and 173. Additional privacy investigations will be conducted in 2003.

h. Section 3426-NYIL Focused Market Conduct Investigations

In the aftermath of the events of September 11, 2001, the Department received complaints that some insurers were either refusing to write or renew commercial risks or, were improperly canceling or non-renewing such risks in New York State and, in particular, the New York Metropolitan area. There were also allegations of possible unwarranted large premium increases. As a result, the Market Conduct Unit commenced a series of, to date, 11 investigations into insurer compliance with Section 3426 of the Insurance Law. These investigations were specifically focused on determining the propriety of cancellation, non-renewal and conditional renewal notices (i.e., premium increases of 10% or more) issued on commercial policies by insurers, especially since the terrorist attacks. In addition, a review of agency terminations, changes in commissions and the percentage of commercial business insurers nonrenewed in Manhattan during the past year was performed. Based on information reviewed during these investigations, the nature of agency terminations and/or changes in commissions did not indicate any significant trends or patterns that could be considered out of the ordinary. While the outcome of these focused investigations are still pending, some areas of concern have been noticed. While most insurers investigated were found to have continued to write business in New York State, including the New York Metropolitan area, the majority of insurers investigated issued conditional renewal notices containing significant premium increases. Most of the insurers indicated that this was due to increased reinsurance costs in the aftermath of the terrorist attacks. Some insurers were observed utilizing restrictive endorsements, especially on policies issued in the Free Trade Zone. Others were noted to have transferred risks to their higher priced companies within the group or moved policies to/from the Free Trade Zone in order to achieve a higher premium. The Department is currently reviewing the results of these investigations to determine the propriety of insurer actions.

i. Workers' Compensation Large Deductible Review

The Market Conduct Unit commenced a series of investigations into the payment and subsequent reimbursement of benefits on large deductible Workers' Compensation policies. The focus of these investigations was to determine whether insurers who write these types of policies are in compliance with Section 3443(f) of the Insurance Law. That section provides that, if a workers' compensation policy large deductible is offered and accepted, the insurer is required to pay the deductible amount to the person or provider entitled to benefits and then seek reimbursement from the policyholder (employer) for the amount of the deductible. Four investigations were initiated during 2002 and two have been completed. The results of these initial investigations have been favorable to date; however, the Market Conduct Unit will continue to conduct these investigations in the future.

j. New York Public Automobile Reviews

In previous years, market conduct investigations were performed to address allegations that insurers of public automobile coverage, and in particular, livery coverage, were not complying with filed rates, using unapproved rates and rating plans and were involved in improper marketing practices. During Calendar Year 2002, the Market Conduct Unit continued its efforts in following up on the Public

Automobile marketplace. As a result of these reviews, while most public automobile insurers were, for the most part, found to be in substantial compliance with regulatory requirements, one insurer was fined \$25,000 for non-compliance in this area.

k. Frauds Compliance Investigations

Section 409 of the Insurance Law requires that every insurer writing at least 3,000 or more private passenger or commercial automobile, workers' compensation or individual, group or blanket accident and health insurance policies must file an insurance fraud prevention plan with the Superintendent. They must also create a separate full-time Special Investigations Unit and must meet other specific frauds prevention requirements outlined in Section 409-NYIL and Insurance Department Regulation 95. During Calendar year 2002, the Market Conduct Unit initiated a review of 14 insurers to determine whether they were following the requirements outlined in the statute and regulation. Thirteen investigations continued from the prior year and fifteen investigations were completed during 2002. Detailed questionnaires were submitted to these insurers which were then reviewed during the investigation in conjunction with additional documentation requested. Once all necessary material was received and analyzed it was submitted to the Department's Frauds Bureau for further review. The insurers investigated appear to be in compliance with Section 409 of the New York State Insurance Department and Department Regulation 95.

20. Excess Line Insurance

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

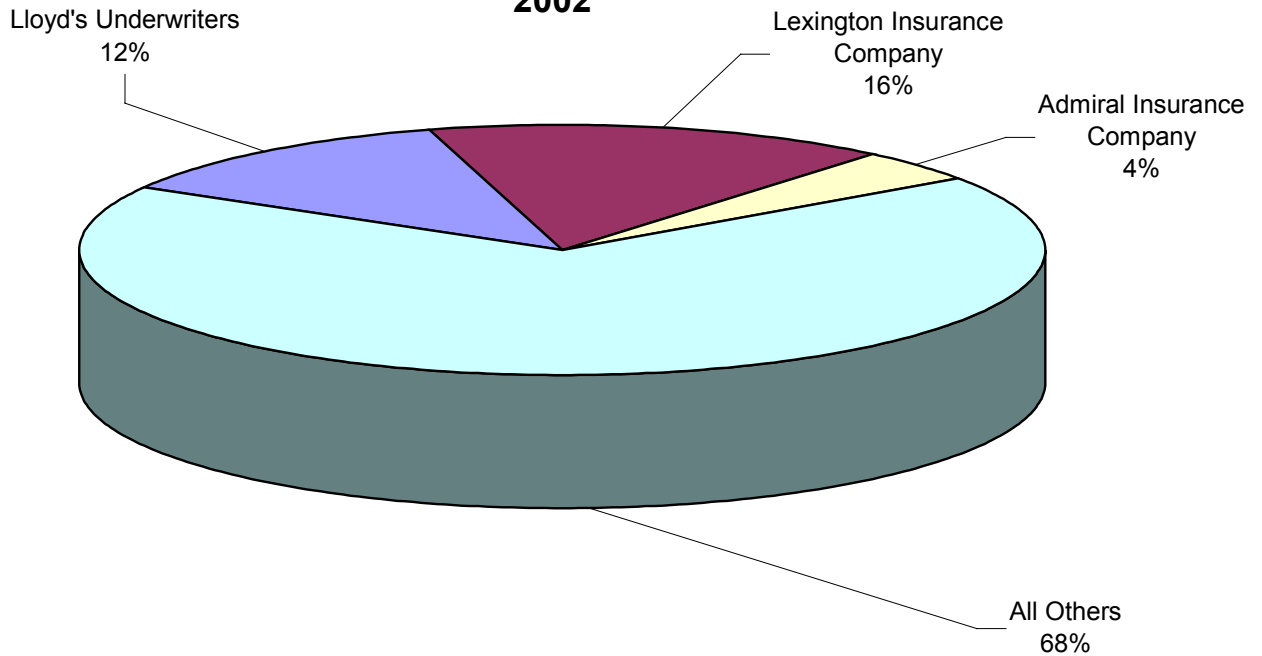
Since insurers providing this coverage are not licensed by this Department, statistical data relating to the amount and nature of premiums written in the excess line market must be obtained from excess line brokers through tax statements required to be filed no later than March 15 of each year relating to business written during the previous calendar year. For calendar year 2002, total excess line gross premiums written on risks located or resident both in and out of New York State amounted to approximately \$2.043 billion, of which approximately \$1.324 billion was attributable to risks located or resident wholly in New York State.

The data pertaining to excess line business used in this report were obtained from statistical reports provided to the Superintendent by the Excess Line Association of New York (ELANY) pursuant to Section 2130 of the New York Insurance Law. ELANY obtains the information from affidavits required to be filed by excess line brokers under Section 2118 of the Insurance Law. There are 656 licensed excess line brokers and approximately 384 who are active and filed approximately 81,779 affidavits for the year 2002. The Property Bureau received 218 complaints and inquiries regarding excess line business in 2002.

In 2002, there were approximately 118 unauthorized insurers eligible to do business in New York pursuant to Regulation 41. This includes 77 foreign insurers; 40 alien insurers; and Lloyd's, with 34 Syndicates. These insurers are required to file Form EL-1 annually by March 15. The filing requirement was changed in 1997 to include the use of computer diskettes and in 2002, changed to permit e-mail submission. In 2002, the Unit reviewed 90 EL-1 filings, 67 annual statements, 40 alien financial statements, and 5 trust agreements.

The following is a chart of the percentage of total 2002 excess line premium writings attributable to the three largest excess line insurers in New York State.

Chart D
Top Three Excess Line Insurers by Premium Volume
2002



a. Business Written in New York

Excess line premiums written in New York State increased from \$685 million in 2001 to \$1.324 billion in 2002, a gain of 89.23%. The increase in premium volume appears to be a result of increased pricing caused primarily by the hardening of the insurance market, the terrorist attack on the World Trade Center, and the corporate scandals of 2002. The largest dollar increase over the previous year occurred in the "other liability" line, up by \$326.8 million in 2002, of which \$178 million is from umbrella liability, \$88 million is from owners, landlords and tenants, and \$59 million is from manufacturers and contractors liability. The largest percentage increase occurred in the fire and allied lines, up by 442% or \$242 million over the previous year. Other increases included errors and omission line, up by \$61.6 million; commercial multiple peril, up by \$22.6 million; inland marine, up by \$4.1 million; malpractice, up by \$3.7 million; and burglary and theft up by \$1.8 million.

The largest dollar decline over the previous year occurred in the fidelity and surety, down \$17 million, a decrease of 77%. The largest percentage decline occurred in the aircraft physical damage line, although small in volume was off by 91%. Auto liability was also down by \$3 million.

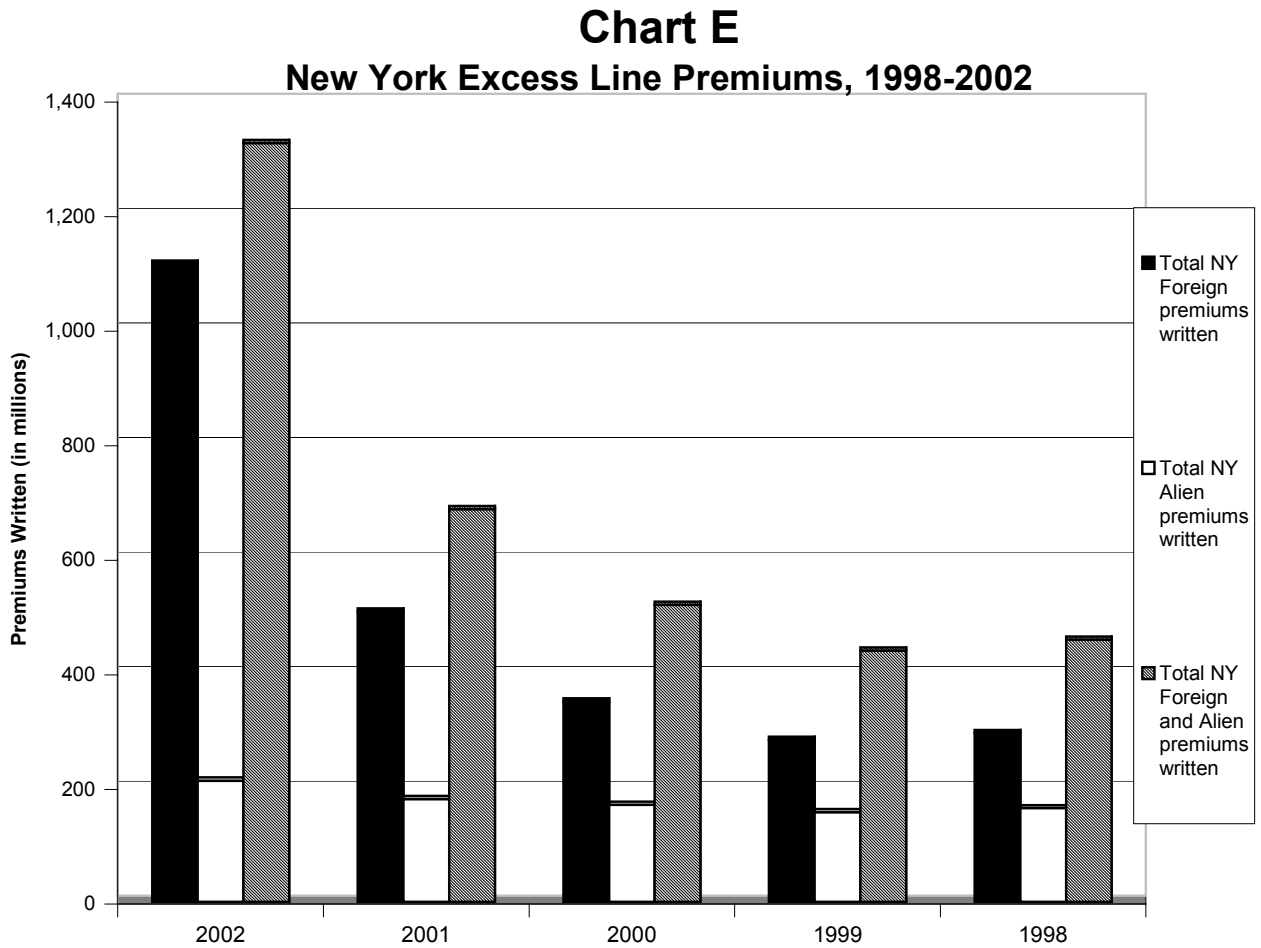
Table 40
EXCESS LINE PREMIUMS WRITTEN
Risks Located in New York State
1999-2002
(dollar amounts in thousands)

Line of business	2002	2001	2000	1999
Fire and allied lines	\$296,786	\$54,777	\$46,707	\$35,038
Inland marine	30,308	26,181	27,099	26,565
Auto liability	4,154	7,243	2,188	3,418
Malpractice	9,392	5,683	1,808	8,626
Errors and omissions	221,245	159,651	196,987	163,054
Commercial multiple peril (excluding fire)	82,315	59,723	42,321	37,588
Other liability	603,313	276,432	158,356	119,457
Auto physical damage	19,055	18,491	16,920	13,572
Aircraft physical damage	233	2,736	1,889	1,505
Burglary and theft	5,503	3,722	4,225	3,482
Fidelity and surety	5,040	22,340	3,425	1,646
Other lines	<u>46,964</u>	<u>48,418</u>	<u>16,059</u>	<u>24,506</u>
Total	<u>\$ 1,324,307</u>	<u>\$685,398</u>	<u>\$517,984</u>	<u>\$438,457</u>
Excess line premiums as a percentage of all property and casualty insurance premiums written in New York	4.59% *	2.63%	2.22%	1.99%

*Estimated

Source: Excess Line Association of New York

The following is a graph of excess line business for the years 1998 to 2002 by alien and foreign insurers.



b. Binding Authority

Sections 2117 and 2118 of the Insurance Law were amended in 1997 to provide that an excess line broker, licensed pursuant to Section 2105 of the Insurance Law, may exercise binding authority, which the law defines as “. . . the authority to issue and deliver insurance policies on behalf of an insurer not licensed or authorized to do business in this state.” Since the implementation of the amended statute, the Excess Line Association of New York (ELANY) has notified the Department that 64 excess line brokers have filed 168 binding authority agreements representing insurers not licensed or authorized to do business in this State. During calendar year 2002, the Excess Line Association of New York reviewed and accepted 22 new agreements, renewed three existing agreements and amended one binding authority from New York licensed excess line brokers.

c. EL-1 Review

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

d. Ineligible Unauthorized Insurers

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

e. Excess Line Broker Investigations

The Excess Line Unit received a complaint in December 2001 regarding an excess line broker's failure to remit \$2.3 million in premium to an alien insurer. The brokers involved have pleaded their Fifth Amendment privilege because they are under criminal indictment. Revocation process of the brokers' licenses was initiated for non-cooperation.

The Excess Line Unit also received several complaints against two brokers for failing to remit premiums to insurance companies. The brokers were arrested in September for insurance fraud.

In two other cases involving excess line brokers, one was fined for advertising an unauthorized company on the Internet and the other excess broker was found to have failed to pay excess premium taxes and overstating fees charged.

The Unit is also investigating an unlicensed entity providing insurance for exterminators. The office of General Counsel is reviewing the matter.

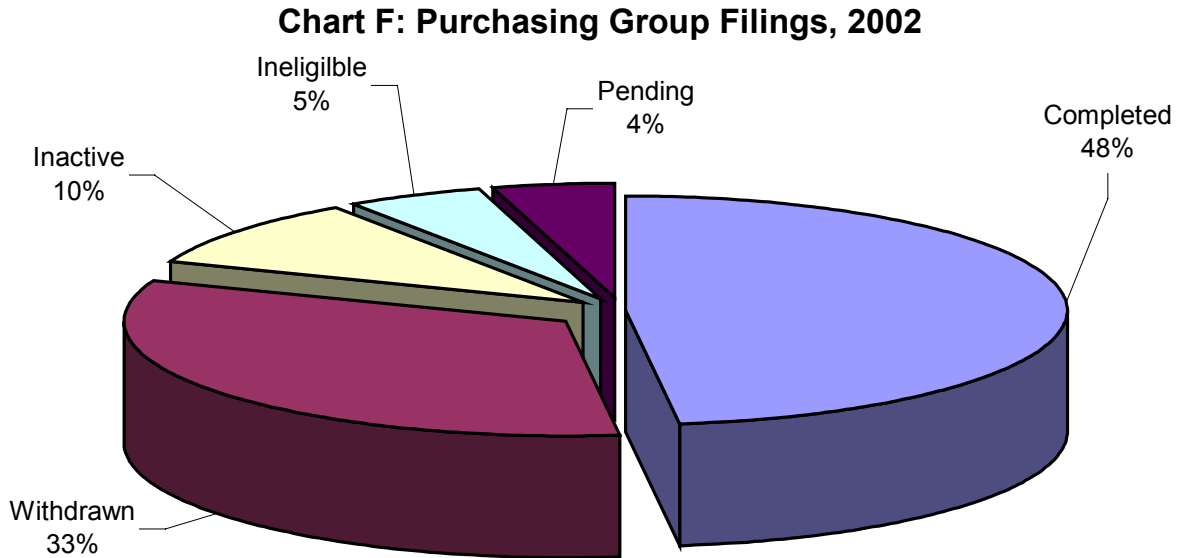
f. Liability Risk Retention Act (LRRRA) of 1986 - Purchasing Groups

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

Since the inception of the LRRRA, the Department has received notices of intent from 807 purchasing groups. Subsequently, 265 have withdrawn their notice of intent, 79 have notified the Department of their inactive status, and 41 have been given ineligible status by the Department due to failure to comply with all the requirements of the applicable laws and regulations. As of December 31, 2002, 31% of the remaining 422 purchasing groups (35 of which are in pending status) have named unlicensed companies as their intended insurers.

Some of the most common types of businesses and professions that have formed purchasing groups in the past year include real estate professionals, insurance professionals, entertainers, health care facilities and services, and manufacturers/dealers. Approximately 137 complaints and inquiries regarding purchasing groups were received in 2002.

The following chart shows the purchasing group filings as of December 31, 2002 by status category:



21. Reports and Publications

a. Report on the New York Automobile Insurance Plan

As required by Section 338 of the Insurance Law, the fifth biennial report was submitted to the Governor and the Legislature on May 1, 2002. The report analyzed the New York Automobile Insurance Plan (Auto Plan); compliance with Section 3425 of the Insurance Law (cancellations and nonrenewal of voluntary private passenger automobile insurance policies); efforts to maintain or reduce the population of the Auto Plan; enforcement of Section 3429, 3430 and 3433 of the Insurance Law (discrimination by geographic location in regard to private passenger automobile insurance); and offered recommendations for statutory or administrative changes to reduce or maintain the Auto Plan population.

b. Consumer Guide for Homeowners Insurance

The Consumer Guide for Homeowners Insurance was published in October, 2002. The guide provides descriptions of the types of basic policies that insurers offer and recommendations on how to determine how much coverage a consumer should purchase. Advice is provided on how to reduce the incidence of losses and how to make a claim should a loss occur. Sample premiums of the major homeowner insurers in the state are provided to help consumers make meaningful price comparisons when shopping for homeowners insurance. The guide is also available free of charge directly from the Insurance Department and can be accessed via the Department's Web site.

c. Consumer Guide for Automobile Insurance

On October 1, 2002, the Department published two editions of the 2002 Consumers Guide to Automobile Insurance, one for upstate New York residents and one for downstate residents. The guide is required by Section 337 of the Insurance Law to be updated annually. This comprehensive guide helps consumers determine how much auto insurance they need and explains all mandatory and optional coverages available in New York State. The guide contains lists of insurers, telephone numbers, and sample rates to facilitate comparison shopping, and advice regarding how to file a claim

or make a complaint against an insurer is also provided. Copies of the guide were distributed to every Department of Motor Vehicles office and public library in the State. The guide is also available free of charge directly from the Insurance Department and can be accessed via the Department's Web site.

22. Regulations and Circular Letters

a. Regulations Adopted in 2002:

i. The Tenth Amendment to Regulation 107 (Legal Defense Costs in Liability Policies), became effective April 17, 2002. This amendment revised the minimum limits of liability that must be offered when certain exposures are written on a defense costs within limits basis. Previous to this amendment when writing employee benefit liability, fiduciary liability and employment practices liability policies, the minimum limit of liability insurers were required to offer was \$500,000. That limit has been lowered to \$100,000 in order to enable more insurers to participate in these markets and to respond to insureds' requests for lower limits of liability.

ii. The Second Amendment to Regulation 86 (Special Risk Insurance), became effective September 11, 2002. This amendment updated the Class Two Risk List of the Free Trade Zone by including descriptions of risks and exposures that had been added to the list by Public Notice since the last amendment of the regulation in 1998. Insurers who write in the Free Trade Zone are exempt from the policy form and rate filing requirements of the Insurance Law but the forms and rates must comply with all other requirements.

iii. The Second Amendment to Regulation 35-C (Liability Insurance Covering All-Terrain Vehicles), became effective September 11, 2002. This amendment updated the names of statutorily prescribed motor vehicle endorsements, deleted obsolete provisions which pertained to policies issued prior to 1987 and made several editorial changes to achieve consistency.

iv. The Twenty-Sixth Amendment to Regulation 83 (Charges for Professional Health Services), became effective October 23, 2002. This amendment made a number of non-substantive changes. It repealed fee schedules that had been superseded by fee schedules established by the Workers' Compensation Board; repealed hospital fee schedules that have been established by the Public Health Law for use by hospitals; and repealed outdated health provider schedules.

v. The Fifth Amendment to Regulation 30 (Operating Expense Classifications of Annual Statement Purposes) became effective October 23, 2002. This amendment updated the categories of expenses and the instructions for insurers and other statement filers for uniform accounting and reporting treatment of expenses. These changes made the regulation consistent with the National Association of Insurance Commissioners' Annual Statement instructions that are currently utilized by insurers.

b. Circular Letters Issued in 2002:

i. Circular Letter No. 2 was issued on January 25, 2002 to all licensed property/casualty insurers. Insurers were advised that consideration of the events of September 11, 2002 must be provided in the Notes to the Annual Statements and the Statement of Actuarial Opinion (SAO). Insurers must disclose the nature and amounts of losses and reinsurance recoveries in the Notes to the Annual Statement and SAOs must provide consideration of September 11th events on 2001 loss reserves, including the extent of such exposure.

ii. Circular Letter No. 3 was issued on January 25, 2002 to all authorized motor vehicle insurers and insurer producer organizations. The Circular Letter provided an up-to-date list of Department of Motor Vehicle approved sponsors of accident prevention courses. Completion of these courses by insureds will result in a premium credit on their motor vehicle liability coverage.

iii. Supplement No. 1 to Circular Letter No. 35 (2000) was issued on January 25, 2002 to all property/casualty insurers writing Workers Compensation insurance. It reminded insurers of their reporting responsibilities under the NYS Workers Compensation Board's Treatment Utilization Pilot Program. This program, which focuses on authorized orthopedic specialists in the Buffalo New York area, was designed to determine whether higher reimbursement rates would reduce utilization.

iv. Supplement No. 1 to Circular Letter No. 11 (2001) was issued on February 1, 2002 to all property/casualty insurers. This Circular Letter advised insurers of updates made to the "Pre-Disaster" reporting forms and reminded them of the April 1st deadline for submitting these reports to the Department.

v. Circular Letter No. 9 was issued on April 9, 2002 to all insurers and self-insurers authorized to write motor vehicle insurance in New York State. The Circular Letter advised insurers and self-insurers that the court stay against the implementation of the revised No-Fault Regulation 68 had been lifted by a unanimous decision of the Appellate Court. As a result of this decision the revised Regulation 68 became effective as of April 5, 2002. The Circular Letter provided guidance to insurers and self-insurers in implementing the regulation in a manner consistent with its intent of preventing fraud and abuse while ensuring that valid claims of eligible injured claimants are processed and paid in a timely manner.

vi. Supplement No. 2 to Circular Letter No. 11 (2001) was issued April 9, 2002 to all licensed property/casualty insurers. This Circular Letter provided an electronic template enabling insurers to provide catastrophe preparedness data annually to the Department, along with a copy of their disaster response plan.

vii. Circular Letter No. 13 was issued May 24, 2002 to licensed property/casualty insurers and rate service organizations. The Circular Letter advised that separate charges for mandatory workers' compensation coverage required pursuant to Section 3420(j) of the Insurance Law should be removed from all homeowners and comprehensive personal liability coverages. This is based on a review of data collected since 1985 by the New York Compensation Insurance Rating Board which indicated that the customary \$3.00 charge for this coverage was not justified.

viii. Supplement No. 4 to Circular Letter No. 11 (1998) was issued August 9, 2002 to licensed property/casualty insurers and rate service organizations. This Circular Letter introduced the Rate Filing Sequence Checklist which is required for all submissions involving rates, rules and rating plans filings that were filed on or after September 16, 2002. The use of the Rate Filing Sequence Checklist will facilitate the accuracy and completeness of the rates, rules and rating plans submitted to the Department and will also ensure that the filing includes all necessary information that will facilitate a quick and thorough review which will enable insurers to get their products to market in a timely manner.

ix. Circular Letter No. 23 was issued on November 15, 2002 to all insurers authorized to write motor vehicle insurance, rate service organizations and insurance producer organization. The Circular Letter advised of the recent enactment of Chapter 584 of the Laws of 2002, amending Section 3420(g) of the Insurance Law by requiring motor vehicle liability insurers to offer supplemental spousal liability insurance to personal and commercial policyholders in New York State who are covered by a motor vehicle liability insurance policy that satisfies the requirements of Article 6 of the New York Vehicle and Traffic Law. It provided guidance with respect to required policy form and rate filings and policyholder notification.

x. Circular Letter No. 25 issued December 23, 2002 to all property/casualty insurers and rate service organizations, NYPIUA, the State Insurance Fund, NYAIP and the Excess Line Association of New York. This Circular Letter provided guidelines to insurers with respect to the issuance in New York of policies subject to the federal Terrorism Risk Insurance Act of 2002 and supplemented the Interim Guidances issued by the Department of Treasury on December 3 and 18, 2002.

23. Individual Policyholder Complaints, Inquiries and Freedom of Information Requests

Certain complaints and inquiries are processed independently of the Consumer Services Bureau. A total of 1,734 such complaints and inquiries were received by the Market Regulatory Section of the Property Bureau in 2002. This total consisted of 1,037 involving personal automobile insurance; 65 involving commercial automobile insurance; 147 involving homeowners insurance; 147 involving other liability insurance; 39 involving commercial multiple peril insurance; 51 involving medical malpractice insurance; 31 involving title insurance; and 217 involving other types of insurance (fire and allied lines, surety, inland marine, workers' compensation, etc.). In addition, the Market Regulatory Section processed 343 Freedom of Information (FOIL) requests on policy form and rate information.

24. Response to September 11

a. Support for a Federal Terrorism Backstop

From an insurance perspective, the events of September 11 resulted in the largest property insurance loss event in our nation's history. These events, coupled with the hardening of the insurance market over the past few years, have raised significant issues for both the industry and its regulators, none more important than that of addressing the issue of comprehensive coverage for terrorist acts. Beginning just days after the tragic events, the New York Insurance Department strongly supported passage of a federal terrorism backstop package, noting that it was imperative that Congress take some meaningful action to avert further disruptions of the insurance marketplace and the national economy. After 14 months of negotiations between the House and Senate, the Terrorism Risk Insurance Act of 2002 (TRIA) passed both houses and President Bush signed it into law, effective November 26, 2002.

b. Pre-TRIA Activities

Post-September 11, but prior to passage of TRIA, the Department received 152 form filings for terrorism exclusions. The Department did not approve any of these exclusions finding them to be an effort to pass the risk of terrorism entirely on to insureds. The Superintendent concluded that proposed terrorism exclusions were misleading and/or against public policy pursuant to Section 2307(b) of the New York Insurance Law. In testimony before Congress in February 2002, the Superintendent noted the serious regulatory concerns raised by the catastrophic exposure arising from potential terrorist attacks. He also noted the equally compelling public policy priority of protecting businesses and consumers from retaining the exposure themselves.

c. TRIA – An Overview

The Terrorism Risk Insurance Act of 2002 is a temporary federal property/casualty reinsurance program, expiring on December 31, 2005, for losses resulting from specifically defined acts of terrorism. TRIA imposes industrywide limits and individual insurer deductibles and limits on terrorism losses. Insurers must make terrorism coverage for "insured losses" under the act available to their commercial insureds and inform them of the premiums for such coverage. Once the deductible is satisfied, the federal government will cover 90% of remaining losses up to a combined aggregate program limit of \$100 billion annually.

With regard to the filing and approval of rates and forms, in accordance with TRIA, until December 31, 2003, rates and forms intended to provide terrorism risk insurance covered by TRIA are exempt from prior approval requirements. This preemption does not apply to rates and forms that exclude or limit coverage for terrorism risks nor to any other rates or policy form provisions applicable to perils other than "insured losses" under TRIA. Even where state's authority is preempted, TRIA explicitly recognizes the state's role in ensuring that rates cannot be "excessive, inadequate or unfairly discriminatory" and allow for subsequent review of implemented forms. In reviewing rate filings, the

Department has not permitted any insurer to engage in practices that violate the statutory rating standards. The Department carefully reviewed the activities of the Insurance Services Office, Inc. (ISO), a rate service organization, both in terms of their proposed rate magnitude and the methodology used to derive those rates. Moreover, terrorism exclusions have been reviewed to ensure that they are narrowly crafted, not misleading, nor violative of public policy. Within these parameters the Department has been working with the industry and the federal government to make terrorism insurance coverage available and affordable as quickly as possible.

Under TRIA, insurers had until February 24, 2003 to notify all in force policyholders of the availability of, and premium for, covered acts of terrorism. Further, since the Department did not approve any terrorism exclusions for the admitted market, the full impact of TRIA will not be realized until November of 2003 when all of these policies complete a renewal cycle. The Department will be in a better position to analyze the effect of the Act on market stability.

d. Department Circular Letter No. 25 (2002)

Circular Letter No. 25 provides an overview of TRIA including its “make available” requirements, description of its notice provisions pertaining to nullification and reinstatement of exclusions, and the disclosure of the premium charged for covered acts of terrorism. Because New York did not previously approve terrorism exclusions or limitations, the nullification and reinstatement provisions were not relevant to policies in the admitted market. However, to the extent that such exclusions and limitations were in policies issued in the excess line market or in the Free Trade Zone, such provisions were applicable. The Circular Letter clarified that filing of policy forms and rates are preempted only with respect to coverage for terrorism risks not for exclusions and limitations pertaining to acts of terrorism. The Department requires that such exclusions and limitations track the language of TRIA and that the insurer first satisfy the “make available” requirements of TRIA prior to implementation of such exclusion or limitation.

e. Form and Rate Filings

From November 26, 2002 through March 14, 2003 the Department received 310 terrorism related form filings including 96 terrorism exclusions and/or limitations and 214 disclosure notices outlining the provisions of TRIA. In addition there were 178 rate and rule filings.

With respect to form filings for terrorism exclusions and limitations pertaining to other than insured losses covered under TRIA, the Circular Letter provided that filing for rating classifications identify the basis and rationale supporting the classification. The Department gives consideration to narrowly defined exclusionary provisions, however, insurers are not permitted to include language defining terrorism that might be interpreted as denying coverage for acts that have traditionally been insured under a policy’s vandalism provisions. Similarly, exclusions for domestic acts of terrorism which are not covered under TRIA must be narrowly and precisely crafted in order to distinguish such acts from events that have traditionally been covered within the scope of the vandalism peril. No such exclusions have been approved to date.

Even with the federal backstop in place, insurers have to meet significant deductible and coinsurance requirements under TRIA. The additional rate that insurers need to charge for losses covered by TRIA should be reflective of this exposure. The proposed rates and methodologies utilized to derive rates vary widely among insurers, ranging from pure judgment to the use of proprietary models. Rates based on modeling have not been accepted because the proprietary nature of models results in lack of transparency making it difficult for the Department to discharge its responsibility under Article 23 of the Insurance Law. Since the passage of TRIA numerous insureds report increased availability of terrorism coverages within their commercial property policies – just as TRIA intended – at rates far below the cost of the stand-alone terrorism coverage they were forced to procure prior to TRIA taking effect.

f. Monitoring Excess Line Market Activity

The Excess Line Unit review of the premium writings in the excess line market revealed that \$518 million was written in 2000 in this market, \$749 million in 2001 and \$1.324 billion in 2002 or a 256% increase over the 2000 writings. This significant increase in the non-admitted market is a consequence of the diminished capacity in the admitted market. The excess line market is generally free from rate and form regulation and rates and terms of coverage are largely matters of negotiation between the insurer and the insured. Risks placed in these markets were endorsed with terrorism exclusions and even with these added restrictions, premiums increased dramatically. As a result of TRIA, however, commencing no later than February 24, 2003, all exclusions and limitations for covered acts of terrorism are nullified and the exclusion reinstated only upon request of the insured or upon failure of the insured to pay the premium for the coverage. In addition, the insurers must separately disclose the premium charged for covered acts of terrorism, if there is a separately identifiable premium. The excess line market activity will continue to be monitored but it is anticipated that the trend toward dramatic increases in writings over the past two years will reverse as a result of the improved availability in property coverages in the admitted market resulting from TRIA.

g. Market Analyses

i. Availability Survey

This annual survey of insurers continues to facilitate providing information to insurance consumers regarding the coverages available and directing them to the companies which have indicated that they are providing the specific kind of coverage needed. The difficult market conditions have made this service more important than in previous years. Since September 11, 2001 over 350 individuals and businesses have been assisted through information obtained in the survey.

ii. Market Conduct Examinations

In the aftermath of the events of September 11, 2001, the Department received complaints that some insurers were either refusing to write or renew commercial risks or, were improperly canceling or non-renewing such risks in New York State and, in particular, the New York Metropolitan area. There were also complaints regarding large premium increases. As a result, the Market Conduct Unit commenced a series of investigations into insurer compliance with Section 3426 of the Insurance Law. These investigations were specifically focused on determining the propriety of cancellation, non-renewal and conditional renewal notices issued on commercial policies by insurers. While most insurers investigated were found to have continued to write business in New York State, including the New York Metropolitan area, the majority of insurers investigated issued conditional renewal notices containing significant premium increases. Insurers were also observed utilizing unapproved restrictive endorsements. The Department is currently reviewing the results of these investigations to determine the propriety of insurer actions.

h. Financial Analyses

i. Targeted Financial Analyses and Examinations

The impact of the events of September 11 on individual insurers remains one of the determining factors for the Bureau when prioritizing its reviews of property/casualty companies. This results in a more timely financial analysis (desk audit) of those companies severely impacted by September 11. Ultimately, the results of the desk audit can lead to the selection of troubled companies for targeted financial examinations.

ii. Actuarial Analyses

The Actuarial Unit continued to monitor the impact of the September 11 events on the loss reserves of licensed insurers. The Unit analyzed the responses to Circular Letter No. 2 (2002) which required consideration of September 11 to be included in the Notes to the Annual Statement and the Statement of Actuarial Opinion (SAO). In addition, the Unit participated in meetings with many insurers that addressed the impact of September 11 and reviewed reserve estimates included in SAOs and the underlying actuarial reports.

i. Department's Disaster Response Plan

In response to the September 11 attack the Department initiated its use of the Insurance Disaster Response Plan and the New York State Insurance Disaster Coalition, bringing together various companies and coordinating the insurance industry's response to the disaster.

On February 1, 2002 the Department issued Supplement Number 1 to Circular Letter No. 11 (2001), the purpose of this supplement was to update the "Pre-Disaster Data" reporting forms for reporting of 2001 calendar year data and to remind insurers of the April 1st deadline established in Circular Letter No. 11 (2001) for reporting of this data.

When Department Circular Letter No. 11 (2001) was issued on May 10, 2001 no one at the time could have envisioned the catastrophe that would soon bring all the elements of the New York State Insurance Disaster Coalition into play. By maintaining current insurer information New York's response time to any future disaster will be expedited.

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

25. Casualty Actuarial Unit

Casualty Actuarial reviews rate filings for Workers' Compensation insurance, Private Passenger Automobile insurance and Private Passenger and Commercial insurance offered through the Automobile Insurance Plan. All such filings are subject to prior approval. In terms of premium volume, Private Passenger Automobile and Workers' Compensation insurance are the largest property/casualty coverages, accounting for approximately \$12 billion of New York premium volume in 2002.

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

a. Private Passenger Automobile Insurance

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

In 2002, 113 private passenger automobile rate requests were implemented. The following table lists both the requested and implemented rate changes and provides the liability and physical damage components of such changes.

The average change for insurers receiving rate changes in 2002 was approximately +9.6%. For these insurers, liability rates increased 15.2% on average while physical damage rates, primarily collision and theft coverages, decreased 0.9% on average. The insurers receiving rate changes in 2002 represent 88% of the total market for private passenger automobile insurance. The overall impact on the rate level for the entire market was an average increase of 8.4%.

Table 41
PRIVATE PASSENGER AUTOMOBILE RATE FILINGS REVIEWED IN 2002¹

Date of Approval and/or Ack.	Renewal Effective Date	Insurance Company or Insurance Group	Market Share ² (%)	Overall Change Requested (%)	Liability Change (%)	Physical Damage Change (%)	Overall Change Taken (%)
1/10/02	3/5/02	Great American: Worldwide Ins Co	0.22	10.50	9.60	0.00	6.20
1/10/02	1/10/02	Donegal Companies: Pioneer Ins.Co	0.02	1.30	5.30	-3.60	1.30
1/10/02	5/8/02	Dairyland Ins.Co	0.26	19.20	22.60	-0.20	18.60
1/14/02	3/5/02	Met: Economy Premier Assurance Co (formerly St. Paul Guardian)	0.25	16.70	21.80	-7.80	9.70
1/15/02	3/15/02	Hartford: HFIC, HA&IIC, HCIC, HUIC, TCFIC	1.11	28.30	13.20	6.20	10.90
1/22/02	3/12/02	Atlanta Casualty Co, Atlanta Specialty Ins Co	0.20	21.60	11.60	3.70	10.20
1/24/02	4/1/02	Royal & SunAlliance: A&FIC, GIC, RICOA, RIC, SIC	0.91	4.18	9.50	-3.00	4.18
1/31/02	3/7/02	Deerbrook Ins Co	0.30	67.40	22.40	0.00	18.00
2/11/02	3/4/02	Michigan Millers Mutual Insurance	0.07	25.00	15.30	14.40	15.00
2/14/02	4/6/02	Hartford: P&CICOH	0.16	53.10	23.20	-3.20	15.00
2/15/02	4/4/02	Trumbull Ins Co	0.27	24.30	17.20	-6.30	10.00
2/19/02	2/25/02	Travelers: TIC, PIC, COFIC, TIC, SFIC, AICOHC, TICOA, TP&CIC, TCCOC	5.37	11.10	17.00	-4.40	8.90
2/22/02	3/1/02	Travelers: Farmington Casualty Co	0.53	18.00	19.80	-6.70	12.40
2/25/02	4/15/02	Blue Ridge Ins Co, Blue Ridge Indemnity Co	0.40	18.60	19.50	5.20	15.00
2/25/02	6/19/02	National Grange Mutual Ins Co, Main Street America Assurance Co	0.54	7.70	13.10	-3.20	7.70
2/27/02	3/1/02	Nationwide Assurance	0.47	22.30	16.80	-6.50	12.00
2/28/02	5/1/02	Prudential General Ins Co	0.00	-28.00	-2.60	-58.90	-28.00
3/12/02	6/1/02	Farmers New Century Ins Co	0.10	15.00	13.30	18.00	15.00
3/18/02	4/25/02	Victoria Fire and Casualty Ins Co, Victoria Select Ins Co	0.06	42.40	13.60	0.00	10.00
3/20/02	3/16/02	One Beacon Ins Group:GAICNY, PGICNY, GAICA, CFIA, PGIC, PICI, GAC	0.82	6.90	9.80	0.40	6.90
3/20/02	3/26/02	One Beacon Ins Group:CUIC, EFIC, AEIC, NACOA, CUMIC	0.99	6.90	6.90	7.30	6.90
3/22/02	3/22/02	Atlantic Mutual Ins Co, Centennial Ins Co	0.21	0.00	1.70	1.10	1.50
3/28/02	5/8/02	Prudential P&C, Prudential Commercial	0.97	12.50	15.40	7.00	12.50
4/1/02	6/15/02	AIPSO	4.65	79.70	20.00	0.30	19.50
4/2/02	5/10/02	Electric Ins Co	0.27	10.97	19.40	-4.80	10.00
4/5/02	5/1/02	Erie Ins Co, Erie Ins Co of New York	0.40	9.30	12.90	3.80	9.30
4/16/02	4/17/02	New Hampshire Ins Co-- New "Take Out" Program	0.00	0.00	0.00	0.00	0.00
4/22/02	5/27/02	Titan Indemnity Co	0.02	52.60	12.70	27.20	15.00
4/24/02	6/1/02	Amex Assurance Co	0.22	4.50	8.50	-0.20	4.50
4/24/02	6/15/02	Tri State Consumer Ins Co	0.19	9.60	32.80	-27.60	9.60
4/24/02	6/6/02	Nationwide: NMIC; NMFIC, NP&CIC	3.83	5.00	6.00	2.30	5.00
4/29/02	7/15/02	GMAC Insurance: INIC, IPIC, ICIC	0.47	8.70	9.40	6.40	8.70
5/2/02	7/15/02	Encompass: CIC, F&CCONY, GFIC, NBFICOI, FIC, BUIC	1.60	15.90	16.30	15.10	15.90
5/7/02	6/12/02	Farm Family Casualty Ins Co	0.31	7.00	14.30	-3.00	7.00
5/8/02	7/1/02	Merchants Mutual Ins Co	0.06	17.10	17.80	2.60	12.70
5/8/02	7/1/02	Merchants Ins Co of New Hampshire, Inc	0.28	14.10	20.70	-8.50	9.20
5/9/02	6/20/02	Selective Ins Co of NY	0.09	12.00	12.00	12.00	12.00
5/9/02	7/1/02	Allmerica Financial: HIC, MBIC, CICA	0.82	11.20	9.20	0.00	6.40
5/9/02	7/1/02	Utica National Ins Group: UMIC, GAMIC, RFIC, UNAC	0.62	6.80	19.40	-9.20	6.80
5/9/02	6/17/02	Met P&C Ins Co; Met Casualty Ins Co	1.42	7.40	9.20	3.00	7.40
5/13/02	7/1/02	Preferred Mutual Ins Co ^{3,4}	0.35	7.40	6.50	8.80	7.40
5/17/02	10/1/02	GE Auto and Home Assurance Co	0.17	20.10	20.30	-0.20	14.40
5/17/02	7/15/02	Liberty Group: PIC; EIC; NIC	0.38	15.00	13.30	17.20	15.00

**Table 41
PRIVATE PASSENGER AUTOMOBILE RATE FILINGS REVIEWED IN 2002¹**

Date of Approval and/or Ack.	Renewal Effective Date	Insurance Company or Insurance Group	Market Share ² (%)	Overall Change Requested (%)	Liability Change (%)	Physical Damage Change (%)	Overall Change Taken (%)
5/23/02	6/15/02	New York Central Mutual Fire Ins Co	2.98	9.50	15.40	0.90	9.50
5/24/02	8/1/02	GEICO Indemnity	1.19	8.80	16.30	-10.20	8.80
5/28/02	7/22/02	Hartford Ins Co of the Midwest	0.82	24.0	19.60	0.00	14.60
5/28/02	8/13/02	Travelers: TICC, TICI (Spectrum Program)	0.29	21.60	17.70	4.30	13.80
5/30/02	8/1/02	Countrywide Ins. Co.	0.71	5.60	6.20	0.00	5.60
5/30/02	8/1/02	Hudson Ins. Co.	0.00	10.80	11.10	0.00	10.80
5/30/02	8/15/02	Royal & SunAlliance: A&FIC, GIC, RICOA, RIC, SIC	*	28.50	15.50	2.90	11.00
6/3/02	7/27/02	Providence Washington Ins Co, Providence Washington Ins Co of NY	0.13	47.30	21.70	0.00	13.00
6/7/02	8/10/02	State Farm Fire and Casualty	0.56	17.10	17.70	-0.50	12.30
6/7/02	8/10/02	State Farm Mutual Automobile Insurance Co	10.43	13.00	14.20	0.20	9.10
6/13/02	8/13/02	Great American Ins Gp: GASIC, GASpIC, GAAIC, GACIC, GAAC, GAIC, WDAIC	0.09	38.40	15.60	2.40	11.00
6/27/02	8/8/02	Colonial Penn Group: CPFIC, CPMIC, CPIC	0.64	10.00	14.90	-5.20	8.70
7/1/02	8/12/02	National General Insurance Co	0.14	10.90	9.70	0.20	6.10
7/11/02	8/1/02	Motors Insurance Corporation	0.03	-4.80	0.00	-4.80	-4.80
7/15/02	9/21/02	GMAC Insurance: NSIC, CIMIC, MICP&CIC	0.22	13.20	15.50	4.40	12.20
7/18/02	9/30/02	Infinity Ins Co	0.31	10.20	11.30	6.90	10.20
7/18/02	9/30/02	Infinity Select Ins Co	0.15	9.70	8.50	12.30	9.70
7/19/02	10/1/02	Holyoke Mutual Ins Co	0.02	7.70	9.90	0.00	7.70
7/25/02	9/10/02	Merastar Insurance Co	0.01	8.20	11.80	0.00	8.20
8/1/02	9/20/02	Met: Met Group P&C Ins Co	0.89	7.10	11.20	0.00	6.90
8/6/02	10/14/02	GEICO; GEICO General Ins	6.10	-0.20	2.20	-5.30	-0.20
8/8/02	9/30/02	One Beacon Ins Group: GAICNY, PGICNY, GAICA, CFIA, PGIC, PICI, GAC	*	5.50	4.30	7.70	5.50
8/8/02	10/4/02	One Beacon Ins Group: CUIC, EFIC, AEIC, NACOA, CUMIC	*	7.50	15.30	-4.40	7.50
8/12/02	10/26/02	Met: Metropolitan General Ins Co	0.30	14.0	13.70	-10.40	6.10
8/14/02	10/1/02	Eveready Insurance Co	0.28	11.20	23.70	-4.70	11.20
8/20/02	9/8/02	Unitrin Direct Insurance Co	0.00	-14.90	-12.30	-21.00	-14.90
8/21/02	10/8/02	Great American Insurance Co of New York	0.06	9.00	11.40	3.40	8.20
8/21/02	10/1/02	Preferred Mutual Ins Co	*	0.00	0.00	0.00	0.00
8/22/02	12/1/02	Interboro Mutual Indemnity Insurance Co	0.54	15.50	13.70	0.00	11.20
9/2/02	10/19/02	Allstate Indemnity Company	3.04	63.70	21.10	0.00	15.00
9/3/02	11/18/02	CHUBB Group: FIC; VIC; CIIC; PIC; GNIC	1.01	4.90	13.20	-0.80	4.90
9/11/02	11/17/02	Argonaut Insurance Co	0.00	19.60	16.80	4.90	12.30
9/13/02	1/6/03	Windsor Ins. Group: WIC; RIC	0.73	7.50	9.60	2.90	7.50
9/13/02	12/1/02	Amica Mutual Insurance Co	1.04	10.00	16.70	0.00	10.00
9/13/02	9/15/02	Sterling Insurance Company	0.05	12.10	12.80	11.00	12.10
9/27/02	10/15/02	Fireman's Fund Ins Companies: FFIC; AIC	0.30	20.10	10.60	10.40	10.50
10/7/02	12/16/02	Progressive Insurance: PNEIC; PNIC; PNWIC	4.49	6.40	8.80	0.20	6.50
10/11/02	2/1/03	Farmers New Century Ins Co	*	15.00	17.70	10.60	15.00
10/18/02	1/3/03	AIG: ICOSOP; AHAC; NUFICOP	0.57	10.20	12.20	5.20	10.20
10/21/02	1/15/03	Response Indemnity Co	0.06	14.70	26.00	-11.10	14.70
10/21/02	1/15/03	Response Insurance Company	0.27	14.90	19.70	-0.40	14.90
10/29/02	10/29/02	Atlantic Mutual Ins Co, Centennial Ins Co	*	6.90	10.70	1.90	6.90
10/30/02	1/15/03	Hudson Ins. Co.	*	7.90	8.10	0.00	7.90
10/30/02	1/15/03	Countrywide Ins. Co.	*	7.30	8.10	0.00	7.30
10/31/02	2/17/03	Great American: Worldwide Ins Co	*	9.00	17.10	-13.90	6.10
11/4/02	1/1/03	Met: Economy Premier Assurance Co	0.18	5.30	14.80	-10.60	5.30
11/6/02	1/1/03	Utica: Utica National Ins Co of Texas	0.03	19.50	22.10	-8.70	13.80

**Table 41
PRIVATE PASSENGER AUTOMOBILE RATE FILINGS REVIEWED IN 2002¹**

Date of Approval and/or Ack.	Renewal Effective Date	Insurance Company or Insurance Group	Market Share ² (%)	Overall Change Requested (%)	Liability Change (%)	Physical Damage Change (%)	Overall Change Taken (%)
11/6/02	11/6/02	Response Ins Co of America ^{3,4}	0.00	0.00	0.00	0.00	0.00
11/6/02	11/6/02	Warner Ins Co ^{3,4}	0.00	0.00	0.00	0.00	0.00
11/7/02	1/4/03	Hartford: HFIC, HA&IIC, HCIC, HUIC, TCFIC	*	28.30	8.40	10.50	9.10
11/14/02	1/1/03	Central Mutual Insurance Company	0.06	5.75	9.24	0.56	5.75
11/14/02	1/15/03	Merchants & Business Men's Mutual Ins Co	0.13	40.70	16.90	-1.90	15.00
11/14/02	12/27/02	Nationwide: NMIC; NMFIC, NP&CIC	*	10.70	14.70	-3.90	8.70
11/15/02	12/16/02	Kansas City Fire and Marine Ins Co ^{3,4}	0.00	0.00	0.00	0.00	0.00
11/19/02	1/20/03	Liberty Mutual: LMFIC, LIC, TFLIC	3.34	5.30	10.40	-3.30	5.30
11/20/02	1/21/03	Leader Ins Group: LIC; TIC	0.11	14.60	20.20	-1.80	14.60
11/21/02	2/1/03	Utica First Insurance Company	0.03	20.00	24.00	0.00	14.88
12/6/02	2/21/03	AIG: AIIC; AIUIC; BFIC; INIC	0.07	24.70	21.70	5.30	17.00
12/9/02	12/13/02	Kemper Auto&Home Ins Co; Kemper Independence Ins Co	0.01	8.80	14.40	-0.60	8.80
12/11/02	1/1/03	Response Indemnity Company of Delaware	0.00	8.40	19.40	-3.30	8.40
12/12/02	3/12/03	Atlanta Casualty Co, Atlanta Specialty Ins Co	*	11.40	11.60	3.80	10.00
12/16/02	2/22/03	Allstate Ins Co	14.02	7.80	11.90	-1.00	7.80
12/16/02	2/16/03	Victoria National Ins Co	0.01	47.10	17.10	5.90	15.00
12/18/02	2/1/03	Harleysville Ins Co of New York	0.19	25.20	14.10	15.50	15.00
12/18/02	2/10/03	Granite State Ins Co	0.15	20.00	19.80	0.00	17.00
12/18/02	2/1/03	Harleysville Worcester Ins Co	0.00	26.80	14.60	15.20	15.00
12/18/02	2/10/03	New Hampshire Indemnity Co	0.37	20.00	19.90	0.00	17.00
12/20/02	5/8/03	Dairyland Ins.Co	*	12.40	14.20	0.70	12.4
12/26/02	2/23/03	Victoria Fire and Casualty Ins Co, Victoria Select Ins Co	*	47.10	27.60	-34.50	15.00
12/26/02	2/23/03	Titan Indemnity Co	*	47.10	29.60	-37.70	15.00

2002 Rate Change Summary

Prior Approval Filings

• Number of companies implementing rate changes:	113
	(%)
• Average liability change for insurers receiving rate changes:	15.17
• Percentage of total liability industry premium affected:	87.63
• Impact on the entire market of the overall average liability rate change:	13.29
• Average physical damage change for insurers receiving rate changes:	-0.92
• Percentage of total physical damage industry premium affected:	87.44
• Impact on the entire market of the overall average physical damage change:	-0.80
• Average combined liability and physical damage change for insurers receiving rate changes:	9.62
• Percentage of total industry premium affected:	87.56
• Impact on the entire market of the overall average liability and physical damage rate change:	8.43

¹ All rate filings (and classification changes) are subject to prior approval.

² These market shares are based on 2000 Annual Statement premiums.

³ New Program ⁴ Multi-Tier Program * Subsequent filing by this insurer

b. New York Automobile Insurance Plan

Plan Experience in 2000 and 2001

i. Earned Car Years

An important indicator of the size of the Assigned Risk Plan is earned car years. This reflects the size of the Plan as measured by the duration of coverage. (One car insured for one year is one earned car year.) The number of private passenger automobiles (not including commercial autos) insured through the Plan increased 65.3% for liability and 193.3% for collision from 2000 to 2001. Table 42 shows a ten-year history for voluntary and assigned liability and assigned collision earned car years. This marks the first year in ten that assigned collision earned car years increased from the previous year and the first year in six that assigned liability earned car years increased from the previous year.

**Table 42
LIABILITY AND COLLISION EARNED CAR YEARS
Voluntary And Assigned Risk Markets
1992 – 2001**

Calendar Year	Voluntary Liability	Percent Change from Previous Year	Assigned Risk Liability	Percent Change From Previous Year	Combined Liability	Percent Change from Previous Year	Assigned Risk Collision	Percent Change from Previous Year
1992	6,475,638		1,331,695		7,807,333		83,824	
1993	6,536,919	0.9	1,257,622	-5.6	7,794,541	-0.2	70,991	-15.3
1994	6,487,828	-0.8	1,276,617	1.5	7,764,445	-0.4	64,053	-9.8
1995	6,643,605	2.4	1,196,578	-6.3	7,840,183	1.0	62,517	-2.4
1996	6,662,881	0.3	970,552	-18.9	7,633,433	-2.6	51,547	-17.5
1997	7,049,333	5.8	744,973	-23.2	7,794,306	2.1	39,948	-22.5
1998	7,428,546	5.4	541,247	-27.3	7,969,793	2.3	23,988	-40.0
1999	8,031,017	8.1	324,355	-40.1	8,355,372	4.8	11,631	-51.5
2000	8,106,797	0.9	207,802	-35.9	8,314,599	-0.5	9,408	-19.1
2001	8,147,522	0.5	343,511	65.3	8,491,033	2.1	27,597	193.3

ii. Risks by Surcharge Category

In 2001, there were 343,511 private passenger earned car years for liability and 27,597 for collision coverage insured through the Plan. Table 41 shows the distribution of New York private passenger liability and collision assigned risks by surcharge category for 1999, 2000 and 2001.

Table 43
DISTRIBUTION OF PRIVATE PASSENGER AUTOMOBILE ASSIGNED FOR THE LIABILITY AND COLLISION COVERAGES
by Discount or Surcharge Category , 1999 – 2001

Discount or Surcharge Category	Liability			Collision		
	1999 (%)	2000 (%)	2001 (%)	1999 (%)	2000 (%)	2001 (%)
Total, all categories	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
Total Unsurcharged	68.0	64.8	57.3	61.4	59.3	52.4
3 Years Claim Free (1 or less with Plan) (Manual Rates)	30.3	36.1	44.7	26.6	36.3	44.5
Experience Discount						
4 Years (One or more with Plan) -- 18% Credit	13.0	9.7	5.3	11.8	7.6	3.7
5 Years (Two or more with Plan) -- 25% Credit	11.5	9.1	3.3	11.3	7.4	2.0
6 Years or more (3 or more with Plan) -- 30% Credit	13.2	9.9	4.0	11.7	8.0	2.2
Total Surcharged	32.0	35.2	42.7	38.6	40.7	47.6
Inexperience Operator Surcharge	14.5	18.0	20.5	10.4	13.6	16.7
Experience Surcharge						
15%	11.2	10.9	12.7	16.7	15.5	17.3
25%	0.1	0.1	0.3	0.1	0.1	0.3
35%	2.5	2.5	3.6	4.7	4.7	5.6
50%	1.2	1.3	1.8	1.5	1.7	2.2
75%	1.0	1.0	1.3	2.2	1.9	1.9
100%-150%	1.5	1.4	2.5	3.1	3.1	3.6

iii. Risks by Rating Territory

The proportion of all private passenger liability risks that are assigned risks, listed by rating territory for 2000 and 2001, is shown in Table 44. During 2001, 4.0% of all New York State private passenger automobiles were assigned risks as opposed to 2.5% in 2000. The number of voluntary risks increased 40,725 while the number of assigned risks increased by 135,711. The proportion of assigned risks was 10% or higher in 3 of the 70 rating territories in 2000 and was 10% or higher in 4 of the 70 in 2001. The highest 2001 ratio was 40.1% in the Bronx Territory and the lowest was 0.2% in the Corning Territory. Between 2000 and 2001 the percentage of Assigned Risks increased in all of the 70 rating territories. The congested urban areas of New York City produced the highest assigned risk-to-voluntary ratios in the State.

Table 45 displays a seven-year history of the percentage of assigned to voluntary risks by territory, ranked from the highest down to the lowest. All tables in this section are derived from data provided by Automobile Insurance Plan Services Office.

Table 44: NY Private Passenger Automobile Exposures in Earned Car Years by Territory for the Voluntary and Assigned Risk Markets

Territory	2000			2001			# Change In A/R	% Change In A/R	% Change in Market	% Chng. in Mrkt.
	Assigned	Voluntary	Total	Assigned	Voluntary	Total				
01 Bronx Territory	16,437	36,826	53,263	22,836	34,094	56,930	6,399	38.9	3,667	6.9
19 Queens	8,312	44,365	52,677	10,002	46,440	56,442	1,690	20.3	3,765	7.1
18 Manhattan	16,685	137,554	154,239	22,244	130,793	153,037	5,559	33.3	-1,202	-0.8
03 Bronx Suburban Territory	15,207	146,640	161,847	22,051	159,092	181,143	6,844	45.0	19,296	11.9
55 Queens Suburban	36,161	489,157	525,318	50,432	508,879	559,311	14,271	39.5	33,993	6.5
94 Mount Vernon and Yonkers	5,421	98,423	103,844	9,392	98,816	108,208	3,971	73.3	4,364	4.2
17 Kings County	23,382	316,015	339,397	29,236	325,033	354,269	5,854	25.0	14,872	4.4
76 Suffolk County East	12,546	410,803	423,349	25,120	417,055	442,175	12,574	100.2	18,826	4.4
95 White Plains	969	42,602	43,571	2,230	42,900	45,130	1,261	130.1	1,559	3.6
05 Staten Island	5,648	202,588	208,236	10,352	205,222	215,574	4,704	83.3	7,338	3.5
75 Suffolk County West	12,542	486,175	498,717	22,874	483,380	506,254	10,332	82.4	7,537	1.5
07 Buffalo	1,021	104,295	105,316	4,934	105,413	110,347	3,913	383.3	5,031	4.8
97 New York City Suburban	5,479	217,897	223,376	9,625	215,447	225,072	4,146	75.7	1,696	0.8
20 Hempstead	9,856	422,351	432,207	17,963	422,488	440,451	8,107	82.3	8,244	1.9
21 North Hempstead	2,844	147,647	150,491	4,906	149,355	154,261	2,062	72.5	3,770	2.5
65 Ossining	2,778	175,514	178,292	5,463	177,412	182,875	2,685	96.7	4,583	2.6
64 Middletown	2,340	138,053	140,393	4,215	140,718	144,933	1,875	80.1	4,540	3.2
22 Oyster Bay	4,344	229,914	234,258	6,759	228,495	235,254	2,415	55.6	996	0.4
62 Highland, Kingston	1,024	76,693	77,717	2,142	77,610	79,752	1,118	109.2	2,035	2.6
82 Sullivan County Central	188	12,549	12,737	340	12,739	13,079	152	80.9	342	2.7
11 Rochester	2,265	398,375	400,640	9,941	393,645	403,586	7,676	338.9	2,946	0.7
46 Putnam County	1,050	70,471	71,521	1,693	71,205	72,898	643	61.2	1,377	1.9
37 Oswego	290	31,350	31,640	669	31,410	32,079	379	130.7	439	1.4
33 Poughkeepsie	943	96,749	97,692	2,071	97,323	99,394	1,128	119.6	1,702	1.7
68 Rockland County	1,427	176,410	177,837	3,695	177,793	181,488	2,268	158.9	3,651	2.1
67 Clinton County, etc.	3,659	349,010	352,669	7,236	349,358	356,594	3,577	97.8	3,925	1.1
58 Dutchess County (Balance)	988	87,876	88,864	1,854	89,585	91,439	866	87.7	2,575	2.9
34 Troy	484	56,944	57,428	1,057	57,185	58,242	573	118.4	814	1.4
14 Niagara Falls	282	68,421	68,703	1,115	68,277	69,392	833	295.4	689	1.0
32 Newburgh	423	64,381	64,804	1,028	64,054	65,082	605	143.0	278	0.4
83 Sullivan County (Balance)	251	23,558	23,809	371	23,232	23,603	120	47.8	-206	-0.9
61 Delaware County, etc.	1,125	134,540	135,665	2,058	131,914	133,972	933	82.9	-1,693	-1.2
54 Cortland County, etc.	1,550	190,805	192,355	2,936	190,038	192,974	1,386	89.4	619	0.3
42 Buffalo Suburban	1,011	162,312	163,323	2,403	158,860	161,263	1,392	137.7	-2,060	-1.3
08 Buffalo Semi-Suburban	1,132	196,922	198,054	2,902	192,276	195,178	1,770	156.4	-2,876	-1.5
28 Binghamton	704	115,860	116,564	1,689	116,266	117,955	985	139.9	1,391	1.2
12 Syracuse	800	214,785	215,585	3,041	214,261	217,302	2,241	280.1	1,717	0.8
84 Allegany County, etc.	1,064	183,066	184,130	2,470	180,756	183,226	1,406	132.1	-904	-0.5

Table 44: NY Private Passenger Automobile Exposures in Earned Car Years by Territory for the Voluntary and Assigned Risk Markets

Territory	2000			2001			# Change In A/R	% Change In A/R	% Change in Market	% Chng. in Mrkt.
	Assigned	Voluntary	Total	Assigned	Voluntary	Total				
24 Rome	81	21,297	21,378	272	21,063	21,335	191	235.8	-43	-0.2
81 Monticello-Liberty	87	10,709	10,796	143	11,144	11,287	56	64.4	491	4.5
36 Glens Falls	206	41,394	41,600	534	41,779	42,313	328	159.2	713	1.7
13 Albany	857	156,342	157,199	1,966	157,221	159,187	1,109	129.4	1,988	1.3
59 Columbia County, etc.	539	76,683	77,222	904	77,525	78,429	365	67.7	1,207	1.6
51 Ontario County, etc.	888	189,505	190,393	2,097	189,944	192,041	1,209	136.1	1,648	0.9
52 Fort Plain, Herkimer	170	37,491	37,661	400	37,820	38,220	230	135.3	559	1.5
74 Jefferson County	304	64,025	64,329	617	63,681	64,298	313	103.0	-31	0.0
47 Orleans County	74	25,325	25,399	241	25,578	25,819	167	225.7	420	1.7
73 Rensselaer County (Balance)	158	38,403	38,561	362	38,425	38,787	204	129.1	226	0.6
09 Schenectady County	324	98,485	98,809	903	98,954	99,857	579	178.7	1,048	1.1
43 Niagara Falls Suburban	70	33,388	33,458	265	33,072	33,337	195	278.6	-121	-0.4
41 Erie County (Balance)	205	71,546	71,751	531	73,770	74,301	326	159.0	2,550	3.6
48 Monroe County (Balance)	25	19,735	19,760	133	18,605	18,738	108	432.0	-1,022	-5.2
86 Oneida	153	40,864	41,017	287	41,348	41,635	134	87.6	618	1.5
31 Chautauqua County	228	83,706	83,934	515	83,474	83,989	287	125.9	55	0.1
60 Genesee County	119	38,483	38,602	226	38,505	38,731	107	89.9	129	0.3
29 Gloversville	91	26,623	26,714	156	27,103	27,259	65	71.4	545	2.0
56 Saratoga County (Balance)	38	26,053	26,091	132	25,815	25,947	94	247.4	-144	-0.6
25 Auburn	39	24,688	24,727	119	24,572	24,691	80	205.1	-36	-0.1
15 Utica	99	62,330	62,429	291	61,915	62,206	192	193.9	-223	-0.4
44 Broome County (Balance)	29	15,116	15,145	60	15,354	15,414	31	106.9	269	1.8
49 Niagara County (Balance)	36	33,332	33,368	126	32,630	32,756	90	250.0	-612	-1.8
39 Rochester Suburban	43	39,882	39,925	157	41,642	41,799	114	265.1	1,874	4.7
72 Albany County (Balance)	27	13,406	13,433	47	12,782	12,829	20	74.1	-604	-4.5
30 Saratoga Springs	31	20,467	20,498	77	21,060	21,137	46	148.4	639	3.1
35 Amsterdam	41	20,317	20,358	70	20,261	20,331	29	70.7	-27	-0.1
16 Saratoga Springs Suburban	44	44,597	44,641	143	45,849	45,992	99	225.0	1,351	3.0
71 Saratoga County South	49	43,925	43,974	122	44,693	44,815	73	149.0	841	1.9
38 Syracuse Suburban	69	56,164	56,233	147	57,057	57,204	78	113.0	971	1.7
27 Elmira	27	48,908	48,935	83	49,600	49,683	56	207.4	748	1.5
40 Corning	19	25,712	25,731	42	26,461	26,503	23	121.1	772	3.0
Entire State	209,802	8,106,797	8,316,599	343,511	8,147,522	8,491,033	135,711	64.7	174,434	2.1

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

Table 45
Percentage of Private Passenger Automobiles Insured Through the Automobile Insurance Plan, by Territory, 1995-2001

Territory	1995		1996		1997		1998		1999		2000		2001	
	(%)	Rank	(%)	Rank	(%)	Rank	(%)	Rank	(%)	Rank	(%)	Rank	(%)	Rank
01 Bronx Territory	84.4	1	77.8	1	65.3	1	52.4	1	34.3	1	30.9	1	40.1	1
03 Bronx Suburban Territory	44.5	5	37.4	4	27.6	4	21.8	5	13.2	4	9.4	4	12.2	4
05 Staten Island	18.6	9	14.8	8	10.0	12	8.0	8	4.6	8	2.7	9	4.8	10
07 Buffalo	13.7	15	9.1	18	6.7	21	3.4	24	1.2	31	1.0	24	4.5	12
08 Buffalo Semi-Suburban	5.4	64	3.6	58	2.7	47	1.5	45	0.7	41	0.6	37	1.5	35
09 Schenectady County	7.0	49	4.5	50	3.0	45	1.7	43	0.6	44	0.3	50	0.9	49
11 Rochester	7.1	48	5.0	43	3.3	40	1.8	41	0.6	46	0.6	38	2.5	21
12 Syracuse	7.4	47	4.6	46	3.2	42	1.4	49	0.5	53	0.4	48	1.4	37
13 Albany	9.0	36	5.9	36	3.8	36	2.1	35	1.0	35	0.5	39	1.2	42
14 Niagara Falls	8.8	39	5.5	38	3.3	41	1.6	44	0.6	43	0.4	44	1.6	29
15 Utica	4.6	66	2.5	65	1.6	63	0.7	65	0.2	64	0.2	59	0.5	59
16 Saratoga Springs Suburban	6.5	57	3.5	59	1.6	64	0.8	61	0.2	66	0.1	68	0.3	66
17 Kings County	45.2	4	36.9	5	25.8	5	22.3	4	13.1	5	6.9	5	8.3	7
18 Manhattan	46.5	3	39.7	3	30.1	3	23.5	3	14.7	3	10.8	3	14.5	3
19 Queens	62.0	2	54.9	2	46.1	2	39.7	2	26.0	2	15.8	2	17.7	2
20 Hempstead	15.8	13	13.5	13	10.3	11	7.5	11	4.1	11	2.3	12	4.1	14
21 North Hempstead	12.0	21	10.0	16	7.6	16	5.4	15	3.1	13	1.9	14	3.2	15
22 Oyster Bay	10.9	24	8.9	20	6.8	19	4.7	16	2.8	15	1.9	15	2.9	18
24 Rome	7.0	51	3.7	56	2.6	53	1.2	53	0.5	52	0.4	46	1.3	39
25 Auburn	6.7	55	4.1	53	2.5	54	1.1	54	0.3	60	0.2	60	0.5	58
27 Elmira	5.3	65	2.2	68	0.6	70	0.3	69	0.1	69	0.1	70	0.2	69
28 Binghamton	6.8	53	4.6	45	3.6	37	1.9	40	0.9	39	0.6	35	1.4	36
29 Gloversville	13.0	18	8.2	23	4.9	28	2.1	34	0.7	42	0.3	49	0.6	56
30 Saratoga Springs	6.7	54	3.9	55	2.3	56	1.1	56	0.5	54	0.2	61	0.4	64
31 Chautauqua County	8.9	37	5.8	37	3.1	44	1.4	47	0.6	47	0.3	54	0.6	54
32 Newburgh	9.6	31	6.8	32	4.8	29	2.7	30	1.1	32	0.7	33	1.6	30
33 Poughkeepsie	9.9	28	7.3	28	5.4	24	3.3	25	1.6	24	1.0	25	2.1	24
34 Troy	11.9	22	8.0	24	5.2	26	3.0	27	1.3	28	0.8	27	1.8	28
35 Amsterdam	6.9	52	3.7	57	2.0	58	1.0	57	0.4	56	0.2	56	0.3	65
36 Glens Falls	10.9	25	7.6	25	4.6	31	2.8	28	1.0	34	0.5	40	1.3	41
37 Oswego	11.9	23	8.9	21	7.2	17	4.2	19	1.7	23	0.9	26	2.1	23
38 Syracuse Suburban	3.9	70	2.1	69	1.3	67	0.7	64	0.3	62	0.1	64	0.3	68
39 Rochester Suburban	4.0	69	2.4	66	1.3	66	0.5	68	0.2	65	0.1	67	0.4	62
40 Corning	4.0	68	1.7	70	0.7	69	0.2	70	0.1	70	0.1	69	0.2	70
41 Erie County (Balance)	7.0	50	4.1	51	2.6	50	1.4	48	0.6	48	0.3	53	0.7	51

Table 45
Percentage of Private Passenger Automobiles Insured Through the Automobile Insurance Plan, by Territory, 1995-2001

Territory	1995		1996		1997		1998		1999		2000		2001	
	(%)	Rank	(%)	Rank	(%)	Rank	(%)	Rank	(%)	Rank	(%)	Rank	(%)	Rank
42 Buffalo Suburban	5.8	61	4.1	52	2.7	49	1.7	42	0.9	36	0.6	34	1.5	34
43 Niagara Falls Suburban	7.7	45	4.7	44	2.7	48	1.3	51	0.4	58	0.2	55	0.8	50
44 Broome County (Balance)	6.2	59	3.4	61	1.7	62	0.8	62	0.4	57	0.2	58	0.4	60
46 Putnam County	9.9	29	7.4	26	5.5	23	3.9	21	2.3	17	1.5	19	2.3	22
47 Orleans County	8.1	43	4.6	47	2.6	51	1.3	52	0.5	49	0.3	52	0.9	47
48 Monroe County (Balance)	6.6	56	3.3	62	1.7	61	0.7	63	0.2	68	0.1	63	0.7	52
49 Niagara County (Balance)	5.6	62	3.3	63	1.4	65	0.6	66	0.2	63	0.1	66	0.4	61
51 Ontario County, etc.	7.7	44	5.2	42	3.2	43	1.9	39	0.8	40	0.5	42	1.1	44
52 Fort Plain, Herkimer	8.9	38	5.5	39	2.9	46	1.4	50	0.5	50	0.5	43	1.0	45
54 Cortland County, etc.	8.2	42	5.5	41	3.5	38	2.1	37	1.1	33	0.8	30	1.5	33
55 Queens Suburban	37.2	6	32.6	6	24.2	6	19.9	6	11.9	6	6.9	6	9.0	5
56 Saratoga County (Balance)	8.4	40	4.5	49	2.1	57	0.9	58	0.3	61	0.1	62	0.5	57
58 Dutchess County (Balance)	10.0	27	7.4	27	5.1	27	3.2	26	1.6	25	1.1	21	2.0	27
59 Columbia County, etc.	9.0	35	6.4	34	4.2	33	2.7	29	1.3	27	0.7	32	1.2	43
60 Genesee County	5.6	63	3.2	64	1.9	59	0.8	60	0.4	55	0.3	51	0.6	55
61 Delaware County, etc.	9.5	32	6.5	33	4.2	34	2.5	33	1.2	29	0.8	28	1.5	32
62 Highland, Kingston	12.5	20	8.8	22	6.2	22	3.5	23	1.8	21	1.3	20	2.7	19
64 Middletown	12.7	19	9.0	19	6.9	18	4.3	17	2.3	18	1.7	16	2.9	17
65 Ossining	9.2	34	7.1	30	5.2	25	3.7	22	2.2	19	1.6	17	3.0	16
67 Clinton County, etc.	9.7	30	7.0	31	4.5	32	2.7	31	1.4	26	1.0	23	2.0	26
68 Rockland County	10.1	26	7.3	29	4.7	30	2.7	32	1.2	30	0.8	31	2.0	25
71 Saratoga County South	4.3	67	2.2	67	1.2	68	0.6	67	0.2	67	0.1	65	0.3	67
72 Albany County (Balance)	6.1	60	3.4	60	1.8	60	0.9	59	0.3	59	0.2	57	0.4	63
73 Rensselaer County (Balance)	7.5	46	4.6	48	2.4	55	1.5	46	0.6	45	0.4	45	0.9	48
74 Jefferson County	9.3	33	6.2	35	3.9	35	2.1	36	0.9	37	0.5	41	1.0	46
75 Suffolk County West	15.8	12	13.6	11	10.8	9	7.6	10	4.3	10	2.5	10	4.5	11
76 Suffolk County East	16.6	11	14.4	9	11.2	8	7.9	9	4.4	9	3.0	8	5.7	8
81 Monticello-Liberty	14.8	14	10.5	15	7.7	15	4.0	20	1.7	22	0.8	29	1.3	40
82 Sullivan County Central	18.8	8	13.6	12	9.9	13	5.9	12	2.8	16	1.5	18	2.6	20
83 Sullivan County (Balance)	13.5	16	9.6	17	6.8	20	4.2	18	2.1	20	1.1	22	1.6	31
84 Allegany County, etc.	8.4	41	5.5	40	3.4	39	1.9	38	0.9	38	0.6	36	1.3	38
86 Oneida	6.3	58	3.9	54	2.6	52	1.1	55	0.5	51	0.4	47	0.7	53
94 Mount Vernon and Yonkers	26.7	7	21.8	7	16.5	7	12.3	7	7.2	7	5.2	7	8.7	6
95 White Plains	16.9	10	14.1	10	10.7	10	5.8	13	2.9	14	2.2	13	4.9	9
97 New York City Suburban	13.0	17	10.7	14	7.9	14	5.8	14	3.2	12	2.5	11	4.3	13
Entire State	16.0		12.8		9.6		6.8		3.9		2.5		4.0	

c. Workers' Compensation Insurance

On October 1, 2002 the annual Workers' Compensation rate revision became effective producing no change in average premium. Including the change in the New York State Assessment, the overall total payments for Workers' Compensation coverage decreased by 1.2%.

The generally downward premium levels of the past seven years continued in 2002. Rate changes during the past seven years are shown below:

Year	Net Change*
1996	-18.2%
1997	-8.4%
1998	-6.0%
1999	3.9%
2000	0.0%
2001	-1.8%
2002	-1.2%

*Net change includes rate level and assessment charge changes.

Table 46
WORKERS' COMPENSATION DIVIDEND CLASSIFICATION PLANS APPROVED
2002

Plan Types:

A = Flat

B = Sliding Scale/ Loss Ratio

C = Retention

COMPANY NAME	PLAN TYPE	APPROVAL DATE
Atlantic Mutual Insurance Company	B	2/21/02
Citizens Insurance Company	B	4/9/02
Greater NY Mutual Insurance Company	A,B	3/1/02
Hartford Insurance Group	A,B,C	7/3/02
Strathmore Insurance Company	A	8/14/02
Strathmore Insurance Companies	B	9/11/02

Table 47
WORKERS' COMPENSATION RATE HISTORY
New York State, 1980-2001

Effect. Date	Policy Year	Calendar Year	Law Amendments & Medical & Hospital Agreements		Wage & L/R Trend Factors	Expenses	Effect on Rate Level	Assessments			Cumulative Approved	
			Indemnity	Medical				WCB	SDF&RCF	Filed		Approved
7/80	-4.5%	-7.1%	0.0%		1.0133	-4.1%		-0.1%	-2.5%	-3.1%	-10.1%	-10.1%
10/80										2.9%	2.9%	-7.5%
7/81	-11.5%	-11.5%	7.7%		0.8600	-3.1%		-0.4%	0.3%	-14.3%	-20.4%	-26.4%
7/82	-4.6%	-11.6%	4.3%		0.9895	0.3%		0.1%	1.2%	-2.1%	-3.4%	-28.9%
7/83 ¹	-0.3%	-7.8%	19.5%		0.8807	-0.1%		0.1%	-4.1%	5.4%	-2.0%	-30.3%
7/84	6.6%	3.5%	7.8%		0.8979	3.8%		0.1%	2.6%	9.4%	8.1%	-24.6%
7/85 ²	7.7%	0.9%	8.3%		0.9725	2.2%		-0.3%	-1.5%	14.2%	10.2%	-17.0%
7/86	-1.3%	-8.4%	3.8%		0.9257	3.0%		0.2%	1.0%	1.5%	-4.7%	-20.9%
7/87	7.5%	12.8%	2.2%		0.9134	0.4%		0.3%	0.5%	6.5%	5.1%	-16.9%
7/88	9.2%	12.2%	7.2%		0.9470	0.7%		-0.4%	-1.4%	28.3%	11.1%	-7.7%
7/89	17.6%	22.5%	2.0%		0.9254	0.7%		-0.3%	1.5%	28.5%	15.5%	6.6%
7/90	12.8%	13.5%	18.0%	3.4%	0.9478	0.4%		-0.4%	-0.7%	39.1%	29.4%	38.1%
7/91	23.4%	20.9%	3.7%	2.1%	0.9012	-4.2%		0.3%	4.1%	25.1%	15.3%	59.2%
7/92	20.5%	13.1%	4.2%	1.2%	0.9500	-0.3%		-0.4%	4.1% ³	18.4%	15.6%	84.1%
7/93	12.0%	17.1%	1.0%		1.0010	0.0%		-0.3%	-1.0% ³	18.7%	14.4%	110.6%
4/94	-4.9%	-0.1%	-1.9% ⁴		1.0010	0.0%	-16.3% ⁵		13.5% ⁵	-5.0%	-5.0%	100.1%
10/94	8.0%	1.9%	0.8%		0.9640	-1.2%	1.4%		-3.1% ⁵	-1.6%	-1.7%	96.7%
10/95	-17.1%	-15.3%	0.05%		1.0960	0.8%	-8.4%		3.7%	-2.8%	-5.0%	86.9%
	Pol. Yr.	Acc. Yr.										
10/96	-14.9%	-16.5%	-3.2%		1.0430	0.0%	-14.9%		-0.2%	-15.1%	-18.2%	52.9%
10/97	-9.1%	-9.5%	0.0%		1.0140	-0.1%	-7.5%		-1.0%	-3.8%	-8.4%	40.1%
10/98	8.9%	2.9%	0.0%		0.9080	0.8%	-3.1%		-3.0%	-0.4%	-6.0%	31.7%
10/99	17.1%	8.5%	0.0%		0.9860	1.2%	0.0%		3.9%	17.0%	3.9%	36.8%
10/00	4.5%	-0.2%	0.0%		0.962	0.1%	-2.5%		2.6%	0.0%	0.0%	36.8%
10/01	0.4%	-3.5%	0.0%		1.020	-0.1%	0.4%		-1.8%	-1.4%	-1.8%	34.3%
10/02	3.4%	-2.5%	0.0%		0.961	0.5%	0.0%		-1.2%	8.1%	-1.2%	32.7%

¹ Includes Stock Security Fund Tax of 1.012.

² The Loss Constant Offset was removed in 1985.

³ Includes OSHA assessment of 1.25%.

⁴ Includes elimination of 13.0% Hospital Surcharge.

⁵ Assessments are included in a fee. In April 1994, this produced an effect of -15.0% on the rate level.

Table 48 : WORKERS' COMPENSATION—RATE DEVIATIONS (approved as of February 1, 2003)

Company Name	Effective Date	Downward Deviation	Company Name	Effective Date	Downward Deviation
Admiral Ins Co (formerly FICO Ins Co)	05/17/96	15.0	Eastern Casualty Ins Co	03/19/01	10.0
AIU Ins Co	05/15/96	15.0	Erie Ins Co of New York	04/01/02	7.5
All America Ins Co	08/01/96	10.0	Erie Insurance Company	11/01/96	5.0
American Alternative Ins Corporation	01/08/99	10.0	Fairfield Ins Co	10/10/02	0.0
American Automobile Ins Co	06/13/83	16.0	Federated Mutual Ins Co	10/01/02	0.0
American Casualty Co of Reading, PA	03/01/01	15.0	Fidelity & Deposit Co of Maryland	10/15/97	10.0
American Economy Ins Co	06/01/96	10.0	Fidelity & Guaranty Ins Co	08/04/83	15.0
American Employers' Ins Co	10/01/99	15.0	Fidelity & Guaranty Ins Underwriters Inc.	12/22/97	10.0
American Fire & Casualty Co	10/25/01	10.0	Fire Districts of NY Mutual Ins Co	12/17/97	9.0
American Guarantee & Liability Ins Co	04/15/01	10.0	Fire & Casualty Ins Co of CT	02/13/98	10.0
American Manufacturers Mutual Ins Co	10/01/85	10.0	Fireman's Fund Ins Co	02/15/85	10.0
American Protection Ins Co	06/02/93	15.0	Florists' Mutual Ins Co	08/01/98	10.0
American-Zurich Ins Co	12/01/96	15.0	Fremont Indemnity Ins Co	10/28/97	15.0
AmGuard Ins Co	11/01/99	10.0	Frontier Ins Co	04/07/98	10.0
Argonaut-Midwest Ins Co	12/01/01	10.0	General Security P&C Ins Co	06/03/99	10.0
Atlantic Mutual Ins Co	06/01/00	5.0	Globe Indemnity Co	09/01/97	15.0
Atlantic Specialty Ins Co	08/01/96	15.0	Graphic Arts Mutual Ins Co	01/01/84	15.0
Automobile Ins Co of Hartford, CT	05/25/83	15.0	Great American Alliance Ins Co	10/01/01	10.0
Bankers Standard Ins Co	03/23/95	15.0	Great American Assur Co (was Agricultural Ins)	10/01/00	10.0
Blue Ridge Indemnity Co	06/01/01 ¹	10.0	Great Northern Ins Co	08/12/85	7.0
Blue Ridge Indemnity Co	05/01/01 ²	10.0	Guidant Mutual (formerly Preferred Risk Mut)	02/01/94	12.5
Business Ins Co	02/01/97	15.0	Harleysville Worcester Ins Co	10/01/85	10.0
Casualty Ins Co	10/28/97	15.0	Hartford Casualty Ins Co	04/01/99	15.0
Centennial Ins Co	07/15/88	10.0	Hartford Fire Ins Co	10/01/86	15.0
Centre Ins Co (formerly Business Ins Co)	02/01/97	15.0	Hartford Ins. Co. of the Midwest	05/02/86	10.0
Centurion Ins Co	08/01/99	10.0	Hartford Underwriters Ins Co	04/01/99	5.0
Chubb Indemnity Co	05/01/96	15.0	Homeland Ins Co of NY (was GA Ins of NY)	01/01/01	17.5
Church Mutual Ins Co.	10/22/01	7.0	Indemnity Ins Co of North America	01/01/97	15.0
Cigna Fire Underwriters Ins Co	03/23/95	10.0	Insurance Co of Greater New York	02/01/01	10.0
Cigna Property & Casualty Ins Co	01/01/97	10.0	Kemper Employers Ins Co	05/01/01	10.0
Cincinnati Ins Co	12/15/99	10.0	Legion Ins Co	01/01/02	10.0
Citizens Ins Co of America	10/01/01	10.0	Liberty Insurance Corporation	01/01/00	14.0
Clarendon National Ins Co	05/01/02	0.0	Liberty Mutual Fire Ins Co	01/01/00	5.0
Colonial American Casualty & Surety Co	10/15/97	10.0	Main Street America Assurance Co	11/11/02	7.5
Commercial Compensation Ins Co	04/01/98	10.0	Massachusetts Bay Ins Co	10/01/01	5.0
Connecticut Indemnity Co	02/27/97	15.0	Merchants Ins Co of New Hampshire	01/01/02	10.0

Table 48 : WORKERS' COMPENSATION—RATE DEVIATIONS (approved as of February 1, 2003)

Company Name	Effective Date	Downward Deviation	Company Name	Effective Date	Downward Deviation
Michigan Millers Mutual Ins Co	06/01/98	10.0	Republic-Franklin Ins Co	01/01/88	10.0
Mount Vernon Fire Ins Co	09/06/02	0.0	Royal Indemnity Co	09/01/97	17.5
Mountain Valley Indem Co (was White Mts)	03/15/99	10.0	Safeco Ins Co of America	06/01/02	0.0
National Fire Ins Co of Hartford	03/01/01	7.5	Safeguard Ins Co	05/01/95	10.0
Netherlands Ins Co	04/01/97	15.0	Safety National Casualty Corp	10/10/02	0.0
New Hampshire Ins Co	05/15/96	15.0	Selective Ins Co of South Carolina	09/01/01	10.0
Newark Ins Co	05/01/95	7.5	Selective Way Ins Co	03/01/02	5.0
NorGuard Ins Co	02/01/99	5.0	Sentry Select Ins Co (formerly John Deere)	08/01/97	10.0
North River Ins Co	01/01/02	10.0	Star Ins Co	01/08/97	15.0
Northern Assurance Co of America	10/01/99	15.0	State Farm Fire and Casualty Co	06/01/01	15.0
Northern Ins Co of New York	01/04/02	5.0	Strathmore Ins Co	01/01/01	15.0
Ohio Security Ins Co	10/25/01	10.0	St. Paul Mercury Ins Co	02/13/96	15.0
Old Republic Ins Co	08/01/01	9.1	TIG Ins Co	01/01/01	7.5
One Beacon America Ins Co(was Comm Union)	10/01/99	10.0	TIG Ins Co of New York	01/01/01	12.5
Oriska Ins Co	07/01/01	10.0	TM Casualty Ins Co	09/01/02	0.0
Pacific Indemnity Co	01/13/83	15.0	Trans Pacific Ins Co	09/01/02	10.0
Paramount Ins Co	10/03/83	15.0	Transcontinental Ins Co	03/01/01	15.0
Patriot General Ins Co	02/25/02	10.0	Travelers Casualty & Surety Co of Illinois	08/12/85	15.0
Peerless Ins Co	05/01/96	7.5	Travelers Indemnity Co of America	01/16/91	15.0
Penn Millers Ins Co	03/01/01	10.0	Travelers Indemnity Co of Connecticut	08/01/98	10.0
Pennsylvania General Ins Co	11/01/01	0.0	Truck Insurance Exchange	06/01/01	10.0
Pennsylvania Manufacturers Assn. Ins. Co	12/11/01	7.0	Ulico Casualty Co	09/10/02 ³	0.0
Pennsylvania Manufacturers Indemnity Co	10/01/96	15.0	Ulico Casualty Co	06/24/96 ⁴	10.0
PG Ins Co of NY (was CGU Ins Co of NY)	09/01/01	10.0	Universal Underwriters Ins Co	07/01/02	0.0
Preferred Professional Ins Co	08/31/01	10.0	Utica National Assurance Co	01/07/98	17.5
Professional Liability Ins Co of America	04/09/01	10.0	Valley Forge Ins Co	03/01/01	10.0
Providence Washington Ins Co	04/03/01	10.0	Wausau Business Ins Co	06/10/96	15.0
Realm Ins Co	10/01/02	0.0	Wausau Underwriters Ins Co	01/01/03	2.5
Regent Ins Co	04/01/03	0.0	West American Ins Co	10/25/01	0.0

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

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

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

Prior to 1988, contributions were last required in 1973. In 1988, contributions resumed as a consequence of the Superintendent's determination that the fund's net value as of 12/31/87 had fallen below \$150 million. By statute, the quarterly contributions for the 1988 fund year were due on May 15, 1988, August 15, 1988, November 15, 1988 and February 15, 1989. Similarly contributions continued through 1992. For the 1993 fund year, the Superintendent determined that the PCISF net value was greater than \$150 million. Except for contributions that were due on February 15, 1993 from the prior fund year, no additional contributions were required in 1993. The same circumstances held true for the 1994 - 1997 fund years. In 1998, the Superintendent determined that the PCISF net value had once again fallen below \$150 million and contributions resumed. In 1999, however, the net value of the PCISF was determined to be greater than \$150 million, and in accordance with 7603 (C)(1), three additional contributions were due after this determination. In 2000, 2001 and 2002, the Superintendent determined that the PCISF net values had once again fallen below \$150 million and quarterly contributions were required.

Table 49 below displays the amount of the estimated PCISF contributions per quarter since contributions first resumed in the 1988 fund year. The variation from year to year in both the magnitude of the PCISF net value and the estimated quarterly contributions reflects, in part, the variability associated with the PCISF payouts for awards and expenses and the PCISF dividends (returns from estates in liquidation) over the years.

**Table 49
PCISF CONTRIBUTIONS*
1988 - 2002**

Fund Year	Estimated Quarterly Contributions (in millions)
1988	\$15.0
1989	7.5
1990	5.5
1991	25.0
1992	7.5
1993 – 97	0
1998	8.3
1999	4.0
2000	18.8
2001	3.4
2002	21.4

* During 1993, settlement was reached with respect to *Alliance of American Insurers et al. v. Chu et al.* The 1993 through 2002 fund year net values and contribution amounts described above reflect the impact of the settlement.

C. HEALTH BUREAU

1. Entities Under Health Bureau Supervision

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

The Bureau had regulatory authority over all aspects of the fiscal solvency and market conduct of 88 insurers, HMOs, and other managed care organizations as of December 31, 2002. These include 21 accident and health insurers, 1 life insurer (writing accident and health insurance only), 13 health service and medical and dental expense indemnity corporations, 1 Article 43 Insurance Law HMO, 22 Article 44 Public Health Law HMOs, 12 Article 47 Insurance Law municipal cooperative health benefits plans, 10 managed long term care plans and 8 continuing care retirement communities certified pursuant to Article 46 of the Public Health Law.

In 2002, one life insurer and one property and casualty insurer submitted applications to amend their licenses to become Article 42 accident and health insurers. These are pending. Also, one health service corporation (Empire) was approved to convert to a for-profit Article 42 accident and health insurer; its Article 42 accident and health subsidiary then merged with this new company.

There were two HMO mergers in 2002: Empire HealthNet merged into Empire HealthChoice HMO and United HealthCare Upstate NY merged into United HealthCare of New York, Inc.

The Bureau is closely monitoring the financial condition of two distressed HMOs and the winding down operation of another. One previously financially distressed HMO was brought into compliance with its financial solvency requirements on June 1, 2002. This HMO was then acquired, on July 31, 2002, by a newly incorporated holding company that had substantial financial backing from its parent company.

Article 47 of the Insurance Law, enacted in 1994, permits the formation of municipal cooperative health benefit plans. In addition to the eight plans previously licensed, one additional municipal cooperative health benefit plan was issued a Certificate of Authority in 2002. Two applications are pending. One applicant ceased its application for certification and registered as an Employee Welfare Fund per Article 44 of the Insurance Law and one plan is in the process of being dissolved.

2. Accident and Health Insurers

Seventeen stock and four mutual companies were licensed to transact only accident and health insurance at year-end 2001. In addition, the Bureau regulates one life insurer. The net premium written of the accident and health business for this life insurer is included in the following table.

Table 50
SELECTED ANNUAL STATEMENT DATA
Accident and Health Insurers
1999-2001
 (dollar amounts in millions)

	2001	2000	1999
Number of Insurers	22	21	19
Net premiums written	\$5,162.8	\$4,890.6	\$4,288.5
Admitted assets	7,465.9	8,675.7	6,378.2
Policy and contract claims	1,150.3	1,055.8	958.6
Other liabilities	3,227.3	4,668.0	2,786.3
Capital	28.4	30.6	24.1
Surplus	3,059.9	2,921.3	2,609.2
Ratio of premiums written to capital and surplus	1.7	1.7	1.6

Source: New York State Insurance Department

3. Article 43 and Article 44 Corporations

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

a. Subscriber Rate Changes

Chapter 504 of the Laws of 1995 established a procedure for premium rate changes for Article 43 and Article 44 corporations. This procedure is an alternative to the prior approval requirements of Section 4308(c) of the Insurance Law under specific conditions. This law permits an Article 43 or Article 44 corporation to submit a filing for a premium rate adjustment and such filing will be deemed approved upon a certification that the expected loss ratio will meet the minimum and maximum loss ratios prescribed in Insurance Law Section 4308(g). Premium adjustments using this methodology were previously limited to no more than 10% annually, but the annual cap was removed on January 1, 2000. During the year 2002, the number of filings were as follows:

Type of Company	Filings
HMOs	94
Article 43 Corporations	23
Article 42 Corporations	5

b. Article 43 and Article 44 Corporations

The following tables show aggregate figures on assets, liabilities, surplus funds, premium income and membership for years 1999-2001:

Table 51
HEALTH SERVICE CORPORATIONS*
Selected Data, New York State
1999-2001
(dollar amounts in millions)

	2001	2000	1999
Number of Companies	11	11	11
Admitted Assets	\$4,852.0	\$4,508.8	\$4,321.0
Liabilities	\$3,345.4	3,230.2	3,084.0
Surplus Funds	1,506.6	1,278.6	1,237.0
Net Premium Income:			
Hospital	\$7,816.6	\$6,594.2	\$5,916.7
Medical/Dental	4,698.0	4,692.8	4,222.7
Number of Contracts & Riders in Force:			
Hospital	2.7**	2.7**	2.7**
Medical/Dental	1.9**	1.9**	2.3**

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

** in millions

Note: See first footnote, Table 53

Source: New York State Insurance Department

Table 52
MEDICAL & DENTAL EXPENSE INDEMNITY CORPORATIONS
Selected Data, New York State
1999-2001
(dollar amounts in millions)

	2001	2000	1999
Number of Companies	3	3	3
Admitted Assets	\$26.8	\$26.9	\$19.0
Liabilities	15.1	16.9	10.5
Surplus Funds	11.7	10.0	8.5
Net Premium Income	24.7	23.0	18.3
Number of Contracts in Force	847	762	622

Source: New York State Insurance Department

Table 53
HEALTH MAINTENANCE ORGANIZATIONS
That Are a Line of Business of a Health Service Corporation*
Selected Data, New York State
1999-2001
(dollar amounts in millions)

	2001	2000	1999
Number of Companies	4	4	4
Net Premium Income	\$6,048.6	\$4,641.0	\$4,046.7
Number of Participants	2.5**	2.2**	2.2**

• Figures shown in this Table are included in the corresponding figures shown in the Table 51, "Health Service Corporations."

** in millions

Source: New York State Insurance Department

Table 54
HEALTH MAINTENANCE ORGANIZATIONS
That Are Not a Line of Business
Selected Data, New York State
1999-2001
(dollar amounts in millions)

	2001	2000	1999
Number of Companies	23	32	34
Admitted Assets	\$3,199.9	\$3,266.2	\$3,137.8
Liabilities	2,032.9	2,195.3	2,247.8
Surplus Funds	1,167.0	1,075.9	890.0
Net Premium Income	9,486.3	9,504.2	9,875.0
Number of Participants	3.6*	4.4*	4.7*

* in millions

Source: New York State Insurance Department

4. Examinations Conducted by the Health Bureau

During the year 2002, the field unit of the Health Bureau conducted 36 examinations of regulated entities, itemized below:

	Total	Regularly Scheduled	
		Initiated in 2002	Prior to 2002
By Regulated Entity			
HMO	21	12	9
HMDI	7	4	3
Commercial	6	5	1
Other	2	2	0
Total	36	23	13
By Type			
Financial	7	3	4
Market Conduct	15	11	4
Combined	11	6	5
Other:			
Capital Increase*	1	1	0
On Organization**	2	2	0
Total	36	23	13

* Examination conducted when insurer increases its capital.

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

5. Review of Accident and Health Policy Form Submissions

In 2002, the Health Bureau processed 1,353 accident and health policy form submissions containing in excess of 8,000 policy forms. A submission consists of one or more policy forms and related supporting actuarial material.

Table 55
ACCIDENT & HEALTH
Policy Form Submissions Processed*
2002

Individual Accident and Health	239
Group Accident and Health	620
Blanket	28
Article 43 Organizations (group)	207
Article 43 Organizations (individual)	5
HMO	224
Franchise	14
Fraternal Benefit Societies	2
Healthy New York	9
Municipal Cooperatives	4
Integrated Delivery System	1
Total	1,353

***Note:** Prior reports listed the number of forms processed. Due to a change in record keeping, the Bureau now tracks submissions, rather than forms. A submission contains one or more forms.

Of the 1,353 total, 672 submissions were approved for use in state; 187 submissions were disapproved, withdrawn, or closed for lack of company action. In addition, 268 submissions were filed by New York domestic insurers for use in states other than New York; 46 submissions were filed for reference purposes or otherwise processed and closed; and 180 submissions were closed pursuant to Circular Letter No. 14 (1997). This Circular Letter permits the Department to return all product and rate submissions that are incomplete, that are not drafted to comply with New York's statutory and regulatory requirements, or that are poorly organized or difficult to understand.

Thirty-one submissions were processed under the deemer provisions of Section 3201(b)(6) of the Insurance Law. All submissions were handled within the statutory time frames. No submissions were "deemed" approved. Fifty-eight submissions were processed under the Health Bureau's optional fast track prior approval procedures established pursuant to Circular Letter Number 28 (2000). There were five times as many individual A&H and group A&H policy forms processed in 2000.

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

Review of premium rates is performed in accordance with requirements in applicable sections of Insurance Law and corresponding regulations, which varies dependent upon the type of insurer and the nature of coverage. Rate reviews generally involve assuring that premiums are reasonable in relationship to benefits provided, and that premiums are neither excessive, inadequate, nor unfairly discriminatory. Such reviews encompass various types of individual, group, and blanket insurance coverages and include insurance products such as medical, prescription drug, Medicare supplement, dental, disability income, specified disease, long term care, accidental death and dismemberment and New York DBL.

The Accident and Health Rating Section received 1,491 rate filings and processed 1,546 rate filings during 2002. These included initial rate filings for new policy forms submitted by commercial insurers, Article 43 corporations, Article 44 HMOs, as well as rate adjustment filings for commercial insurers.

7. Inquiries and Complaints

In response to formal written inquiries and complaints, the Bureau provided written answers to 137 consumer and 256 legislative inquiries and complaints concerning accident and health insurance and related issues in 2002. In addition to formal responses to written complaints and inquiries, the Health Bureau monitors a dedicated mailbox on the Department's Web site. On average, between 15 and 20 e-mail inquiries or complaints are received and responded to each week. Also, the Bureau responds to over a thousand telephone inquiries each year.

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

New York's External Appeal Program completed its third year of operation in 2002. Since the program's inception, there have been over 5,400 external appeal requests. Of the 41 states and the District of Columbia with external appeal programs currently in place, only California has received more external appeal requests than New York.

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

To be eligible for an external review, a denial must first be appealed through the health plan's internal appeal process or the patient and the health plan must jointly agree to waive the internal appeal

process. External appeal requests must be submitted to the New York State Insurance Department within 45 days from receipt of the notice of final adverse determination from the first level of appeal with the health plan or receipt of a letter from the health plan waiving the internal appeal process.

The Insurance Department is responsible for reviewing external appeal requests for eligibility and completeness and assigning requests to external appeal agents. Decisions must be rendered by external appeal agents within 30 days for standard appeals, or within three days for expedited appeals if the patient's attending physician attests that a delay would pose an imminent or serious threat to the health of the patient.

External appeal agents are certified by the Insurance Department and the New York State Department of Health and must conduct appeals in compliance with requirements in law and regulation. New York currently has three certified external appeal agents, Island Peer Review Organization (IPRO), Medical Care Management Corporation (MCMC) and Hayes Plus, with comprehensive panels of clinical peers available to review appeals. All three agents will be up for recertification in the summer of 2003.

Information about the external appeal program is available on the Insurance Department's Web site at www.ins.state.ny.us. In addition, the Insurance Department operates a dedicated toll-free hotline (1-800-400-8882) to respond to questions and assist in the filing of external appeal requests. During the past three years of operation, over 16,000 calls came in on the external appeal hotline.

Along with monitoring the number of hotline calls, the Insurance Department also tracks external appeal results for each year of operation of the program. In 2002, the Insurance Department received 1,546 external appeal requests. During the year, 160 external appeal requests were closed because health plans voluntarily reversed the denial during the external appeal process; 392 external appeal requests were determined to be ineligible for external appeal and 878 determinations were rendered by external appeal agents.

Table 56A lists the number of external appeal determinations that have been either upheld or overturned, categorized by type of appeal. Table 56B identifies external appeal results by agent. The tables reveal that 44% of health plan denials were overturned in whole or in part by external appeal agents and 56% were upheld by external appeal agents. An external appeal that is overturned in part refers to one that is decided partially in favor of the consumer. For example, an HMO may refuse to pay for a five-day hospital stay asserting that it was not medically necessary, but that ruling would be overturned in part if the external appeal agent determines three days were medically necessary and two were not.

Table 56A
EXTERNAL APPEAL DETERMINATIONS BY TYPE OF APPEAL

Type of Denial	Total	Overturned	Overturned in Part	Upheld
Medical Necessity	796	269	80	447
Experimental/Investigational	78	39	0	39
Clinical Trial	4	2	0	2
Total	878	310	80	488

Table 56B
EXTERNAL APPEAL DETERMINATIONS BY AGENT
January 1, 2002 — December 31, 2002

Agent	Total	Overturned	Overturned in Part	Upheld
HAYES	295	102	21	172
IPRO	267	92	36	139
MCMC	316	116	23	177
Total	878	310	80	488

Note: See text for full name of external appeal agents.

9. U.S. Supreme Court Review of State External Appeal Programs

In 2002, the United States Supreme Court considered whether state external appeal programs are preempted by the Employee Retirement Income Security Act of 1974 (ERISA), a federal law that regulates employee benefit plans, including employer-provided health coverage, and preempts state laws relating to such plans unless the state law regulates insurance and does not conflict with an ERISA provision. The issue was brought before the U.S. Supreme Court because the U.S. Court of Appeals for the 5th Circuit held that the Texas external appeal law was preempted by ERISA, while the U.S. Court of Appeals for the Seventh Circuit found that the Illinois External Appeal Law was not preempted.

The U.S. Supreme Court heard oral arguments on the case, *Moran v. Rush Prudential HMO, Inc.*, on January 16, 2002. The petitioner, Rush Prudential HMO, argued that state external appeal laws which enable consumers to seek an independent review of health plan coverage denials conflict with ERISA because ERISA requires plans to provide a mechanism for internal review of benefit denials and a right to subsequent judicial relief. The respondent, Ms. Moran, argued that the option for external review, although potentially impacting a coverage denial, does not interfere with any remedy available under ERISA.

The case attracted widespread interest because the decision would not only impact the Illinois law, but also any other state with an external appeal program. If the Court found in favor of Rush Prudential, over 40 states would have to dismantle their external appeal programs.

On June 20, 2002, a closely divided Supreme Court held in a 5-4 decision that state external appeal programs are not preempted by ERISA. The decision marked an important victory for consumers by enabling them to continue to appeal health plan denials through state external appeal programs instead of having to solely rely on the more costly judicial remedies available under ERISA.

10. Market Stabilization Mechanisms

The Health Bureau oversees the operations of The New York Market Stabilization Pools. The Pools were initially established by Chapter 501 of the Laws of 1992 and associated Insurance Department Regulation 146 to stabilize premium rates in the individual, small group and Medicare supplement health insurance markets. The purpose of the Pools is to encourage insurers to remain in or enter the individual, small group and Medicare supplement health insurance markets, promote a marketplace where premiums do not unduly fluctuate, and ensure that insurers and HMOs are reasonably protected against unexpected significant shifts in the number of persons insured. The Pools collect annual revenues averaging in excess of \$100,000,000 through contributions from HMOs and insurers in the individual, small group and Medicare supplement markets that insure a low proportion of high-risk, high-cost persons. Through the pool formula, these funds are then re-

distributed to insurers and HMOs that insure a disproportionately large share of high-risk, high-cost persons in the same markets.

As originally constructed, Regulation 146 provided that the proportion of high-risk high-cost persons would be determined by comparison of the average demographic index of each carrier's members in a region against the average demographic index of all other carriers in the region. During the past year, the Insurance Department's Health Bureau worked extensively on the modification and restructuring of the original pooling mechanisms, revising the risk-sharing process by creating a new medical conditions/claims-based relative weighting mechanism for individual and small group health insurance. The new mechanism was established through the Fourth Amendment to Regulation 146, which was adopted May 22, 2002. The Fourth Amendment supersedes and replaces the pooling provisions of the original Regulation 146.

The Health Bureau prepared and distributed instructions for filing under the revised medical condition-based pooling mechanism for periods from January 1999 forward. Circular Letter No. 20 (2002), issued October 31, 2002, provides instructions and prototype exhibits for carriers' filings under the revised risk adjustment mechanism for individual and small group coverages. Circular Letter No. 21 (2002), also issued October 31, 2002, provides instructions and timelines for Medicare supplement health insurance risk adjustment. The latter was continued and re-established by the Superintendent in the form of a demographic-based pool, on the advice and recommendation of the Technical Advisory Committee convened under Section 3233 of the Insurance Law.

In December, 2002, the Health Bureau convened an information session to review instructions with pool participants' technical staffs and other interested parties. Representatives of approximately thirty insurers, HMOs and other interested parties attended. Issues and questions raised at the conference were summarized and posted to a Web page created on the Insurance Department's Web site. The Web page, "New York Risk Sharing Pools for Individual and Small Group Health Insurance: Questions and Answers on Reporting Instructions," contains a summary of all relevant questions and answers, as well as links to other pertinent online documents, including the Fourth Amendment to Regulation 146, Circular Letters 20 and 21 (2002), and prototype Exhibits I and II, constructed as templates for carriers' use in submitting requested data to the pool administrator.

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

The Health Care Reform Act of 2000 (HCRA) requires the Insurance Department to administer the ongoing operations of a unique program designed to ensure that individual consumers have continued access to comprehensive health insurance. HCRA allocated \$130 million over a 3½ -year period commencing January 1, 2000 and ending July 1, 2003 to direct payment market reforms. The Department has been working since early 1999 to build and implement the components of this program.

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

The Department is responsible for ensuring that the premium rates charged for the standardized direct payment contracts correctly account for the availability of stop loss funding. The Department works to: (1) ensure that HMOs have appropriately adjusted for the stop loss funds in utilizing the file and use mechanism for effectuating rate increases, (2) monitor anticipated claims against the stop loss funds and (3) ensure that loss ratios for these products are satisfied.

The Department is also responsible for oversight of the distribution of the allocated funding to HMOs submitting valid claims for reimbursement from the stop loss funds. The Department hired a stop loss fund administrator and also developed a quarterly reporting process that will track expected expenditures from the stop loss pools.

Prior to April 1 of each year, health plans are required to submit their respective requests for reimbursement from the stop loss pools. The fund administrator conducts the necessary audits with respect to the data and once the administrator is satisfied as to the legitimacy and accuracy of the reimbursement requests, it tabulates and renders a comprehensive proposed distribution summary for Department review. The Department oversees the fund administrator in the processing of preliminary notifications and claims reimbursement requests, audits of data submissions, and preparation of pro-rata distribution schedules.

In 2002, the Department directed the administrator to conduct the necessary audit procedures with respect to 2001 reimbursement requests submitted by carriers and to tabulate and render a comprehensive proposed distribution summary for Department review. As in the prior year, the total reimbursement requests for calendar year 2001 exceeded the total funding available in both the standard direct payment business and the direct payment out-of-network (point of service) business. The fund administrator was directed to reduce the amounts requested on a pro-rata basis to match available funding in each of the respective funds. The total funding available, requests for reimbursement and pro-rata reductions were as follows:

	Total Appropriation	Total Requested Reimbursement	Reimbursement Percentage
Standard HMO Direct Payment	\$18,000,000	\$29,041,394	62%
Out-of Plan (POS) Direct Payment	\$18,000,000	\$35,203,323	51%

The schedule of payments for all participants was reviewed by the Health Bureau and transmitted to the Department of Health which has the responsibility for the distribution of funds appropriated under HCRA 2000. Payments were distributed in January 2003.

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

The Health Care Reform Act of 2000 (HCRA) requires the Insurance Department to administer the Healthy NY program. The program is designed to bring health insurance coverage to a portion of New York's 3.1 million uninsured residents and has been allocated \$219 million over a 2½-year period, commencing January 1, 2001.

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

The Healthy NY program attempts to address the problem of the uninsured through both a small employer-based approach and an individual approach. All HMOs licensed in New York State are required to sell a "scaled down" standardized comprehensive health insurance benefit package to qualifying small employers, sole proprietors and individuals. The eligibility criteria for the program differs significantly depending upon whether the applicant is a working uninsured individual, a sole proprietor or a small employer group. The Healthy NY product includes a unique rating structure designed to combine the experience of participating individuals and small groups. The program also

utilizes a state-funded stop-loss feature designed to contain premium rates and limit the exposure of HMOs to excessive health care costs.

The major responsibilities of the Department in connection with implementation of the Healthy NY program for year 2002 included:

a. Program Oversight

The Insurance Department is solely responsible for the oversight of the Healthy NY program. Throughout calendar year 2002, the Department continued to provide education and guidance to the industry on program requirements. The Department continued to monitor the program for areas of potential improvement. As noted later, the Department implemented standardized applications in order to improve the enrollment process. This program enhancement involved industry outreach, education, drafting of an implementing regulation, enhancements to the Department's Web site, and numerous other efforts. As the program continues to grow, the Department continues to respond to questions of first impression and to provide guidance to the health plans.

b. Eligibility Screening and Industry Education

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

c. Related Documents

The Department has provided extensive guidance to the HMOs to ensure standardized administration of the Healthy NY product. This has been facilitated by electronic guidance memos to designated contact staff at each HMO. This approach ensures wide dissemination of information concerning the program, and assists in standardization of its administration.

The Department has continued to enhance and update its Healthy NY consumer guide. This document describes the program and answers common questions on eligibility. It is available to callers of the Healthy NY hotline, consumers making inquiries to the Department, and is also mailed by the HMOs to interested callers. A smaller, tri-fold brochure was also developed.

d. Rating of the Healthy NY Product

The Department is responsible for the review and approval of the rates for the Healthy NY product. Given the uniqueness of the Healthy NY product, it has been necessary for the Department to provide extensive guidance to insurers to ensure that the premium rates were established appropriately. Rates needed to account for the availability of stop loss funding. Rate increases must be monitored based on actual claim and stop loss experience.

e. Recertification

The Healthy NY program requires participants to recertify as to their eligibility on an annual basis. The Department continues to assist the health plans with this process. Generally, as issues of first impression appear as to eligibility, these issues also affect recertification.

f. Stop Loss Fund Administration

The Department is responsible for oversight of the distribution of the allocated funding to HMOs submitting valid claims for reimbursement from the stop loss funds. 2002 was the second year covered by the Healthy NY program. HMOs are required to provide quarterly preliminary notifications of potentially eligible claims beginning with the first quarter of each calendar year. Reimbursement requests for year 2001 were due by April 1, 2002.

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

g. Tracking Maximum Enrollment in Healthy NY

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

h. Annual Study of the Healthy NY Program

The Department is responsible for an annual study of the Healthy NY program which includes at least an examination of employer participation, an income profile of covered employees and qualified individuals, claims experience, and the impact of the program on the uninsured. The first annual study was finalized December 31, 2001. The Department worked with the selected vendor and finalized the 2002 report in December of 2002.

i. Coordination with Other Public Programs.

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

During 2002, the Department worked with the Department of Health to provide education to the facilitated enrollers who enroll families in child Health Plus and Family Health Plus. The Department participated in numerous regional training sessions of facilitated enrollers.

j. Consumer Issues

The Department continued to respond to a significant volume of consumer questions and issues regarding the nature and operation of the Healthy NY program. The Department has worked to address consumer issues with the HMOs in order to ensure appropriate and correct resolution. An e-mail box linked to the Healthy NY Web site was established for consumers to contact the Department

with questions. Department staff sent almost 1,500 e-mail responses to Healthy NY inquiries in 2002. A toll-free hotline provides consumers with information about the Healthy NY program. Additionally, Department staff responded directly to a very large volume of consumer telephone inquiries. The Department has also been responding to ever-increasing speaking requests emanating from small business groups, chambers of commerce, not-for-profit activists, educators, analysts, various state and federal legislators and other governmental agencies.

k. Marketing and Outreach

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

l. Standardized Application Process

The Department revised its Healthy NY regulation in November 2001 to require the health plans to accept standardized applications developed by the Department. The new standardized applications are much simpler to complete and are made available on the Healthy NY Web site, by calling the toll-free hotline, and at presentations and discussions regarding Healthy NY. The standardized applications went into effect beginning January 1, 2002. Since this date, the number of applications distributed has increased dramatically, and the rate of enrollment in the program has also seen dramatic increases.

13. Child Health Plus

During 2002, the Department continued its role of reviewing and approving subscriber contracts and premium rates for the Child Health Plus program, including a permissible premium increase for several participating health plans that elected to perform facilitated enrollment for the program. Department staff also participated in meetings with the Department of Health, insurers and other interested parties to discuss issues regarding the ongoing operation of the program.

Chapter 526 of the Laws of 2002 was enacted on September 17, 2002 and expanded the Child Health Plus benefit package to include hospice care. Health Bureau attorneys and actuaries worked with the Department of Health staff to assist insurers to file the subscriber contract changes needed to implement the benefit. During 2002, the Department revised and approved eight Child Health Plus rate adjustment submissions.

14. Utilization Review Reports

Article 49 of the Insurance Law requires health insurers and utilization review agents under contract with health insurers to biennially report to the Superintendent on utilization review activities. During 2002, seventeen reports of insurers and utilization review agents were reviewed for compliance with Article 49 and placed on file with the Department.

15. Electronic Imaging and Recordkeeping System

In December 2001, the Health Bureau put into production an electronic imaging and recordkeeping system utilizing the VisiFlow software package. All policy form and initial rate submissions coming into the Bureau for review and approval in 2002 were scanned and stored electronically. All Bureau correspondence and subsequent company responses were also captured in the same electronic file. This system has allowed us to consolidate all information relating to a particular filing in one electronic file. Commencing in May of 2002, submissions made to the Albany office of the Bureau that are comprised of rate-only filings (other than rate adjustments to HMO and Article 43 contracts) were also recorded and processed using this system.

16. Medicare+Choice Terminations

The HMO exodus from the Medicare+Choice marketplace continued during 2002. In September, two HMOs notified the federal Centers for Medicare and Medicaid Services (CMS) (formerly known as the federal Health Care Financing Administration) of their intent to leave all or part of their Medicare+Choice service areas in New York as of December 31, 2002. The Department reacted immediately to assist those New Yorkers losing coverage to ensure that useful information detailing the protections provided by New York Law was provided to persons affected by the withdrawal. The Health Bureau contacted CMS to obtain accurate, up-to-date information on the terminating plans, the service areas, and the number of New York enrollees affected. The Bureau provided CMS with the assistance it requested in drafting the language to be sent to affected enrollees notifying them of their plan's termination. Information detailing the protections provided by New York laws and the available health insurance alternatives for those affected by the withdrawals was added to the Department's Web site prior to the date by which the HMOs were required to notify enrollees of termination. The Health Bureau also assisted other agencies that provide aid to senior New York residents by answering questions and developing written information regarding the HMO withdrawals for those affected.

17. Continuing Care Retirement Communities (CCRCs)

The Insurance Department has a permanent seat on the Continuing Care Retirement Community Council. This council has the primary licensing and oversight authority for CCRCs. The Insurance Department has specific responsibility for the review of the contract and disclosure documents given to residents and prospective residents, as well as an initial determination of the financial feasibility of a proposed project and ongoing oversight of the fiscal solvency of communities. The Bureau's continuing oversight encompasses review of the rating structure of a community, adequacy of reserves and periodic onsite examinations of the financial condition of a community. To this end, the Department has filed three reports on examination of CCRCs during calendar year 2002 and has developed an annual statement format for financial filings effective December 31, 2001.

There are now eight CCRCs in New York with a Certificate of Authority issued by the CCRC Council. Harbor Ridge, a CCRC that was under development was directed to return its Certificate of authority to the Health Department, cease further marketing of its proposed CCRC to potential residents and return, immediately, any escrow accounts held by the Bank of New York to the priority reservation agreement or to continuing care retirement contract holders. This directive emanated from a change in the ownership of the developer, withdrawal of Marriot Senior Living Services as the CCRC operator, and notice that Harbor Ridge Associated, L.P. was issued a judicial notice of foreclosure on a loan on property that was in default. On February 3, 2003, the CCRC Council confirmed the Health Department staff report on the status of Harbor Ridge and held that its Certificate of Authority was to be null and void.

18. Long Term Care Insurance

a. Long Term Care Insurance Marketing through Employers and Associations

At the request of various long term care insurers, the Health Bureau examined the feasibility of marketing individual long term care insurance policies to a subset of the general public through places of employment and associations. Some insurers had indicated that current mechanisms regulating the sale of individual long term care insurance policies using such group or quasi-group methods were too constraining to meet full marketing potential.

Upon reviewing the forms, rates and marketing strategies of several long term care insurers, the Department used statutory authority pursuant to Section 1117(d) of the Insurance Law to allow a separate class of individual long term care insurance forms to be marketed through places of employment and associations using a new and conditional method. Essentially, the conditions to which the insurers agreed in order to market in the new manner included: (1) The higher group loss ratio requirement would govern these individual products; (2) a discount approved by the Health Bureau would be given to insureds purchasing the individual product through the new method; and (3) the insurer would not require an employer or association to grant the insurer exclusivity when marketing its individual long term care insurance product using the new method.

b. Long Term Care Insurance Partnership Program

The Health Bureau worked with the Department of Health to develop new minimum standards for the insurance product of the Partnership for Long Term Care Program. Pursuant to Section 3229 of the Insurance Law, the Insurance Department must promulgate minimum standards for the Partnership Program long term care insurance product. However, the insurance product of the Partnership Program serves as a substitute for Medicaid asset spend down in the operation of the Partnership program. Therefore, the Insurance Department sets the minimum standards after consultation with the Health Department so as not to adversely affect the Medicaid program portion of the Partnership Program.

The Insurance Department set minimum standards for the Partnership Program long term care insurance product commencing January 1, 2003 through the end of 2012. The minimum standards for 2003 were announced to the insurers participating in the Partnership program, and the regulation promulgation process was initiated. Ten insurers participate in the individual market for Partnership policies; while five insurers participate in the group market for Partnership policies/certificates.

19. Medicare Supplement Insurance

The 28th Amendment to Regulation 62 was adopted June 19, 2002. The Amendment made necessary revisions to New York's minimum standards for the form, content, and sale of Medicare supplement insurance to comply with recent federal amendments. In particular, the Amendment addressed changes enacted by the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 and the Balanced Budget Refinement Act of 1999. These changes were adopted by the NAIC and incorporated into the Model Regulation for Medicare supplement insurance. Such amendments to Regulation 62 were required to ensure continued federal certification of New York's Medicare supplement insurance regulatory program and the policies issued to New York residents.

20. Specified Disease Coverage

Specified disease coverage became available in New York State effective April 15, 1998 pursuant to strict standards in Regulation 62. Prior to April 15, 1998, the issuance of specified disease coverage was not permitted in New York State. As of the end of 2002, fourteen insurers had policies approved for

issuance of specified disease coverage in New York State as individual, franchise and/or group coverage. Recently, an increasing number of insurers have been expanding their marketing efforts for this type of coverage, focusing on work sites.

21. Health Insurance Laws

Several health insurance laws became effective during 2002, requiring the Health Bureau to approve policy forms and premium rates submitted by companies to conform to the new mandates or otherwise take action. The following is a brief description of those health insurance laws that took effect in 2002:

a. Pre-hospital Emergency Medical Services

Effective January 1, 2002, the Insurance Law was amended to require that individual and group major medical or similar comprehensive type policies provide coverage for the evaluation and treatment of an emergency medical condition and ground transportation of the insured to a hospital. The covered services are to be provided by a certified ambulance service and are subject to a "prudent layperson" standard similar to that imposed on covered emergency care under the Insurance Law.

b. Infertility Treatment Coverage

Effective September 1, 2002, the Insurance Law was amended to require that group health insurance policies that provide hospital, medical or surgical care provide coverage for the diagnosis and treatment of infertility. Covered services, under the mandate, include surgical or medical procedures to correct malformation, disease or dysfunction resulting in infertility and certain enumerated diagnostic tests and procedures to determine or treat infertility. The Law was further amended to require coverage of drugs approved by the FDA for use in the diagnosis and treatment of infertility in health insurance policies that cover prescription drugs for other purposes.

c. Coverage of Sole Proprietors

Effective September 20, 2002, the Insurance Law was amended to require health insurers that issue coverage through association groups, including Chambers of Commerce, to offer group coverage to qualifying sole proprietors. The Law permits those insurers to classify sole proprietors in their own community rating category and prohibits rates of sole proprietor coverage from exceeding 120% of the rates established for the same coverage issued to a group member of the association. The Health Bureau issued Circular Letter No. 27 (2002) to assist insurers with implementation of this new law.

22. Financial Risk Transfer Agreement

Insurance Department Regulation 164, "Financial Risk Transfer Agreements between Insurers and Health Care Providers" (11 NYCRR 101), was promulgated on August 21, 2001. This Regulation addresses an insurer's obligation to assess the financial responsibility and capability of health care providers (e.g., Independent Practice Associations) to perform their obligations under certain financial risk transfer agreements. It sets forth standards pursuant to which health care providers may adequately demonstrate such responsibility and capability to insurers. As of December 31, 2002, the Bureau has reviewed 17 financial risk transfer agreements. Seven have been approved and the remainder have been determined not to be subject to the strict financial responsibility demonstration requirements of the Regulation until subsequently revised or renewed pursuant to the "grandfathering" provisions of the regulation.

23. Federal Initiatives

a. Federal Legislation

During the 107th United States Congressional Session (2001-2002), the U.S. Senate and the House of Representatives each passed their own version of a Patients' Bill of Rights, Senate bill S.1052 and House bill H.R. 2563. The bills included protections similar to those mandated by New York's Managed Care Reform Act and New York's External Appeal Law such as requirements for a grievance procedure, a utilization review procedure, a prudent layperson standard for emergency care, access to specialty care, and external appeal of health plan determinations. Both bills had provisions providing that state standards will not be preempted if the standards are substantially similar to federal requirements. However, the House bill stated that state standards regarding utilization review, grievance, and external review would be preempted by the federal law.

The Health Bureau monitored the bills due to the potential impact on New York requirements. In August of 2002, after reaching an impasse, the White House and Senate ended talks on the Patient's Bill of Rights. The main points of contention were a patient's right to sue a health plan and what the limitation on damages should be. As no legislative action was taken, the bills expired at the end of 2002.

b. Department of Labor Claims Processing Regulation

The United States Department of Labor, Pension and Welfare Benefits Administration, (DOL), promulgated a regulation, 29 CFR §2560.503-1, to establish minimum requirements for health plan claim procedures in relation to a claim for benefits by an insured. The DOL regulation, effective on and after July 1, 2002, applies to employee welfare benefit plans subject to the Employee Retirement Income Security Act (ERISA) and to insurers and health maintenance organizations (HMOs) that provide group health or disability coverage to such plans. The DOL regulation preempts state law to the extent that state law prevents the application of a federal requirement.

New York State has requirements in place for claims procedures, primarily through its utilization review, grievance, explanation of benefits, and prompt payment requirements. Some New York requirements are more stringent than the DOL requirements while others are not as stringent. The Insurance Department and the Health Department have been working with health plans to determine how health plans can best integrate the New York and DOL requirements so that plans will be in compliance with both.

The Insurance Department issued Circular Letter No. 15 (2002) to advise health plans of the effective date and potential impact of the DOL regulation and to provide guidance on compliance. The Department also reminded health plans that any modifications to policy forms to add the DOL standards must still be reviewed and approved by the Insurance Department since New York is a prior approval state.

24. Second Interactive Health Consumer Guide Produced

Section 210 of the Insurance Law requires the Department to annually publish the *New York Consumer Guide to Health Insurers*. The Guide includes a ranking of insurers and HMOs based on complaints upheld by the Consumer Services Bureau, a "prompt pay" complaint ranking and various quality of care comparisons. In 2002, the Department once again published a separate *Consumer Guide to HMOs* and created an interactive guide to HMOs on the Department's Web site. The interactive guide permits consumers to quickly obtain complaint and other information about HMOs that operate where they live and work. The Department worked closely with the National Committee for Quality Assurance (NCQA) and Consumers Union to produce the three guides.

D. CONSUMER SERVICES BUREAU

Last year was an eventful one for the Consumer Services Bureau. It participated in the further development of the disaster coalition — which was awarded the GOER “Workforce Champions” award — while responding to help victims of an earthquake and a windstorm. In addition, Superintendent Serio established a Healthcare Roundtable which included Consumer Services staff and various provider and hospital organizations and the NYS Department of Health. The Roundtable helped improve delivery of health services and the related payment for those services to all New Yorkers.

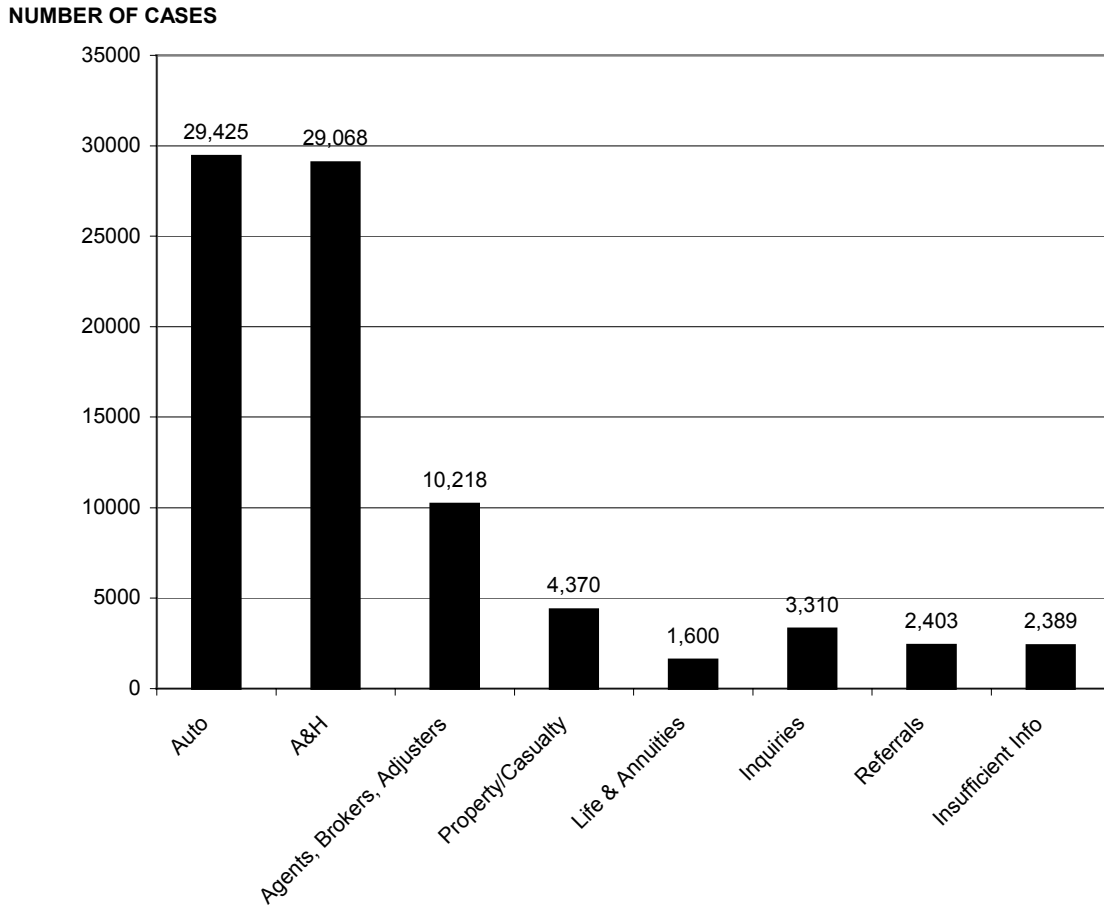
The Bureau also intervened to settle claims valued in excess of \$6 million related to the World Trade Center disaster. During the record snowfalls of November/December 2002, the Bureau worked to reopen the snowmobile trails in New York State, restoring liability coverage and preserving a billion-dollar economic benefit to upstate New York communities. The Bureau also played a major role in shutting down an illegal health insurer with the potential of generating thousands of dollars in unpaid claims. In addition, the Bureau closed an additional 18,526 cases in 2002, a 30% increase over 2001.

1. Consumer Complaints

The Consumer Services Bureau is responsible for responding to consumer complaints and inquiries and investigating the actions of licensed producers. The Bureau closed a total of 82,783 cases in 2002. Of these, 64,463 involved loss settlements or policy provisions, of which 45.6% were automobile complaints, 45.1% were accident and health complaints, 6.8% were property and liability complaints and 2.5% were life and annuity complaints. An additional 2,389 cases were closed when the complainants failed to furnish additional information deemed necessary in order to proceed with the case. Another 10,218 cases involved complaints against agents, brokers and adjusters. Written inquiries accounted for 3,310 cases and referrals accounted for 2,403 cases. In total, the Bureau received 67,875 cases during 2002. Included in that number are 224 cases related to the World Trade Center disaster (see Chart G).

The Bureau responded to approximately 450,000 calls on both the Albany and New York City information lines. The Bureau’s telephone system is an attendant system whereby the caller listens to a menu of topics and selects one by pressing the appropriate number on the dial. The caller is given the option of speaking to an agency services representative. The Bureau initiated a call tracking system in the last quarter of 2002. The agency services representatives complete an automated computer screen template for each call they answer. The data is sorted and stored by the computer system so Bureau managers may more easily determine patterns of calls from consumers indicating an industry problem in a given area of the state. The Bureau also maintains a toll-free line that will access a multi-lingual telephone service. This interpretive service, provided by AT&T Language Line Services, can translate 140 languages.

Chart G Total Complaints & Investigations Closed Consumer Services Bureau, 2002



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

In 2002, the Consumer Services Bureau received over 5,000 calls on the Partnership hotline. The Bureau also worked with the Partnership to update and streamline the information provided by the hotline's automated menu and to provide greater access to personnel who can respond directly to the public concerns. Consumer Services Bureau also worked with the Partnership, the Health Bureau, and Executive Bureau to reconfigure the Department's Web site, providing links to licensed companies and more comprehensible information regarding long term care insurance. Linking the Department's Web site directly to the Health Insurance Information Counseling and Assistance Program (HIICAP) to the Partnership and insurers offering long term care insurance has provided access to more useful information.

The Bureau also maintains a dedicated disaster toll-free hotline. Consumers can call the line to obtain information concerning insurance coverages for damages incurred as a result of natural or man-made disasters. In 2002, the Bureau responded to questions related to the World Trade Center disaster, a north country earthquake and various winter and summer storms.

2. Prompt Payment Statute

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

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

The Consumer Services Bureau continues to take enforcement action against health insurers and HMOs who violate the prompt payment statute. In order to more accurately reflect which insurers and HMOs are complying with the statute, the Consumer Services Bureau has implemented a new methodology for calculating penalties. The new method will consider not only the violations uncovered while investigating complaints, but also the number of claims processed by the insurer or HMO during a specific time period. This will provide a more accurate picture of the overall performance of the insurer or HMO.

In addition, Bureau staff conducts outreach sessions for county medical societies and other large provider groups in order to educate them on their rights under the prompt payment statute and other laws that affect payment of health care claims.

The Bureau is currently working on an upgrade to the imaging system used to process complaints. This upgrade will enable prompt pay complaints to be handled more expeditiously by allowing providers to file prompt pay complaints via our Web site. This upgrade will also allow insurers and HMOs to respond to this Department via the Internet providing additional timesaving.

3. External Review

The external review program allows consumers to appeal their health plans' adverse determinations that services are not medically necessary or are considered experimental or investigational. Consumer Services Bureau personnel responded to almost 6,000 phone calls on the dedicated toll-free line. Consumer Services Bureau staff along with attorneys from the Health Bureau jointly perform the intake and screening of external appeal applications. During 2002 the Department received 1,391 applications for external review.

4. The Healthcare Roundtable

The Healthcare Roundtable discussion group was spearheaded in an attempt to bring together health insurers and healthcare providers in order to discuss ways in which both sides can agree on issues that jointly affect payers and payees. The Department invited to the table the following associations and the Department of Health:

- The New York Medical Society
- The Health Plan Association
- The Blue Cross Blue Shield Plans
- The Greater New York Hospital Association
- Healthcare Association of New York State

The Insurance Department identified several issues on which both insurers and providers needed to reach consensus. These are issues that engendered conflict between the parties and resulted in several sponsored legislative proposals regarding the payment of healthcare claims. The milestone

achievement of the Healthcare Roundtable in 2002 was that it identified a definition of a clean claim that is acceptable to the Medical Society and the health insurance industry.

During the year, the Healthcare Roundtable has been expanded to look at other issues and to include other participants such as the chiropractic community and the American College of Obstetricians and Gynecologists. The Bureau consulted with the Workers' Compensation Board and helped to set up a meeting with the hospital associations to address claims processing issues involving The State Insurance Fund.

In addition, CSB staff assisted the Superintendent in exploring and resolving various community rating issues unique to the Rochester area. Bureau representatives discussed these issues with community leaders and other interested parties in Rochester, identified solutions and fostered dialogue between the insurers, insureds, and healthcare providers in the area.

In addition to the activities of the Healthcare Roundtable, CSB staff accompanied the Superintendent on various outreach activities throughout the state, responding to inquiries and participating in public forums.

5. Availability of Snowmobile Coverage

In 2002, the Consumer Services Bureau was called upon to resolve a serious availability problem in the snowmobile trail liability insurance market. The problem began at the height of snowmobile season in December when the only insurer providing insurance coverage to the snowmobile clubs maintaining the state's snowmobile trails announced that it would no longer offer new policies to the clubs. In addition, the insurer advised that an endorsement in the policies essentially excluded coverage for claims involving snowmobile accidents. As a result, many of the New York State's snowmobile trails were forced to close, which severely impacted several upstate economies dependent on revenue from this recreation.

The Consumer Services Bureau convinced the insurer to offer coverage to all New York snowmobile clubs and to revise its endorsement to cover trail liability arising from snowmobile accidents, thus paving the way for the trails to be reopened.

6. Groundbreaking Online Licensing Procedures Implemented

In 2002, the Department instituted new online capabilities to meet the licensing needs of brokers, agents and other licensees. Under the new system, agents and brokers can renew their licenses on a 24-hour-a-day, seven-day-a-week basis. Other licensing enhancements include online temporary adjuster permits, online applications for original licenses, online renewals for brokers and agents, and licensing through the National Insurance Producer Registry (NIPR) for nonresident brokers and agents. The Department's 2002 licensing achievements include:

- In June 2002 almost 60% of agents were renewing online; first-time applicants for agents and brokers licenses *and appointments* were able to apply online; and nonresident agents were able to apply for licensure online through the NIPR.
- In July 2002 brokers were able to renew online; more than 18,000 took advantage of this new capability.
- In August 2002, insurers were able to process appointments online for existing agents
- The issuance of licenses now has been reduced from months to within 24 to 48 hours.

In recognition of its achievement, the Department received the Best Practice Award for Business to Business E-Commerce Applications from Technology Managers Forum as well as the New York State

Forum for Information Resource Management of the Rockefeller Institute of Government's 'Best of the Web' Award in the state category.

7. Investigations

During the year 2002, the Consumer Services Bureau investigated many health plans appearing to be doing an insurance business without a license. Under the New York State Insurance Law, health insurers are required to meet specific financial requirements including minimum levels of reserves available to meet the claims of plan members. Because unlicensed plans do not usually maintain the requisite financial reserves, they are able to entice unsuspecting consumers with discounted premiums, frequently offering savings of 50% or more compared to what licensed insurers charge. These plans are particularly alluring in view of the recent nationwide spike in health insurance costs; however, they often stop paying claims, leaving members without the coverage they believed was in place.

The Bureau investigated four different unlicensed plans in 2002. At the close of the year, each investigation was at a different stage of development. For one plan, the Department, in collaboration with other government agencies, was instrumental in convincing the New York State Supreme Court to issue a temporary restraining order against the plan. In a second, the Department referred its files to another government agency after preliminary investigation revealed that agency would be more appropriate. Two other plans remain under active investigation into 2003.

8. Other Bureau Activities

a. Filing Complaints on the Internet

On October 24, 2001, the Consumer Services Bureau implemented a new online complaint process allowing consumers to file a complaint on the Internet. Once the consumer submits an online complaint, a file number is assigned and confirmation of this case number is immediately transmitted to the consumer. This allows for the immediate tracking of the file as the complaint automatically routes through the Consumers' Information and Imaging Management System (CIIMS). In 2002, the Bureau received 5,588 online complaints.

b. State & County Fairs, Conferences & Festivals

Bureau examiners staffed the Department's information booth at the State Fair in Syracuse from August 22 through September 2, 2002. Examiners also staffed an information booth at the Erie County Fair from August 7 through August 18. At these fairs, the examiners answered consumer questions, took complaints and distributed various consumer guides and booklets. Over 50,000 publications and mementos were distributed to the public at these fairs.

The Bureau also participated in and staffed information booths at the Black and Puerto Rican Legislators Annual Conference, Martin Luther King, Jr. Holiday Memorial Observance, the African-American Cultural Festival, the Puerto Rican/Hispanic Legislators Annual Conference (Somos El Futuro), the Department of Health's Health Fairs, Fire Prevention Week, and the Internal Revenue Services' Small Business Information Forum. Bureau examiners frequently participate in and speak at consumer forums concerning health insurance issues. The Bureau continues to be a member of the New York State Consumer Protection Board's Consumer Services Committee. The Committee includes representatives of federal, state and local consumer protection agencies and nonprofit organizations. The Committee meets to share program initiatives with peers in an effort to keep abreast of consumer concerns.

c. Department of Motor Vehicles Insurance Information Enforcement System (IIES)

The Bureau continues to assist individuals, families and businesses in overcoming problems due to erroneous or untimely electronic submissions by their insurers to the Insurance Information and Enforcement System (IIES) maintained by the New York State Department of Motor Vehicles (DMV). The System was put into place to help ensure that New York State drivers are maintaining adequate automobile insurance on their vehicles. Many of the problems that arose due to the newness of this program have been resolved by insurers during 2002. Those insurers not filing timely reports to the Department of Motor Vehicles regarding coverage interruptions have been fined.

d. New York State Insurance Disaster Coalition

The Bureau continues to be one of the lead members of the New York State Insurance Disaster Coalition. This coalition demonstrated its capabilities in coordinating the insurance industry's response to the World Trade Center disaster. The coalition and the Insurance Emergency Operations Center has received nationwide recognition for the work accomplished during that disaster. A number of other state insurance departments are modeling their disaster response plans on New York State's disaster coalition. Department employees who were instrumental in the creation of the disaster coalition received the 2002 Work Force Champion Award from the Governor's Office of Employee Relations.

The Bureau continues to receive complaints from those individuals, families and businesses affected by the World Trade Center disaster as well as other natural disasters occurring New York State during 2002. These complaints receive immediate and expedited treatment from Bureau examiners. Bureau examiners have facilitated settlement of a number of these cases by conducting meetings with consumers and their insurers to resolve disputed claims.

e. Miscellaneous

The Healthy NY Program became effective on January 1, 2001. This program is designed to make affordable health benefits accessible to New York State's small business owners and working uninsured individuals. The Bureau trained several staff members who were deployed to respond to special outreach programs in order to educate the public and answer questions on the program.

The Bureau continues to conduct informational sessions in an effort to assist senior citizens and groups for whom Medicare supplement (Medigap) and long term care insurance were the issues of primary concern. Bureau staff participated in educational and training sessions including updating training materials for the Health Insurance Information Counseling and Assistance Program (HIICAP) and being members of the HIICAP consortium. The consortium is comprised of representatives from various state and federal agencies invited by the State Office for the Aging to provide technical assistance and training where necessary for HIICAP counselors statewide.

The Department is required to publish an Annual Consumer Guide to Health Insurers, which ranks insurers and HMOs based on complaints upheld by the Consumer Services Bureau, and contains a separate ranking based on upheld prompt payment complaints. Bureau staff also meet with the Department of Health to gather quality assurance measures which are also required to be published in the guide. Bureau staff assists in the publication of the Annual Consumer Guide, the HMO Guide and the Interactive Guide to HMOs available on the Department's Web site.

In addition, Bureau staff conducts special outreach sessions for persons losing health insurance as a result of plant closings or the bankruptcy of major New York employers. Bureau staff, in collaboration with the New York State Department of Labor, provides vital information to employees regarding alternate health insurance benefits available after termination of employment.

Table 57
CONSUMER SERVICES BUREAU CASES
Involving Loss Settlements or Policy Provisions
Closed In 2002

Line of Business	Total Processed	Upheld	Adjusted in Consumers Favor	Not Upheld	Prompt Pay Violation	Other Action Taken
Total	64,463	7,383	7,693	24,569	3,598	21,220
Life and Annuities, Total	1,600	211	179	961	0	249
Individual Life	1,209	169	128	739	0	173
Individual Annuity	158	19	23	81	0	35
Group Life & Annuity	204	20	23	126	0	35
Viatical Settlements	3	0	1	1	0	1
Credit Life	26	3	4	14	0	5
Accident & Health, Total	29,068	1,130	3,909	10,882	3,598	9,549
Individual Accident & Health	230	22	43	131	8	26
Group Accident & Health	3,620	202	481	2,173	365	399
Article IX-C Corps	4,426	161	978	2,071	490	726
HMO	12,732	657	2,143	5,856	2,577	1,499
Medicare	1,783	1	3	5	0	1,774
Medigap	181	11	31	97	3	39
Long Term Care	67	4	15	35	0	13
Self-Insured Health Plan	3,112	4	4	48	0	3,056
Travel, Health	190	9	57	80	0	44
Health Alliance	19	4	2	9	1	3
Medicaid	2,331	22	92	194	153	1,870
Municipal Co-ops	12	1	1	6	0	4
Credit Disability/DBL Income	360	31	57	176	1	95
Healthy NY	5	1	2	1	0	1
Auto, Total	29,425	5,515	2,974	10,965	0	9,971
Auto, Liability (B.I.)	3,404	427	669	1,973	0	335
Auto, Liability (P.D.)	3,672	250	578	1,544	0	1,300
Auto, Physical Damage	2,991	262	393	1,728	0	608
No-Fault	19,357	4,575	1,334	5,720	0	7,728
No Frills Stated Value	1	1	0	0	0	0
Other Property & Liability, Total	4,370	527	631	1,761	0	1,451
Liability Other Than Auto	275	19	39	115	0	102
Professional Malpractice	37	1	6	15	0	15
Fire & Extended Coverage	61	6	10	28	0	17
Homeowners	1,660	130	190	706	0	634
Inland/Ocean Marine	61	6	12	22	0	21
Workers' Compensation	1,316	262	243	490	0	321
Commercial Multiple Peril	683	82	84	279	0	238
Burglary & Theft/Fidelity Surety	80	5	16	19	0	40
Flood	7	1	0	5	0	1
Title	63	3	10	28	0	22
GAP	3	0	0	2	0	1
Service Contracts	18	1	4	6	0	7
Other – Umbrella	106	11	17	46	0	32

**Table 58
CONSUMER SERVICES BUREAU CASES
Not Involving Loss Settlements or Policy Provisions
2002**

Subject of Cases or Investigations	Total Processed	Fines Revocations & Other Actions	Upheld	Not Upheld
Total	10,218	8,952	44	1,222
Misleading Advertising	1	0	0	1
Application for License	3,286	3,283	0	3
Issuing Bad Checks	304	231	0	73
Rebating	1	1	0	0
Misrepresentation of Coverage	258	107	0	151
Excess Comp Without Contract	25	11	0	14
Twisting	67	42	0	25
Violation of NYAIP/NYPIUA Rules	217	95	0	122
Commission Disputes	46	34	0	12
Return Premium-Producer	145	49	0	96
Other Violations of Insurance Law	122	72	0	50
Violations of Other Laws	17	9	0	8
Incorporators and/or Directors	4,392	4,392	0	0
Illegal Insurance Enterprise	4	3	0	1
Ending of Agency/Broker Account	33	29	0	4
Misleading Sales, Life	61	40	0	21
Advertisements	13	2	0	11
Miscellaneous	557	184	0	373
Misappropriation of Funds	19	14	0	5
Other	650	354	44	252

E. Insurance Frauds Bureau

1. General Overview

During the past year, the Insurance Frauds Bureau continued to foster stronger working relationships with insurance companies and law enforcement agencies on the federal, state and local level with particular attention to the pooling of resources to promote more successful investigations.

a. Multi-Agency Investigations

The Frauds Bureau combined forces with prosecutors and law enforcement agencies with greater frequency during 2002 and these stepped-up collaborative efforts are working, with more arrests this past year than at any time in the Bureau's history. Throughout the year, the Bureau pooled resources with insurer Special Investigations Units (SIUs), the U.S. Attorney's Office, the Workers' Compensation Inspector General's Office, District Attorneys, the State Police, and Sheriff's Departments across the State to conduct investigations that contributed to the Bureau's record-breaking total of 707 arrests. Such partnering allows for the most efficient and productive use of resources in the Bureau's efforts to eliminate insurance fraud. As an example, an auto insurance fraud investigation concluded in July by the Frauds Bureau, the Suffolk County DA's Office and the National Insurance Crime Bureau led not only to arrests but also to the seizure of cash, bank accounts and more than \$1 million in commercial real estate. The forfeiture laws, used successfully for the first time in this case, will help the Bureau confiscate illicit profits generated by insurance fraud.

b. Cooperative Enforcement Efforts

The Bureau actively participates in numerous working groups and task forces throughout New York State. Through interaction with these groups, the Bureau strives to foster a spirit of teamwork in the detection of insurance fraud. These groups meet regularly to develop cases, plan strategy and resolve any problems that arise.

The Bureau recently joined the White Collar and Electronic Crimes Task Force, a group of federal state and local law enforcement agencies sponsored by the U.S. Attorney for the Northern District of New York.

c. Data Sharing

The Frauds Bureau is committed to making the most effective use of technology in carrying out its mission to detect, investigate and prevent insurance fraud.

- **Important Databases** – Investigators routinely avail themselves of databases, both in-house and external, in the course of their investigations. Investigators employ the Bureau's own database as well as that of the Consumer Services Bureau and Licensing. External databases include the NYPD Accident Report Database, the New York State Police Information Network (NYSPIN), the databases of DMV, NICB and NAIC, and many others.
- **Electronic Fraud Reporting** – The Bureau has in place a system that allows insurers to report suspected fraud online, with a search feature that provides valuable cross references. Once a report is transmitted, insurers can search the Bureau's database to seek information on all other reports that share common information, e.g., the same name and/or address of the suspect or a vehicle identification number. In addition, insurers are provided with the name and telephone number of a contact person at any other company on the cross-reference list. The Bureau provides training in the use of the search engine to all insurers upon request. Currently, about 55% of all fraud reports are received electronically. The Bureau is also

working with the Department's Systems Bureau to create a Web-based reporting system for those insurers whose information technology is incompatible with the AT&T Global Network system currently used. Efforts are underway to resolve an issue of data security so that Systems can proceed with development of the new system. The Bureau's goal is to achieve 100% electronic reporting, whether AT&T or Web-based. Thus, data will be transmitted in real time and hard copies will be eliminated. The Bureau received 24,578 reports of suspected insurance fraud in 2002, down from 26,028 in the prior year.

2. 2002 Highlights

- The Frauds Bureau posted 707 arrests in 2002, breaking last year's record of 554 by almost 28%. In addition, the number of criminal convictions in Frauds Bureau cases, at 389, hit an all-time high, up from 210 in 2001.
- The Frauds Bureau and the Brooklyn Borough President established an Automobile Insurance Task Force to explore and advance innovative ways to reduce the incidence of fraud and help control auto insurance costs for consumers in Brooklyn.
- At the direction of the Superintendent, the Frauds Bureau initiated a Community Outreach Program. Fraud investigators visit community groups and civic organizations to inform the wider community about insurance fraud and how to avoid becoming a victim.
- The Frauds Bureau was the recipient of the 2002 Anthony M. Kane Achievement Award presented each year by the Northeast Chapter of the International Association of Auto Theft Investigators for outstanding achievement in the field of fraud investigation and prevention.
- The Bureau sponsored an off-site conference for the insurance industry and law enforcement in May. The Bureau brought together a panel of experts to discuss insurance fraud from a prosecutor's point of view. The conferences offer a forum for education, forging new and constructive relationships, and strengthening existing ones.
- The Bureau has been diligent in its pursuit of those who would take advantage of the events of September 11 for their own profit. The Bureau established a procedure for fast-tracking WTC-related fraud complaints to ensure prompt attention. A total of 66 complaints were opened as investigations during the year.
- The Bureau participates in a program that places investigators in prosecutors' offices to work side-by-side with their investigative staff. The initiative helps ensure Bureau cases are given due consideration. Thus far, five DAs' offices are involved in the program and a number of others have expressed interest.
- Working with the Suffolk County DA's Office and the National Insurance Crime Bureau, the Frauds Bureau conducted an investigation that led to criminal felony charge against three officers of a Long Island auto body shop, and for the first time fines, seizure and attachment of property were used as economic sanctions.
- In order to promote teamwork with insurance company Special Investigations Units, the Bureau initiated a series of meetings with small groups of SIU staff. Participants are encouraged to speak openly about problems or issues of concern and discuss possible solutions. A summary of some of the issues discussed and the steps taken to resolve them are posted to the Frauds Bureau's Web site.

3. Investigations

The Frauds Bureau received 24,578 reports of suspected insurance fraud in 2002. Of these, 23,720 were received from licensees required to submit such reports to the Department and 858 were received from other sources, such as consumers and anonymous tips. A total of 1,205 new cases were opened during the year, while investigations continued in numerous cases opened in prior years. During 2002, the Bureau referred 197 cases to agencies for criminal prosecution and another 31 for civil settlement or referral to the Department's Office of General Counsel for civil proceedings.

4. Arrests and Prosecutions

The Frauds Bureau participated in investigations leading to the arrest of 707 individuals for insurance fraud and related crimes during 2002, surpassing the 554 arrests posted during the prior year by nearly 28%. The number of arrests chalked up in 2002 sets a new record for the Bureau and represents an increase of more than 400% since 1996. Criminal convictions obtained by prosecutors in Frauds Bureau cases stood at a record-breaking 389 at year-end, nearly doubling last year's total of 210. In addition, 430 individuals were sentenced in connection with Frauds Bureau cases during the year.

Frauds Bureau activities resulted in stiff penalties against 97 persons who were sentenced to more than \$2.4 million in court-ordered restitution in 2002. In 44 cases, individuals made voluntary restitution totaling \$348,000. In 17 other instances, insurers achieved savings of more than \$28 million in connection with fraudulent claims under investigation by the Frauds Bureau.

5. Major Cases

Since the tragic events of September 11, the Frauds Bureau has been fast-tracking World Trade Center suspicious claims to ensure they receive prompt attention. The Insurance Department has actively coordinated with other law enforcement agencies to make certain a strong line of communication exists among all agencies involved in this issue. Because there is a crossover between insurance fraud and charity fraud in some instances, that line of communication has proven invaluable in that it fosters the exchange of information that can be critical to an investigation. Considering the scope of the disaster, the Frauds Bureau opened relatively few fraud investigations during 2002: 21 involved life insurance, 16 workers' compensation, 6 auto fraud and 23 were miscellaneous in nature, for a total of 66.

In addition, the Frauds Bureau joined forces with law enforcement agencies on the federal, state and local level in a number of successful investigations during 2002, including one case that yielded criminal felony charges as well as the seizing and attachment of property valued at more than a million dollars. This case and others that contributed to the Bureau's record-breaking arrest score are summarized below.

a. Taking Advantage

A woman was arrested in Florida and returned to New York to face charges that she submitted a fraudulent claim to MetLife for \$500,000 in death benefits on behalf of the beneficiary, her 14-year old daughter. The defendant claimed that her ex-husband, whose life was insured by the policy, resided in New York City and died while at his job as an engineering maintenance worker at the World Trade Center on September 11. Suspicious of the claim, MetLife submitted the case to the Frauds Bureau. The investigation uncovered evidence that the insured was alive and living in Florida. He was unaware of his ex-wife's claim.

b. Operation Street Sweep

Thirty individuals – including 24 car owners and six alleged middlemen – were charged in a \$1.6 million undercover sting operation that resulted in the recovery of 68 reportedly stolen vehicles. Among those charged were a New York City public school teacher, a Long Island Rail Road engineer, a Manhattan registered nurse, a U.S. Postal Service worker and a Metropolitan Transportation Authority bus driver. According to the charges, the owners turned their cars over to middlemen, filed insurance claims falsely reporting the cars stolen and received settlements of as much as \$32,000. The middlemen then sold the cars for up to \$1,500 to undercover detectives posing as junkyard dealers. The 68 vehicles recovered in the sweep included expensive, nearly new SUVs, costly Japanese imports, a BMW and a 2000 Suzuki motorcycle. The operation also led to the discovery of 33 false insurance claims that could have cost various insurers as much as \$700,000. State Farm Insurance Company and GEICO provided funds to aid the investigation conducted jointly by the Frauds Bureau, the Queens District Attorney's Office and the NYPD.

c. Assets Seized

In what is believed to be the largest ongoing investigation of insurance fraud in the State, the president, the vice-president and co-owner, and the general manager of a Suffolk County auto body shop were arrested for enhancing damages in order to jack up insurance claims. For the first time, investigators seized the assets of the body shop owners, including \$117,000 in cash, \$140,000 in various bank accounts and more than \$1 million in commercial real estate. More than 450 arrests have been made thus far in this investigation, 305 in 2002 alone. Frauds Bureau investigators have been assigned to the Suffolk County District Attorney's Office and they have been working closely with the DA's staff and members of the National Insurance Crime Bureau in this investigation. The District Attorney's Office plans to use the Enterprise Corruption statute in the State's Organized Crime Control Act to add more charges in this latest round of arrests.

d. Ready, Willing and Able

Queens DA Richard Brown, First Deputy Superintendent Louis Pietroluongo and NYPD Commissioner Raymond Kelly announced at a press conference the conclusion of an investigation that resulted in charges being brought against 71 individuals and the recovery of 43 vehicles valued at more than \$1 million. Among the 71 charged were 26 vehicle owners who allegedly falsely reported their cars stolen to obtain insurance settlements. This is the most recent in a series of undercover operations that are part of an investigation that began in July 2001 known as "Operation Ready, Willing and Able." Working undercover, NYPD detectives set up a phony towing and wrecking garage called Able Towing and put the word out that owners could get rid of their cars with "no questions asked." The illegal transactions were audio and video taped by the undercover investigators "working" at Able Towing.

6. Civil Enforcement

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

**Table 59
CIVIL ENFORCEMENT PROGRAM
1999-2002**

	1999	2000	2001	2002
Total Fines Imposed	\$1,410,952	\$388,224	\$237,758	46,232
Settlements With IFB	\$230,097.	\$305,718	\$180,013	22,995
Hearing Determinations	\$1,180,855.	\$82,506	\$57,745	23,237
Cases*	135	41	32	16

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

7. Prosecutors as Partners

The Frauds Bureau is involved in an initiative that places investigators in prosecutors' offices (See "2002 Highlights" above). Many District Attorneys' Offices across the State have received Department of Criminal Justice Services grant money to form auto insurance fraud units. The Bureau currently has two investigators in the Suffolk County DA's Office virtually full time. In addition, one investigator has been placed in the Nassau County DA's Office two days a week; and two investigators are working one day a week in Queens; and one investigator spends three days a week in Rockland. The Bureau also have placed one investigator in the Albany County DA's Office two to three days a week and has been approached by both the Bronx and Westchester DAs' Offices. This program will likely be expanded as more prosecutors apply for and receive grant money.

8. Brooklyn Auto Insurance Task Force

The Insurance Department and the Brooklyn Borough President established a Brooklyn Automobile Insurance Task Force to help reduce the incidence of insurance fraud in an effort to control insurance rates for consumers in Brooklyn. The Task Force includes key Department staff from the Frauds, Property and Consumer Services Bureaus, as well as other anti-fraud agencies and Brooklyn legislators. Members are exploring innovative ways to attack insurance fraud and examining the potential for establishing a special new Brooklyn good-driver insurance risk group that would end the penalty good drivers pay just because they live in Brooklyn.

9. No-Fault Insurance Fraud

No-fault fraud is the most prevalent type of fraud reported to the Frauds Bureau, accounting for 60% of all reports received in 2002. The Bureau's No-Fault Unit works with the Attorney General/Special Prosecutor's Auto Insurance Fraud Unit, as well as local prosecutors and law enforcement officials, to stop auto fraud and abuse. In addition, the Bureau's Training Officer has added a no-fault awareness program to the Bureau's Outreach Training Program. The Bureau are now reaching community groups and civic organizations, as well as those in the insurance industry and law enforcement, in order to heighten awareness of this serious crime.

On the regulatory front: In October, New York's Appellate Division Court, First Department, upheld changes the Department made to Regulation 68, which governs no-fault insurance, apparently ending a series of court challenges by the New York State Trial Lawyers Association, the Medical Society of the State of New York and others. The most recent challenge was denied in February 2002 by the New York State Supreme Court and the recent Appellate Court's unanimous ruling upheld the Supreme Court's decision. Regulation 68 institutes new timeframes for accident victims to report a claim and for

medical providers to submit claims for payment, eliminating loopholes that have been exploited as opportunities for fraud and abuse. It also includes important new consumer safeguards that will ensure legitimate claimants have their claims paid.

10. Off-Site Fraud Conference

The Bureau hosted an off-site conference in May that gathered a panel of experts to discuss fighting insurance fraud from a prosecutor's point of view. More than 200 members of the law enforcement and insurance community participated in the conference which was followed by a lively question and answer session. These conferences are seen as excellent forums for frank discussions of issues of mutual concern, networking and educational opportunities. Many insurance company attendees apply the conference hours to their Continuing Education requirements.

11. Fraud Prevention Plans/Public Awareness Programs

The Second Amendment to Regulation 95 requires all insurers that meet certain criteria to submit to the Department a Fraud Prevention Plan that includes establishing a Special Investigations Unit (SIU). At year-end, 145 Plans representing 417 insurers were active. A Frauds Bureau examiner currently accompanies members of the Health Bureau on financial examinations of health insurers. The examiner meets with the SIU manager and reviews the company's Fraud Prevention Plan in order to determine whether the SIU is in compliance with the provisions of Regulation 95. The examiner also provides training to SIU staff on how best to implement their Plans and provide accurate and thorough information in their annual reports. These reviews have produced good results, e.g., some fraud plans have been amended to bring them into compliance with Regulation 95 and annual reports contain better data. The Frauds Bureau plans to expand these SIU reviews by also accompanying staff of the Property Bureau on their market conduct examinations of property/casualty insurers.

The Second Amendment to Regulation 95 also includes a requirement that insurers develop a public awareness program focused on the cost and frequency of insurance fraud. Major advertising campaigns, using newspapers, radio, television and billboards, are carried out throughout the year by the New York Alliance Against Insurance Fraud, the National Health Care Anti-Fraud Association and a number of individual insurers. These programs are insurer-based and require no taxpayer dollars to operate. One measure of the success of these campaigns: Calls to the Frauds Hotline increased from an average of 30 calls per week in 2001 to more than 50 per week during 2002.

12. New Office in Oneonta

On January 30, 2002, Superintendent Gregory V. Serio, Lieutenant Governor Mary Donohue and State Senator James L. Seward, Chair of the Senate Insurance Committee, attended a ribbon-cutting ceremony at the Frauds Bureau's new Office in Oneonta. Otsego County's District Attorney William J. Gibbons and other law enforcement and county officials also attended. The Oneonta Office, with four investigators, will serve as a base of operations for the Southern Tier and part of the Mohawk Valley. The proximity of New York Central Mutual Fire Insurance Company was a factor in opening the office in Oneonta. The insurer is the eighth largest writer of auto insurance and the sixth largest writer of homeowners insurance in New York's insurance marketplace, and the third largest employer in Otsego County.

13. Anthony M. Kane Achievement Award

In May, the Frauds Bureau was the recipient of the 2002 Anthony M. Kane Achievement Award for outstanding achievement in the field of fraud investigation and prevention. In presenting the Award, Robert E. Southard, President of the Northeast Chapter, recognized and applauded the significant work of the Frauds Bureau.

14. Directions for 2003

a. Forfeiture Laws

As part of an aggressive initiative by New York State, working with the cooperation of the Suffolk County DA's Office, the State's forfeiture laws were employed to seize the assets of criminals engaging in insurance fraud. In July, three principals of an auto body shop in Huntington were arrested. During the execution of a search warrant at the shop, investigators recovered \$117,000 in cash. The DA's Office attached the cash, \$140,000 in various bank accounts and more than \$1 million in commercial real estate. The Suffolk case marked the first time that forfeitures were used successfully to impose economic sanctions, in addition to criminal penalties, against those who commit insurance fraud. In the future, the Bureau will evaluate every case for both economic and criminal sanctions.

b. Nuisance Abatement

The Frauds Bureau uses every means at its disposal in pursuit of those who perpetrate insurance fraud. The Bureau has begun to examine ways in which the nuisance abatement provisions of the New York City Administrative Code can be used in this effort. Nuisance abatement is a civil remedy routinely used by the NYPD to close a location that qualifies as a public nuisance, *i.e.*, a site of illegal activity recurring over a period of time. In November 2002, Attorney Scott Weiss of the NYPD's Legal Bureau visited the Frauds Bureau's New York City Office and gave a presentation to Bureau supervisory staff on how nuisance abatement can be used in insurance fraud cases. Just as the NYPD uses nuisance abatement to close locations used for drugs, prostitution, fencing of stolen goods, etc., the Frauds Bureau could use its provisions to shut down a chop shop, a medical mill or other locations engaged in illegal activity. An order can be sought from the Supreme Court of the State of New York to close the "public nuisance" locations with or without an arrest.

c. Meetings with Special Investigations Units (SIUs)

In mid-2002, the Frauds Bureau initiated a series of meetings with small groups of insurance company SIU staff. The meetings present an opportunity for frank discussion in an informal setting. The purpose of the meetings is to examine the relationship between the Frauds Bureau and insurer SIUs and seek ways to improve and strengthen that relationship. The Bureau has prepared a summary of the issues discussed at these meetings and the steps taken to resolve them. The summary has been posted to the Bureau's Web site and will be updated regularly as meetings continue. Follow-up meetings will also be scheduled where issues will be revisited and progress in resolving them will be evaluated.

d. Manual of Procedures

In the coming year, the Bureau's Training Officer will undertake a complete review and revision of the Frauds Bureau Manual of Procedures to ensure that it remains current. The main focus of the review will be case management, preparation of case folders, procedures for monitoring the Frauds Hotline and a general review and update of Unit functions.

15. Legislation

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

- Establishing minimum standards for the public awareness programs that insurers are required to develop under the provisions of Regulation 95;
- Making it a crime for third parties, known as runners, to recruit patients and clients for health care providers and attorneys in insurance fraud schemes;

- Requiring a periodic certification of continued eligibility by recipients of workers' compensation or disability benefits;
- Creating a class D felony for unlicensed activity by certain previously licensed individuals and entities that are no longer licensed at the time of the violation;
- Creating a class E felony for unlicensed activity by any individual;
- Subjecting unlicensed activity to civil penalties after notice and hearing before the Insurance Department;
- Providing for automatic revocation of licenses under Article 21 of the Insurance Law for conviction of the licensee for felony larceny or felony insurance fraud;
- Requiring that life insurance policy applications include a permanent record of identification of the insured;
- Increasing civil penalties for knowing possession, transfer or use of fraudulent insurance documents;
- Defining a new series of crimes relating to insurance fraud that involve false entries upon the books of account of insurers;
- Amending Section 2111 of the Insurance Law to prohibit a revoked licensee from becoming employed in any capacity by an entity subject to the provisions of Article 21 without the prior written approval of the Superintendent;
- Upgrading the status of Insurance Frauds Bureau investigators from peace officers to police officers, enabling them to act independently in the execution of such tasks as search and arrest warrants, court orders relating to electronic surveillance and summary arrests;
- Modifying the reporting date for the Annual Frauds Report (pursuant to Section 405 of the Insurance Law) from January 15 to March 15 of each year; and
- Modifying the reporting date for insurer Special Investigations Units annual reports (pursuant to Section 409 of the Insurance Law) from January 15 to February 15 of each year.

Section 405 of the New York Insurance Law requires the Superintendent to submit to the Governor and the Legislature by January 15 of each year a comprehensive summary and assessment of the operations of the Frauds Bureau. The *2002 Insurance Frauds Bureau Annual Report* is available on the Department's Web site at www.ins.state.ny.us. Hard copies may be obtained through the Department's Publications Unit at 1-800-342-3736.

F. LIQUIDATION BUREAU

The Liquidation Bureau, fulfilling the statutory responsibilities of the Superintendent of Insurance, is responsible for administering the affairs of insurance companies undergoing rehabilitation, liquidation and conservation. The Bureau also assists in the administration of New York's security funds which are used to pay claims remaining unpaid by reason of the inability of an insurer to meet its insurance policy obligations.

The year 2002 saw a substantial increase in the claim settlement activities of the Bureau. To address the need for the timely settlement of the new claims associated with the Reliance Insurance Company, Phico Insurance Company and Group Council Mutual Insurance Company receiverships, the Bureau undertook an aggressive effort to outsource these extensive claim activities.

The Bureau continued to remain current with the latest developments in computer technology and reinforced its management information reporting capabilities, particularly with respect to the above outsourced claim activities.

During the year, the Bureau concluded one conservation proceeding and commenced two new domestic, three ancillary and two conservations proceedings. In addition to paying out over \$223.9 million in policy obligations, the Bureau also paid out \$168.3 million in the form of dividends to security and guaranty funds, reinsurers and other general creditors.

Note: See Section VIII A(5) of this Report for the 2002 Rehabilitation, Liquidation, Ancillary Receivership and Conservation Proceedings.

G. INFORMATION SYSTEMS & TECHNOLOGY BUREAU

The Information Systems & Technology Bureau (Systems) provides information technology products and services to approximately 950 Insurance Department employees and also supports the Department's technical infrastructure. Systems' clients include insurers, the public, federal, state and local agencies, other insurance regulators, actuaries, clerks, insurance examiners, frauds investigators, risk management specialists, real estate appraisers, lawyers, researchers and statisticians.

In addition to providing the technical infrastructure, the Bureau provides a variety of support services including consulting, troubleshooting, training, maintenance and research and development. Systems develops custom client/server, Web-based, and workflow applications while maintaining legacy mainframe systems. The Bureau uses sophisticated enabling technologies such as scanning, imaging and workflow.

The Bureau consists of several units, many of which encompasses multiple sections: Financial Services; Applications Services; Data Base Administration/Data Communications; Technical Services; Operations and Production; and the Projects Office.

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

The Applications Services Unit (ASU) develops, enhances, maintains, purchases, supports and customizes all applications that do not fall under the FSU. These include systems that support the Department's administration and bureau operations and aid in fulfilling regulatory requirements. Major applications development initiatives and modifications are implemented to incorporate changes in the New York State Insurance Law, rules and regulations and to respond to industry crises. Other projects and changes are initiated as a result of updated business procedures or the need to eliminate inefficient/ineffective and/or duplicate procedures. The unit also is responsible for managing the integrated financial general ledger and accounts receivable systems

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

The Technical Services Unit (TSU) maintains servers, Local Area Networks, Wide Area Networks, and microcomputer equipment. TSU is responsible for network monitoring, backup and recovery, antivirus protection, and all third-party software installation and maintenance.

Systems operates numerous servers which comprise the Department's Local Area Network (LAN) and Wide Area Network (WAN) environment. Components of the network include file and print servers, Lotus Notes e-mail servers, Domino applications servers, Sybase servers, and imaging and document management servers. Other application servers include, but are not limited to fax gateways, batch-processing servers, Web applications servers, antivirus management servers, test and development servers, etc. TSU supports four networks running Novell Netware and Microsoft Windows; all connected via a WAN: Albany, New York City, Buffalo, and Mineola. The smaller upstate satellite offices (Rochester, Oneonta and Syracuse) are also connected.

The Operations and Production Unit (OPU) is responsible for production and for the Computer Operations, and Help Center functions. The Help Center is the first line of support in assisting the client

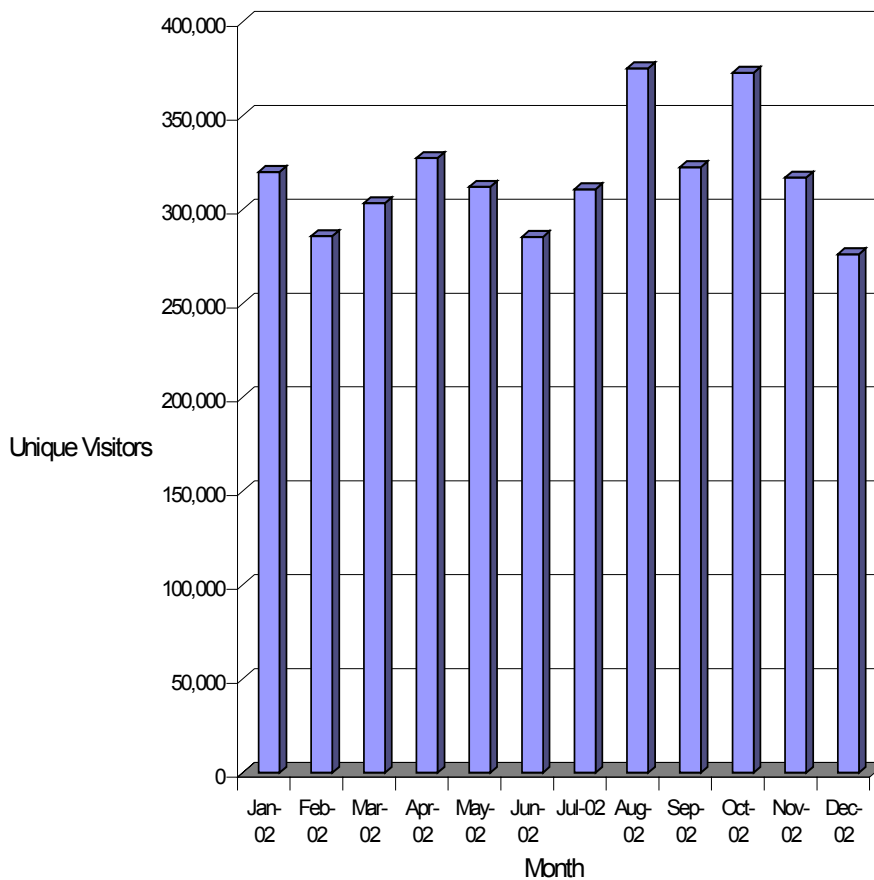
base, and encompasses a wide range of significant responsibilities and functions. Effective change control is the essential ingredient for an effective Operations and Production environment.

The Project Office makes use of the team approach to accomplish large, complex projects as well as those of a special or unique nature. Examples include Enterprise Portal development, workflow/imaging development, Web site and Intranet development, field examination IT support, agency move, Systems' Disaster Recovery/Business Continuity planning, e-commerce/e-government, joint agency initiatives, Lotus Notes development, Consumer Imaging and Information Management System (CIIMS) and Licensing Information Online Network (LION), and NAIC electronic initiatives.

1. Web Site

The Department's Web site continues to be an important priority. Visits to the site steadily increased during 2002, with 3,809,335 constituents visiting the Department's site, almost one million more than the previous year. Visits to the Web site are displayed in the following chart:

CHART H: NYS Insurance Department Web Site Activity - Unique Visitors



The Web site continued to receive praise from consumers, the insurance industry, and other groups during 2002 for its depth, relevancy, and up-to-date content. During 2002, the Web site was moved to a more cost-effective Internet Service Provider, with more robust hosting products and services.

Over the course of the year, the following major new items were developed and, except where noted, incorporated onto the Department's Web site during 2002:

- The New York Information Network (NYIN) Web site, a password protected area to facilitate secure, and at times sensitive communication, between the Department and its regulated insurers (rolled out 2/7/03).
- The Captives Web site, presenting a different "look" with its own unique domain names, distinguishing it from the main Web site address (rolled out 1/16/03).
- An improved HealthyNY Web site, containing HealthyNY applications in both English and Spanish.
- The online Interactive Company Directory, providing instant realtime access to information from the LION Licensing System.
- The online Property Agent and the online Property Broker license renewal applications that allows renewals 24/7 during their respective renewal periods.
- The online Original Licensing Application that allows agents and brokers to apply for their Individual Resident licenses over the Internet.
- The online Company Appointments Application that allows licensed insurance companies to appoint agents over the Internet.
- The 2002 online Interactive New York Consumer Guide to HMOs.
- Expanded, comprehensive information about Long Term Care Insurance.
- Several data collection surveys, including the World Trade Center Insurance Claim Satisfaction Survey and a survey form that collected data from municipalities about the impact of rising insurance rates on their budgets.
- Continued use and improvement of the Department's customer service application that allows Department "NetReps" to offer real-time assistance to Web visitors.
- The complete set of Annual Statement and New York Supplement Filing Instructions and Forms.

In addition, considerable content was added and/or updated during the year.

2. Intranet

The Department's Intranet has evolved into a strategic internal communication tool that contains a wide range of content relevant to Department staff. Major items added during 2002 include:

- An online Help Center that provides technology-related information and answers to commonly asked questions.
- Updated Examiner Resource Center with an application that allows regulatory staff to view electronic Annual Statement submissions.
- A Westlaw Section that provides access to the latest regulatory research databases.
- Updated password protected schedules of insurance company examinations.
- A Section noting Department Staff Accomplishments and accompanying photos.
- Updated Employee Handbook and General Administration Manual.

3. Annual Statement Filings

The year 2002 was significant as the Department added to processes already in place that have changed the way Annual Statement filings are received and utilized. The Department is committed to the concept of electronic filing of insurer financial statements via the National Association of Insurance Commissioners (NAIC) Web site. In the past year there have been significant increases in the number of companies filing over the Internet and the speed at which those filings are made available. In 2002 the number of required copies of Annual Statement filings was reduced from two to one. The one hard copy eliminated was replaced by the electronic filing.

4. Imaging/Workflow

The Consumers Imaging and Information Management System (CIIMS) has been in production for more than four years and Systems continues to work with the Consumer Services Bureau to improve the original design of the system, increase functionality, make the application more e-commerce efficient and more productive. A Web Complaint function was added that allows individuals to submit complaints online. The Department completed coding functionality for processing complaints from participating providers. This will be implemented as a Web-based feature in 2003, allowing both the Department and providers to respond to complaints over the Internet.

The Health Bureau continues to employ imaging to manage the form and rate filing process. The images are captured when received and the application allows for the tracking and management of the process. For the coming year, the Bureau is seeking to offer increased functionality via the Web. The rating section will also be replacing the volumes of hard copy rate manuals with images. This will facilitate concurrent access to information and allow copies to be stored off-site.

The Life Bureau is similarly employing imaging in their processing, and is also scanning former submissions to eliminate paper. Similar imaging utilities will be employed in the Property Bureau.

The year 2002 saw the continued expansion of Lotus Domino as a software platform to develop applications. These applications are designed to replace existing mainframe or manual Department processes. Following is a brief synopsis of applications either introduced into production or production applications that continue to be supported and developed.

- The External Appeals Tracking System, in production since July 1, 1999, records activity on an External Appeals request from the point of receipt by the Department's Consumer Services or Health Bureaus, through its various health plan and external appeal agent contacts, to its final determination. During 2002, the focus was on moving the application to an entirely paperless process. This objective was achieved in first quarter 2003, with the introduction of the standard letter component and imaging software.
- The FOIL Tracking System was introduced to the Department in May 2002. This application records the activity of a FOIL request from its receipt by the Office of General Counsel, through the assigned bureaus for request resolution.
- The ASR Phone Tracking System was moved to Production in October 2002. This application records all incoming calls received by the Department's Consumer Services Bureau hot lines. Information obtained from the caller enables Department management staff to trend incoming calls and obtain real-time statistics on emerging situations as necessary.
- The Legislative Tracking System has been in production since 2000. This application enables the Office of Legislative Affairs to track the receipt and subsequent activity and status of inquiries received from various legislative sources.
- The Purchase Tracking System was introduced to the Department in April 2002. This application provides the Department with an electronic means to process requests for procurement from Department staff. This application follows the purchasing process from the initiation of a purchase requisition, through the issuance of a purchase order, to receipt of the requested items, and finally, the payment of the vendor.

5. E-Commerce

Licensing Services staff worked with the Systems Bureau to implement new functionality within the Licensing Information Online Network (LION). Over the past year, the Department has instituted new online capabilities to meet the needs of producers. And most importantly, producers are making use of the new capabilities, with many producers renewing or obtaining their licenses after work hours or on the weekend. The electronic innovations are representative of the changes that the Department has made to meet the needs of the State's licensees and accentuates the Department's philosophy to provide customer service at its best. The Department's licensing reforms include online temporary adjuster permits, online applications for original licenses, online renewals for brokers and agents, and licensing through the NAIC's National Insurance Producer Registry for non-resident brokers and agents. The time to issue licenses has been reduced to 24-48 hours. These enhancements were successfully implemented and the Department received important awards for their design, effectiveness, efficiency and ease of use.

One of the awards received by the Department was the New York State Forum for Information Resource Management of the Rockefeller Institute of Government's 'Best of the Web' Award in the state category as part of the Forum's Annual Best Practice and Achievement awards. The Award acknowledged the Department's Web site as an outstanding information management resource. The Best of the Web Award specifically recognizes local and state government Web sites that provide well designed, useful Web sites for their respective constituents. The Department was honored for its electronic licensing of insurance agents and brokers.

Another award received by the Department was the Best Practice Award for Business-to-Business E-Commerce Applications from the Technology Managers Forum, the professional association for high-ranking information technology managers. The Department received the award for its online licensing application technology that permits those applying for licenses or renewing insurance agent or broker licenses to do so electronically over the Internet. The Best Practice Awards program highlights the Department's application for its standard of excellence and credits the application for its ability to be replicated. The judges stated that they were impressed with how the application shortens the licensing process from several weeks to approximately a day, the amount of money saved and the ease of use of the online renewal process.

6. Sybase Enterprise Portal

During the summer of 2002, the Bureau rolled out Central File, an application developed with Sybase Enterprise Portal (EP) technology that provides Department staff access to company-specific data that may reside in various areas, on disparate platforms, and with different owners. EP security restricts access to only those assets a user is authenticated to view.

Central File Prototype fulfills the requirement of a centralized information (management) portal repository whereby Department personnel can access/search all organizational information through one application from multiple, disparate data stores, both structured and unstructured, through a browser-based Graphical User Interface (GUI). These data sources included Microsoft Access, Excel and Word files along with Adobe PDF files and application data residing in Sybase databases. Of particular note in 2002 was the placement into production of the Office of General Counsel's Opinions using EP. This increased the search capability through the portal by adding full-text searches. The Bureau's focus in 2003 will be placing outward facing applications under the security umbrella of EP.

7. Infrastructure

Systems continues to enhance and harden the Department's infrastructure. Numerous initiatives have been implemented towards this end. A Systems Disaster Preparedness Team meets regularly to identify and further improve the infrastructure and its ability to withstand and recover from disasters.

H. CAPITAL MARKETS BUREAU

1. General Overview

Formed in late 1999, the Capital Markets Bureau continued to implement its regulatory directives in 2002. Its principal function is to provide the Insurance Department with analysis and recommended actions on matters affecting the regulation of capital markets and risk management activities of New York-licensed life, property/casualty and health insurers, and health maintenance organizations. Last year, the Bureau met its objectives by:

- furnishing examination support;
- applying upgraded and expanded financial analytics to insurers' portfolios;
- identifying investment/capital concerns and advising on follow-up actions;
- conducting training for the Department's staff in capital markets and asset/liability dynamics as they pertain to insurers;
- directing special projects associated with major emerging industry and legislative issues;
- responding to requests by the Life, Property, Health and Executive Bureaus for diverse analytical support; and
- interfacing with external entities, including other regulatory bodies, investment firms, risk management consultants, and rating agencies.

The Bureau broadened its financial analysis framework designed to assess the investment performance of life and property/casualty insurers. This improved methodology, highlighting key investment ratios and credit quality assessments, primarily utilized financial information from the NAIC I-SITE and Bloomberg databases. Its formulae identified insurers that were outside the normative range of their sector's financial measurements. The investment portfolios of these identified insurers were then subject to additional analysis by the Bureau. If areas of concern remained following this targeted assessment, the Bureau then solicited additional information on the companies' investment management criteria and objectives. If necessary, meetings or teleconferences with the affected companies were arranged to gain additional insight into the make-up of their portfolios, and investment rationales and approaches.

In addition, last year, the Capital Markets Bureau increased its participation in on-site examinations, expanded its training programs, routinely disseminated news and information that served to enhance examiner understanding of the financial markets, and completed Bureau-specific special projects. The Bureau largely completed a Policies and Procedures manual covering its activities, and worked with a consultant to produce a manual detailing the technical role and fundamental functions of the Capital Markets Bureau in an examination. Both of these manuals are subject to final approvals.

2. 2002 Highlights

a. Capital Markets Bureau Reviews

The Bureau performed capital markets reviews on insurance companies designated for Priority One Desk Audits by the Life, Property and Health Bureaus. In addition, it targeted for more extensive evaluation a number of other companies whose measurements/investment parameters were at marked variance with their sector's norms. Following supplemental assessment, certain targeted companies were required to provide more information on investment policy, performance expectations and related data. The staff refined the template for transferring certain investment data from applicable NAIC investment schedules, including Schedules BA, D, DA and DB, for further analysis in conjunction with the Annual Statement and Quarterly reviews, and pre-exam and 4th quarter meetings.

The reviews culminated in reports submitted to the bureaus. These reports featured the application of Bloomberg analytics to generate value-at-risk calculations and fixed income measurements, including duration computations and average investment yields. Additionally, shifts in average credit quality of bond portfolios were highlighted. If applicable, the reports also included profiles on the equity portfolio and derivative usage. Depending on the outcome of the analysis, the Capital Markets specialists recommended further action to the examination staff.

The Bureau developed various databases to facilitate sector and special situation analysis, such as evaluation of balance sheet strength post-September 11, and the degree of impact on insurers' capital adequacy of bond and equity holdings increasingly reflecting diminished market value. This monitoring exercise served to address the prevailing risk management and capital market concerns in an ongoing changing economic and industry environment. In 2002, in addition to keeping abreast of deteriorating quality of certain fixed income investments and the protracted downturn in the equity market, the Bureau oversaw the increasing use of derivatives and the suitability of asset allocations. In order to augment the Bureau's in-house metrics and identify analytical frameworks that would further enhance the efficiency of the evaluation of diverse portfolios, the staff continued to meet with companies marketing sophisticated risk-measurement systems.

**Table 60
ANALYTICAL EVALUATIONS AND REPORTS
2002**

Type of Insurer	Priority 1 Desk Audits	Pre-Exam Reports	Targeted Evaluations	4th Quarter Meetings
Health	7	2	--	6
Life	29	23	23	22
Property	18	37	63	8

The Bureau reviewed filings of new Derivative Use Plans (DUPs) as well as amendments to approved DUPs of life and property/casualty insurance companies. Prior to approval, the Bureau worked with those companies whose DUPs initially did not meet the established regulatory standards. Also, when the company made changes in the type, management, or oversight of its derivative activity, the Bureau reviewed the DUP amendment applications.

Because companies most inclined to utilize derivatives already have filed their plans with the Department, the future Capital Markets Bureau work on DUPs will largely consist of reviewing amended plans.

**Table 61
DERIVATIVE USE PLAN (DUP) REVIEWS
2002**

TYPE OF REVIEW	LIFE	PROPERTY
New DUPs	4	13
Amended DUPs	6	21

b. Examination Participation

The Capital Markets Bureau expanded its exam participation by taking part in five examinations, three for the Property Bureau and two for the Life Bureau. This exam participation was on a targeted basis, focusing on specific areas of risk either detected by the Bureau in its review of financial statements or identified by the examiner-in-charge of the engagement. In certain instances, particular attention was given to derivatives, asset allocation and quality, and the composition of Schedule BA assets, often comprising hedge and venture capital funds.

In 2002, the Bureau was active in formulating risk-focused examination procedures applicable to capital markets oversight. To further this aim, it made considerable progress in the development of its Bureau Examination Manual and retained a risk management consultant to assist in establishing a protocol for capital markets assessments. The manual, which outlines procedures for Bureau participation in full and targeted scope examinations, is expected to be finalized and approved in 2003.

c. Training Initiatives

The Capital Markets Bureau conducted multi-level training principally for the Department's examination, legal and actuarial staff. The training was comprised of courses in investment portfolio assessment, derivatives, and general capital markets dynamics. Courses were structured to address different facets of capital markets content and were delivered in-house by Bureau staff, and presented by instructors of FT Knowledge Financial Learning (formerly, New York Institute of Finance).

In recognition that a number of staff members have completed the introductory FT course, an intermediate course was formulated in conjunction with FT and held in 2002. Based on attendee feedback, some revisions will be made to the course. In addition, the Bureau organized its first off-site seminar with speakers reflecting a broad range of capital markets and risk management expertise and initiated Capital Markets Forums, an interactive instructional format to address emerging areas of concern of examination staff. The Bureau was also active in promoting the participation of the financial analytical staff of the Department in teleconferences, investor briefings, and meetings held by the various rating agencies. Moreover, it continued to cultivate its relationships with the leading insurance equity analysts, maintaining access to their industry and company research.

Table 62
MAJOR CAPITAL MARKETS TRAINING PROGRAMS, 2002

Course	Attendees during Year
FT Introduction to Capital Markets	64
FT Intermediate Capital Markets	31
In-house Service Training	49
In-house Capital Markets Forums	30
FT Online Capital Markets*	25
Off-Site Seminar	167

*Included courses on Futures and Forwards, Hedge Funds, Asset-Backed Securities, Portfolio Management, and Derivatives.

d. Special Projects

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

- insurers' exposure to the diminished credit quality of select fixed income obligations and to an increasing incidence of bond defaults;
- the ongoing erosion in equity values and impact on prospects for annuity products;
- structured transactions, including securitization of insurance-linked assets;
- monitoring, in conjunction with Life Bureau actuaries, insurers' capital markets operations, and asset/liability risks via a risk matrix;
- proposal for home price guarantee options;
- high yield debt concentration in investment portfolios;
- alternative funding initiatives;
- valuation of options provided by health insurer; and
- insurance companies' projected losses and capital-raising efforts post-9/11 updated through first quarter of 2002.

e. Other Activities

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

- Enhancements of the NAIC Annual Statements' investment schedules;
- Information Sharing Agreements with Office of the Comptroller of the Currency and New York State Banking Department;
- Captive Insurers; and
- Securities Maintenance and Transfer for Admitted Assets.

The staff also made presentations at diverse venues, such as the Society of Actuaries Conference on Advanced Risk Management, the Society of Insurance Financial Management Quarterly Meeting, the NAIC Commissioners' Forum, the Society of Financial Examiners Career Development Seminar, the Life Insurance Counsel of NY Legislative and Regulatory Conference, the Actuarial Society of New York Annual Meeting, and the International Association for Insurance Law World Congress. In addition, a Bureau representative testified at a hearing on the securitization of insurance risk before the U.S. House of Representatives Subcommittee on Oversight and Investigations.

The Bureau continued to participate in various Working Groups/Task Forces of the NAIC. Bureau representatives serve as chair of the Risk Assessment Working Group, SVO Oversight Group, Custodial Arrangements Working Group, and the Securitization Plan of Operations Sub-Group. A Bureau representative also serves as vice-chair of the Insurance Securitization Working Group and the Valuation of Securities Task Force.

The Bureau maintained its active involvement in three NAIC groups working with the Federal Reserve regarding: (1) assessing what risks insurers bring to financial holding companies; (2) comparing the risk-based formulas of banks and insurers and determining arbitrage potential; and (3) coordinating the regulatory interaction required pursuant to the Gramm-Leach-Bliley Act (GLBA). Other NAIC groups of note in which staff participated are the Invested Asset Working Group, the NAIC/AICPA Working Group, the Examination White Paper Focus Group, and the Financial Condition Committee.

I. CAPTIVE INSURANCE GROUP

1. General Overview

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

Captive insurance companies are insurers owned by the insureds and organized for the main purpose of self-funding the owner's risk. Captives are often referred to as one of the "alternative insurance mechanisms." As of December 31, 2002, there were four captive insurance companies domiciled in New York. These four captive insurers had total assets of \$955.9 million, total liabilities of \$826.9 million and capital and surplus of \$129.0 million. In addition, these captive insurers had total income of \$66.2 million, paid taxes of \$23.9 million and had net premium written of \$90.6 million.

There has been explosive growth in captive formation in the past year. Superintendent Serio has begun a new initiative in the captive field with the creation of a dedicated captive group. This group will be responsible for the licensing of all captive insurers in New York. The group provides a direct link to decision-makers, promises a streamlined licensing process and the easing of administrative burdens after licensing with regulation that is distinct from the regulation of traditional insurance companies.

2. Legislative Proposals

The Department has proposed revisions to the current law to address certain restrictions that have hindered the growth of New York captives. Governor Pataki has submitted revised legislation to the New York Legislature to effectuate these changes. They include:

- Reducing the threshold level for a parent to form a pure captive to \$25 million of net worth or annual revenue. The bill also provides flexibility for the Superintendent to approve other thresholds if the parent demonstrates that it is otherwise qualified to form and operate a captive as a subsidiary;
- Reducing the threshold level for entry into a group captive to \$25,000 in annual premiums, 25 employees and a full-time risk manager for each member;
- Broadening the definition of "affiliated companies" to enable the parent's contractors and subcontractors to be insured by the captive;
- Authorizing sponsored captive insurance companies (*i.e.*, rent-a-captive), in which separate cells are set up for each company participating in this arrangement;
- Permitting the City of New York to set up a captive insurance company for itself and its contractors and subcontractors for risks related to debris removal at the site of the World Trade Center disaster; and,
- Allowing public entities (municipalities, authorities and others) to form pure or group captives as public benefit corporations or Not-for-Profit corporations that would be exempt from state and local fees, taxes or assessments.

These changes would enhance the appeal of New York as a domicile for the new wave of captive insurer formations. The Department will still be able to adequately regulate these insurers under the framework established by Article 70 of the Insurance Law. Since New York is a leading global business center, the New York State Insurance Department is committed to establishing an appropriate regulatory environment for the operation of captive insurers. New York offers domiciled captive insurers tax rates competitive with other captive jurisdictions, minimal investment restrictions and the authority to write almost all types of property/casualty coverages.

J. MOTOR VEHICLE ACCIDENT INDEMNIFICATION CORP.

1. General Overview

The Motor Vehicle Accident Indemnification Corporation (MVAIC) was originally created to provide compensation for injuries to persons who, through no fault of their own, were involved in accidents with hit-and-run drivers, operators of stolen vehicles or uninsured motorists. This law became effective on January 1, 1959. The tort law has since been amended so that comparative negligence is now the law of the State of New York. In that respect, MVAIC's obligations to provide compensation have changed.

Qualified claimants (persons who are residents of the State of New York or of another state that has a similar program, and who do not own automobiles or are not resident relatives of a household where there is an insured vehicle) receive maximum benefits under the No-Fault Law.

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

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

2. Recent Legislation and Regulations:

- ◆ Chapter 511 Laws of 1999 – This law increased the self-insured assessment per vehicle from \$1.50 to \$3.50. The New York State Department of Motor Vehicles will continue to handle the self-insured fees.
- ◆ Amended Regulation 68 (No-fault) – After a protracted court battle, Amended Regulation 68 became effective in April 2002. The Regulation contains numerous fraud-fighting provisions, such as a reduction in the time frame within which health care providers are permitted to submit medical bills to their insurance carriers and a reduction in the time frame in which no-fault claims can be filed with insurers. For a more comprehensive update of Regulation 68, see **Section IIB** (Subsection 17: Automobile Insurance) of this Annual Report.

3. 2002 Activity

During 2002, MVAIC opened 3,324 new cases. A total of 3,542 cases were settled with payment in 2002 at a moving average cost per claim of \$9,441. In 2000 and 2001, the moving average cost per claim was \$8,152 and \$8,093, respectively. An additional 2,257 cases were closed without payment for various reasons, including the discovery of applicable automobile insurance, the abandonment of claims and findings that MVAIC was not liable. The number of pending claims at the close of 2002 was 3,836. This was a significant decline from 2001, when the number of pending claims totaled 5,301.

The Corporation is funded through levies on insurance companies transacting automobile liability insurance in the State of New York in accordance with Section 5207 of the Insurance Law.

Other sources of funds include fees collected from self-insurers by the New York State Department of Motor Vehicles under Sections 316 and 370-4 of the Vehicle and Traffic Law, investment income, and subrogation recoveries.

Table 63
SOURCES OF FUNDS
Motor Vehicle Accident Indemnification Corporation
2000-2002

Source	2002	2001	2000
Net assessments	\$31,521,831	\$21,000,000 *	\$ 21,000,000*
Self-insurers' fees	229,705	193,448	134,920
Investment/income/profit/loss	2,861,731	3,669,958	3,804,622
Subrogation recoveries	2,077,610	2,839,077	3,019,678
Total	\$36,690,877	\$27,702,483	\$ 27,959,220

*Originally assessed for \$28.0 million; waived 4th quarter assessment; total annual assessment--\$21.0 million.

Source: Motor Vehicle Accident Indemnification Corporation

Table 64
TRANSACTIONS
Motor Vehicle Accident Indemnification Corporation
2000-2002

Transaction	2002	2001	2000
Number of Cases			
Pending at beginning of year ^a	5,301	5,937	6,527
Total opened cases ^a	4,334	3,978	3,881
Reported tort and no-fault	3,324	3,404	3,014
Reopened	1,010	574	867
Total closed cases ^a	5,799	4,614	4,471
Cases closed without payment	2,257	1,882	2,303
Settled cases with payment (No-fault and tort)	3,542	2,732	2,168
Pending at end of year ^a	3,836	5,301	5,937
Payments of Settled Claims (Before Subrogation)			
Payments to claimants (No-fault and tort)	\$26,575,573	\$23,529,405	\$18,587,520
Allocated expense ^b	3,897,165	3,560,779	3,630,350
Reserves Year-End (in 000s)			
Total reserves ^c	\$54,075	\$50,704	\$48,781
On pending claims	25,785	25,898	24,983
On claims (IBNR)	21,073	18,000	18,000
Special expense reserve	6,959	6,547	5,548
Unallocated claims expense	258	259	250

^a When both tort and PIP are involved, a separate case is established for each.

^b The corporation also expended \$5,967,603 in 2002, \$5,676,878 in 2001, and \$5,990,777 in 2000 for operations and maintenance (unallocated expenses).

^c There was no surplus in 2002. In 2001 and 2000, the surpluses were \$1,863,954 and \$10,331,593, respectively. In 2002, the Corporation established a reserve of \$2.0 million in accordance with the Financial Standards Accounting Board's FAS 106 (Insurance Benefits for Retirees/Revised). In 2001, the FAS 106 reserve was \$1.565 million; in 2000, it was \$1.060 million.

Source: Motor Vehicle Accident Indemnification Corporation

The following table distributes, by type of case, the 3,324 claims newly reported during 2002. Uninsured New York automobile drivers represent 64.62% of the total reported cases compared to 50.18% for the previous year, an increase of 14.44 percentage points.

Table 65
NEWLY REPORTED CASES, BY TYPE
Motor Vehicle Accident Indemnification Corporation
2002

Type of Case^a	Number of Cases	Percent of Total
No-fault (PIP) and Tort ^b	3,324	100.00%
Uninsured out-of state automobiles	185	5.57
Uninsured hit-and-run drivers	970	29.18
Uninsured New York automobiles	2,148	64.62
Stolen automobiles	5	0.15
Automobiles operated without consent of owners	1	0.03
Insured automobiles where the insurance is inapplicable to the accident	9	0.27
Unregistered automobiles	6	0.18

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

^b When both tort and PIP are involved, a separate case is established for each.

Source: Motor Vehicle Accident Indemnification Corporation

The following table distributes, by type of case, those cases settled with payment in 2002. Unidentified hit-and-run drivers represented 35.12% of all cases, but accounted for 46.56% of the total amount paid. This is attributable to the large proportion of these cases involving pedestrians in which the incidence of severe injuries and fatalities is relatively high.

Table 66
SETTLED CASES WITH PAYMENT, BY TYPE
Motor Vehicle Accident Indemnification Corporation
2002
(dollar amounts in thousands)

Type of Case	Number of Cases	Percent of Total	Amount Paid*	Percent of Total
Total	3,542	100.00%	\$26,576	100.00%
Uninsured out-of-state autos	269	7.60	1,896	7.13
Unidentified hit/run drivers	1,244	35.12	12,373	46.56
Uninsured New York automobiles	1,914	54.04	11,790	44.36
Stolen automobiles	9	0.25	109	0.41
Automobiles operated without consent of the owner	5	0.14	24	0.10
Insured automobiles where the insurance is inapplicable to the accident	92	2.60	330	1.24
Unregistered automobiles	9	0.25	54	0.20

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

Source: Motor Vehicle Accident Indemnification Corporation

III. Insurance Legislation Enacted

(Legislation is presented in numeric order based on 2002 Chapter Law)

This portion of the report covers bills enacted during the 2002 Session amending the Insurance Law. Where a bill amends laws other than the Insurance Law, only provisions of interest are noted. *These brief descriptions of the laws are intended only to provide highlights of the legislation and should under no circumstances be used in place of the full text of the law or regarded as interpretation of legislative intent or of Insurance Department policy.*

1. **Chapter 4 of the Laws of 2002** amends the Insurance Law as follows:

- Section 1 of the bill adds a new subsection (f) to Section 4224 of the Insurance Law to permit agents or brokers or their employees or representatives to waive commissions or other compensation otherwise due in connection with the sale of a life insurance product to immediate family members of victims of the September 11 terrorist attacks.

2. **Chapter 6 of the Laws of 2002** amends Chapter 569 of the Laws of 1981 (amending the vehicle and traffic law relating to motor vehicle liability insurance, financial security, criminal acts and penalties for non-compliance) and chapter 781 of the Laws of 1983 (amending the vehicle and traffic law and other laws relating to motor vehicle liability insurance, financial security, criminal acts and certain penalties for non-compliance) as follows:

- Sections 1 and 2 of the bill amend Chapter 569 of the Laws of 1981 and Chapter 781 of the Laws of 1983, respectively, to extend certain provisions relating to the motor vehicle financial security act, due to expire on January 31, 2002, until June 30, 2007.

3. **Chapter 13 of the Laws of 2002** amends the Insurance Law as follows:

- The bill generally amends the Insurance Law to assure that the newly created broker license with life insurance and annuity authority (created by Chapter 505 of the Laws of 2000) is in all appropriate respects subject to the same regulation as is the life agent license.

4. **Chapter 17 of the Laws of 2002** amends the State Technology Law as follows:

- Section 1 of the bill amends Article II of the State Technology Law to enact the "Internet Security and Privacy Act" to: (i) require that the State Office for Technology specify in a model internet privacy policy those items that must be included in a privacy policy for each state agency that maintains a website; (ii) prohibit a state agency from collecting or disclosing personal information concerning a user that was obtained through the state agency Web site unless such user consents to the collection or disclosure of the personal information; and (iii) to allow a user the ability to obtain access to their personal information and an opportunity to correct errors in such information under section ninety-five of the public officers law (access to records).

5. **Chapter 20 of the Laws of 2002** amends the Vehicle and Traffic Law as follows:

- Section 1 of the bill amends section 370 (1) and (1)(b) of the Vehicle and Traffic Law to require that rental companies maintain property damage liability coverage of at least \$10,000. Section 311 of the Vehicle and Traffic Law currently requires that insured vehicles obtain a minimum property damage liability limit in the amount of \$10,000. Under the bill, the minimum property damage liability limits for self-insured vehicles under section 370 would be the same as the limits required for insured vehicles under section 311.

6. Chapter 41 of the Laws of 2002 amends the Insurance Law as follows:

- Section 1 of the bill amends paragraph 8 of subsection (a) of section 4220 of the Insurance Law, which applies to defaulted life insurance and annuity contracts issued prior to 1948, to provide that term life insurance policies of 30 years or less would not be subject to the standard nonforfeiture law. Current law provides an exception to the provisions of the nonforfeiture law only for term life insurance policies of 20 years or less.
- Section 2 of the bill amends subparagraph (F) of paragraph 1 of subsection (o) of section 4221 of the Insurance Law, which applies to defaulted life insurance and annuity contracts issued after 1948, to provide that term life insurance policies of 30 years less expiring before age 81 would not be subject to the provisions of the standard nonforfeiture law. Current law provides an exception to the provisions of the nonforfeiture law for term life insurance policies of 20 years or less expiring before age 71.

7. Chapter 43 of the Laws of 2002 amends the Executive Law and the Estates, Powers and Trusts Law as follows:

- This bill generally amends the executive law and the estates, powers and trusts law relative to registration and reporting requirements by charitable organizations and their fundraisers. While this legislation eliminates the duplicative registration requirements and increases the monetary threshold for the financial reporting requirements of charitable organizations, it also expands the scope of the Attorney General's oversight and imposes greater accountability upon charitable organizations, their officers and directors, and their fundraisers. This bill, however, does not in any way change the responsibilities of the Insurance Department regarding the regulation of charitable annuity societies.

8. Chapter 70 of the Laws of 2002 amends Chapter 729 of the Laws of 1994 (relating to affecting the health insurance benefits and contributions of retired employees of school districts and certain boards) as follows:

- Section 1 of the bill amends Chapter 729 of the Laws of 1994 to extend until May 15, 2003 a prohibition against certain specified educational boards and school districts from diminishing the health insurance benefits provided to retirees and their dependents or the contributions the board or district makes for such health insurance coverage below the current level of benefits or contributions, unless a corresponding diminution is effected from the present level during this period from the corresponding group of active employees for such retirees.

9. Chapter 82 of the Laws of 2002 is a Budget bill which amends, among other things, the Insurance Law and the Public Health Law as follows:

- This new legislation expands coverage for diagnostic tests and procedures to "determine infertility" and to require that plans which have prescription drug coverage include drug coverage for the "diagnosis and treatment of "infertility". It also provides that the infertility mandates apply to women age 21-44, that there shall be a 12-month waiting period, that coverage shall be limited to women who are "infertile" by new definition, and that treatment shall be limited to providers who have special expertise in the treatment of infertility.

10. Chapter 213 of the Laws of 2002 amends the Insurance Law as follows:

- Section 1 of the bill amends Section 3216(g)(1)(C) of the Insurance Law by adding an exception to the existing law which currently permits discontinuance of a class of policies of individual hospital, surgical or medical expense insurance issued by a commercial insurer. The

amendment prevents an insurer from refusing to renew the policies of insureds holding major medical or similar comprehensive type coverage in effect prior to June 1, 2001 who are ineligible to purchase standardized direct payment contracts offered by health maintenance organizations due to the provisions of federal law [42 U.S.C. 1395(ss)] in effect on January 1, 2001, and who are eligible for Medicare by reason of disability. The amendment provides for prospective reinstatement of coverage for any such insured person terminated on or after January 1, 2001. In the event any such insured person subject to this subparagraph becomes eligible to purchase standardized direct payment contracts offered by health maintenance organizations or in the event any such insured person becomes eligible for Medicare by reason of age, then such person may be terminated by the insurer upon prior written notice.

11. Chapter 228 of the Laws of 2002 amends the Tax Law as follows:

- Section 1 of the bill adds a new subparagraph (15) to paragraph (a) of subdivision 9 of Section 208 of the Tax Law to modify the definition of "entire net income" for the purpose of levying the franchise tax for an attorney-in-fact as part of reciprocal or inter-insurance arrangement, such that entire net income shall not include any amounts in excess of the amounts paid by an interinsurer or reciprocal insurer to the attorney-in-fact over the deduction allowed to the interinsurer or reciprocal insurer under Internal Revenue Code §835(b).
- Section 2 of the bill adds a new subdivision 12 to Section 211 of the Tax Law to authorize the commissioner of taxation and finance to release to the interinsurer or reciprocal insurer any information regarding the entire net income or business allocation percentage of the attorney-in-fact which serves as the basis for the denial of the deduction claimed by the attorney-in-fact.
- Section 3 of the bill adds a new subdivision (f) to Section 1518 of the Tax Law to authorize the commissioner of taxation and finance to release to the attorney-in-fact any information regarding the entire net income or business allocation percentage of the interinsurer or reciprocal insurer which serves as the basis for the denial of the deduction claimed by the attorney-in-fact.

12. Chapter 229 of the Laws of 2002 amends the Insurance Law as follows:

- The bill amends the opening paragraph of subsection (a) of Section 6604 of the Insurance Law to allow advance premium corporations to write boiler and machinery insurance. It also amends Section 6605 of the Insurance Law to provide that assessment cooperative insurers that are licensed to provide boiler and machinery insurance must maintain an additional \$50,000 in surplus unless the assessment cooperative insurer reinsures 100% of its boiler and machinery risk. The bill also amends Section 6610 of the Insurance Law to limit the amount of insurance which may be assumed by an assessment cooperative insurer to 3% of surplus or \$14,000, whichever is greater.

13. Chapter 273 of the Laws of 2002 amends chapter 557 of the laws of 2001 (amending the general Business Law, the Public Health Law and the Insurance Law relating to clarifying provisions pertaining to pre-need funeral services) as follows:

- Section 1 of the bill sunsets the provisions of Chapter 557 of the Laws of 2001 such that they will expire and be deemed repealed on June 1, 2003.

14. Chapter 286 of the Laws of 2002 amends the General Obligations Law as follows:

- Section 1 of the bill amends Section 5-701 of the General Obligations Law, relating to the enforceability of certain financial contracts, to exclude contracts for the assignment, sale, trade, participation or exchange in indebtedness of commercial borrowers (including, but not limited to,

commercial and/or bank loans, choses in action arising under or in connection with loan agreements and private notes, and forward sales) from the Statute of Frauds.

15. Chapter 311 of the Laws of 2002 amends the Tax Law and the Insurance Law as follows:

- The bill generally amends the Tax Law to permit New York State residents who are covered under a federally qualified out-of-state group long-term insurance contract to deduct or receive a tax credit equal to 10% of the premium paid on their state income tax returns. Currently in order to deduct or receive this tax credit, the taxpayer's premium payment must be for the purchase of a long-term care insurance policy approved by the Superintendent under Section 1117 of the Insurance Law. This bill makes a corresponding amendment to Section 1117 (g)(4) of the Insurance Law to provide that group long-term care insurance contracts delivered or issued for delivery outside of New York State would qualify for the state tax credit provided such policy qualifies for the federal tax credit.
- The bill further amends Section 1117 (g)(2)(A) and (B) to prohibit advertisement of a long-term care insurance product delivered or issued for delivery outside the state as being qualified for a state tax credit unless it actually does qualify for such tax credit and to provide that any such policy which does not qualify for such tax credit must clearly state this fact in the policy. The amendment to Section 1117 (g)(3) clarifies that the Superintendent need only maintain lists of those long-term care insurance policies that require his approval and not those policies issued or having a situs outside the State of New York. Finally, the amendment to Section 1117 (g)(4) provides a non-exhaustive list of examples of those groups whose long-term care insurance policies qualify for the state tax credit without the approval of the Superintendent.

16. Chapter 314 of the Laws of 2002 amends the State Technology Law as follows:

- Section 1 of the bill sets forth a legislative finding, referring to the enactment of the Electronic Signatures and Records Act (ESRA) on the State level and the subsequent enactment of the Electronic Signatures in Global and National Commerce Act (E-Sign Law) on the Federal level, and the determination by the Legislature in this bill that it is in the best interest of New York that the State law and Federal law "work in tandem" to promote the use of electronic technology. ESRA supports and encourages electronic commerce and electronic government by allowing people to use electronic signatures and electronic records in lieu of handwritten signatures and paper documents, while the E-Sign Law permits and encourages the expansion of electronic commerce in interstate and foreign commercial transactions.
- Section 2 of the bill amends subdivision 3 of section 102 of the state technology law to change the State's definition of "electronic signature" to conform to the federal definition of such term. The federal act defines an electronic signature as "an electronic sound, symbol, or process, attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the record."

17. Chapter 317 of the Laws of 2002 amends the Social Services Law as follows:

- Section 1 of the bill amends paragraphs (a) and (b) of subdivision 6 of section 209 of the Social Services Law to provide that an irrevocable funeral or burial trust, which is permitted under current law, can be established in New York with a New York funeral home by an individual receiving supplemental security income (SSI) or Medicaid benefits in the State of New York or any other state.

18. Chapter 415 of the Laws of 2002 amends Chapter 19 of the Laws of 1994 (amending the Insurance Law relating to credit cards, debit cards and checking account group policies) as follows:

- Section 1 of the bill amends Section 3 of Chapter 19 of the Laws of 1994 to extend the expiration date of provisions allowing issuance of certain property/casualty insurance on a group basis in connection with credit card, debit card or checking accounts from December 31, 2002 to December 31, 2006.

19. Chapter 442 of the Laws of 2002 amends the Insurance Law as follows:

- Section 1 of the bill directs the Superintendent, in consultation with the Commissioner of Health, to report to the Governor and the Legislature (no later than April 1, 2003) on the advisability of adopting a new law that would expand the definition of mammography screening to include the review of X-ray examinations by the use of a computer aided detection device approved by the Food and Drug Administration. The report must assess whether the utilization of a computer aided detection device produces substantially better results in the detection rate of early stage malignancies, the recall rate and the positive predictive value for biopsy, than are detected without the use of a computer aided detection device and other technology that is currently available. The Superintendent is also authorized to provide an estimate of the cost to insureds of adding a benefit for the review of X-ray film mammography by use of a computer aided detection device.

20. Chapter 453 of the Laws of 2002 amends the General Business Law as follows:

- Section 1 of the bill adds a new subdivision 12-a to Section 359-e of the General Business Law to require that employees of the national securities exchanges and national securities associations registered with the federal Securities and Exchange Commission (SEC) and securities information processors affiliated with national securities exchanges must, as a condition of employment, be fingerprinted. It also clarifies the authority of national securities exchanges, national securities associations, clearing corporation or securities information processors to require fingerprinting of consultants. Such authority is limited to situations in which the consultant may have access to records or property which may compromise the market or physical security of the New York based securities industry. The fingerprints so taken are to be promptly submitted to the Federal Bureau of Investigation for purposes of a nationwide criminal background check.

21. Chapter 537 of the Laws of 2002 amends the General Obligations Law and the Insurance Law:

- Section 1 of the bill, which takes effect July 1, 2002, provides that the bill shall be known as the "Structured Settlement Protection Act." Section 2 of the bill adds a new Title 17 to Article 5 of the General Obligations Law entitled "Structured Settlement Protection Act" consisting of Sections 5-1701 through 5-1709:
 - ◆ Section 5-1701 provides definitions.
 - ◆ Section 5-1702 provides that where a structured settlement is being negotiated, the defendant or defendant's representative shall be required to provide the claimant with a written document setting forth certain terms not otherwise specified in the structured settlement agreement such as the amounts due and the due dates for periodic payments; the amount of premium paid to the annuity issuer; the nature and amount of costs that may be deducted from any periodic payments; whether transfers of periodic payments are permitted; and a statement that the claimant should receive independent legal and tax advice concerning the structured settlement agreement.

- ◆ Section 5-1703 provides that, with respect to any transfer agreement, the transferee must send to the transferor at least 10 days before executing the agreement a separate disclosure statement setting forth, among other things, the amounts and due dates of transferred payments; the amount of such payments; the discounted present value of the payments to be transferred; any fees, commissions and other costs associated with the transfer and the amount of penalties payable in the event of a breach of the transfer agreement.
- ◆ Section 5-1704 sets forth those terms which may not be included in any transfer agreement including, but not limited to, provisions which waive the payee's (person receiving structured payments who proposes to transfer the rights to such payments) right to sue or which waive jurisdiction or standing to sue; provisions which require the payee to indemnify the transferee (party acquiring the payment rights by transfer); and provisions that require the payee to pay certain legal fees or taxes.
- ◆ Section 5-1705 of the bill provides that a special proceeding must be commenced to obtain approval of a transfer of structured settlement rights. Such proceeding must be commenced in Supreme Court or any other Court which approved the structured settlement agreement and must be made on at least 20 days notice to all interested parties.
- ◆ Section 5-1706 provides that no agreement to transfer structured settlement rights shall be effective or enforceable absent an order of the Court approving such transfer. The bill sets forth specific findings that the Court must make in its Order including, but not limited to, findings that the terms of the transfer agreement comply with the requirements set forth in this bill and that the transfer agreement represents the best interests of the payee.
- ◆ Section 5-1707 of the bill provides, among other things, that a transfer agreement will release the structured settlement obligor and the annuity issuer from any liability for the transferred payments and imposes liability upon the transferee to the obligor and annuity issuer for certain costs if the transfer is made in violation of the provisions of this bill.
- ◆ Section 5-1708 of the bill provides, among other things, that the requirements of the bill may not be waived by a payee and that whenever the transferee is a resident of this State, the courts of this State will exercise jurisdiction over any disputes involving the transfer agreement.
- ◆ Section 5-1709 of the bill provides that the Attorney General may apply to the courts to enforce the provisions of the bill whenever there is a violation. The courts may assess a penalty of \$1,000 for any violation of the provisions of this bill. The payee may also bring an action for damages when injured by a violation and may be awarded reasonable attorney fees where such action is successful.
- Section 3 of the bill adds a new paragraph 4 to subsection (d) of Section 3212 of the Insurance Law to permit the transfer of benefits or options under an annuity contract funding a structured settlement agreement.

22. Chapter 541 of the Laws of 2002 amends the General Business Law as follows:

- Section 1 of the bill amends Section 359-eee of the General Business Law to:

- ◆ exclude from the definition of “investment adviser” a person who sells investment advisory services to less than six clients during the preceding 12 month period, who would otherwise register with the Securities Exchange Commission (SEC) investment adviser but for the exemption under Section 203 (b)(3) of the federal Investment Advisers Act of 1940, or who is considered a federally covered investment investment adviser. A “federally covered investment adviser” is defined as a person who is registered under Section 203 (b)(3) of the federal Investment Advisers Act of 1940.
- ◆ authorize the Attorney General to prescribe a registration filing method that will facilitate the operation of a central registration depository for both state and federally covered advisors; prescribe the examinations that must be satisfactorily completed before an advisor can register and authorizes the Attorney General to require minimum standards of financial responsibility; and change, from March 31 to January 1, the commencement of the uniform annual registration period.

23. Chapter 542 of the Laws of 2002 amends the Insurance Law as follows:

- Section 1 of the bill amends subsection (f) of Section 4216 of the Insurance Law to make the following changes:
 - ◆ Eliminate the restriction on group life dependent coverage applicable to national guard groups such that national guard groups would now be eligible for group life dependent coverage.
 - ◆ Make dependent life insurance coverage available to other persons dependent on the insured employee or member. Currently, dependent coverage is limited to spouses and children of the insured employee or member.
 - ◆ Allow the amount of coverage permitted for dependent spouse and other person (non-child) to equal the amount of insurance for which the employee or member is eligible. Currently, the amount of insurance for which a dependent spouse is eligible is limited to the amount of insurance on the insured employee or member at the time application is made for such spouse coverage.
 - ◆ Increase the \$4,000 death benefit limit for dependent children to \$25,000.

24. Chapter 546 of the Laws of 2002 amends the Vehicle and Traffic Law as follows:

- Section 1 of the bill adds a new subdivision 3-a to section 1229-c of the Vehicle and Traffic Law to require that both the lap belt and the shoulder harness belt must be worn by the occupants of a motor vehicle when both such belts are available in a given seating position.

25. Chapter 554 of the Laws of 2002 amends the Insurance Law and the Public Health Law to provide coverage for women’s health care services including mammography screening, cervical cytology screening, bone density screening contraceptive drugs, and direct access to primary and preventive obstetric and gynecological services. It also directs the Superintendent to order the conducting of a study of the effects of the provisions of this bill.

26. Chapter 557 of the Laws of 2002 amends the Insurance Law as follows:

- Section 1 of the bill amends subsection (b) of section 3231 of the Insurance Law to delete the requirement that sole proprietors be classified in the individual or small group rating category by the insurer.
- Section 2 of the bill adds a new subsection (i) to section 3231 of the Insurance Law to:
 - ◆ Provide that if an insurer issues coverage to an association group (including chambers of commerce) as defined in section 4235(c)1)(K) of the Insurance Law, the insurer must issue the same coverage to individual proprietors who purchase coverage through the association group as is issued to the groups which purchase through the association group. Insurers issuing coverage to sole proprietors not connected with an association group may continue to issue such coverage.
 - ◆ Require sole proprietors to be classified in their own community rating category and require that, until 2005, the rate for sole proprietors shall not be greater than 120% of the rate established of the same coverage issued to groups.
 - ◆ Provide that an insurer may require members of the association purchasing healthy insurance to verify that all employees electing health insurance coverage are legitimate employees. In addition, individual proprietors would be required to work at least 20 hours per week, be a member of the association for at least 60 days prior to the effective date of the health insurance and present specific documentation to the insurer on an annual basis.
 - ◆ Provide that for purposes of this section as association group shall include chambers of commerce with less than 200 members and which are 501(c)(3) or 501(c)(6) organizations.

27. Chapter 574 of the Laws of 2002 amends the Labor Law and the Workers' Compensation Law as follows:

- Section 1 of the bill adds a new subdivision 21 to Section 511 of the Labor Law to provide that the definition of "employment" for purposes of determining eligibility for unemployment insurance shall not include the services of a licensed insurance agent or broker if: (a) substantially all income received by such agent or broker is derived from commissions for sales rather than payment for hours worked; (b) such agent is not a life insurance agent receiving a training allowance subsidy; and (c) the agent or broker performs such services pursuant to a written contract with the persons for whom the services are being performed, which may be terminated by either party at any time, and such written contract was not executed under duress and provided further that such written contract provides that such agent or broker: (i) is an independent contractor; (ii) is paid on commission and not based on number of hours worked; (iii) is not an employee for state and federal tax purposes; (iv) is permitted to set his own hours; (v) is permitted to work out of his own office or his home; (vi) pays his own expenses other than use of other party's offices and office supplies; and (vii) complies with the provisions of Article 21 of the Insurance Law which relates to agents and brokers.
- Sections 2, 3 and 4 of the bill make conforming amendments to subdivisions 4 and 5 of Section 2, and paragraph A of subdivision 6 of Section 201, of the Workers' Compensation Law to provide that the definitions of "employee" and "employment" for purposes of determining eligibility for workers' compensation or state disability benefits shall not include the services of a

licensed insurance agent or broker if the same conditions set forth above relative to determining eligibility for unemployment insurance are met.

28. Chapter 577 of the Laws of 2002 amends the Insurance Law as follows:

- Section 1 of the bill amends the opening paragraph and subparagraph (A) of paragraph 2 and paragraph 3 of subsection (c) of section 6501 of the Insurance Law to increase the loan-to-value percentage limit to which a mortgage guaranty insurance company can insure a junior lien on real estate and loans secured by an ownership interest in a corporation/partnership from 90% and 95% respectively to 100%.

29. Chapter 584 of the Laws of 2002 amends the Insurance Law and the Vehicle and Traffic Law as follows:

- Section 1 of the bill makes a technical amendment to Subsection (a) of section 3420 of the Insurance Law to reference provisions of law added by the bill relating to required contents of liability insurance policies.
- Section 2 of the bill amends subsection (g) of Section 3420 of the Insurance Law to require insurers to provide an insured with coverage against liability of the insured because of death of or injuries to his or her spouse in those instances where the insured makes a written request for such coverage. The insurer may charge a "reasonable premium" for such coverage and the insured shall be entitled to recovery for the full amount of the policy even where the injured spouse must prove the culpable conduct of the insured spouse. The bill also provides that accompanying every motor vehicle policy issued by an insurer on or after January 1, 2003 shall be a written notice to the insured which explains what supplemental spousal coverage is available, an explanation of the coverage and the amount of premium for such coverage. Thereafter, such notice shall be provided by the insurer to the insured at least once annually.
- Sections 3 and 4 of the bill amend subdivision (e) of Section 345, and subdivision 4 of Section 388, of the Vehicle and Traffic Law to recognize the availability of coverage for bodily injury to or death of the spouse of the insured.

30. Chapter 585 of the Laws of 2002 amends the Vehicle and Traffic Law and the Insurance Law as follows:

- Section 1 of the bill adds a new paragraph (c-2) to subdivision 4 of section 502 of the vehicle and traffic law to provide that the pre-licensing and defensive driving courses shall contain a "Work Zone Safety" awareness component to educate prospective licensees on the potential dangers to construction workers, construction equipment operators and operators of motor vehicles in a highway work zone.
- Section 2 of the bill amends paragraphs (a), (b) and (d) of subdivision 4 of section 502 of the vehicle and traffic law to require that a portion of the written driver's test shall include one or more questions concerning the potential dangers to persons and equipment resulting from the unsafe operation of a motor vehicle in a work zone.
- Section 3 of the bill amends subsection (a) of section 2336 of the Insurance Law to require all accident prevention courses to include components of instruction in "Work Zone Safety" awareness.

31. Chapter 587 of the Laws of 2002 amends the Insurance Law as follows:

- Section 1 of the bill amends Section 2118(e)(2)(A) of the Insurance Law to more narrowly define the term “hospital” in order to permit certain health care facilities to purchase medical malpractice insurance from the excess line market without having to obtain a declination from the residual market, in this case Medical Malpractice Insurance Pool (MMIP).

32. Chapter 599 of the Laws of 2002 amends the Insurance Law as follows:

- Sections 1 through 3 of the bill amend Sections 1109, 1301 and 1302 of the Insurance Law to provide guidelines for determining the amount of deferred tax assets that will now be accepted as admitted assets in New York. Specifically, the bill provides that an insurer’s gross deferred tax assets would be deemed an admitted to the extent it does not exceed the lessor of the federal income taxes paid in prior years that can be recovered through loss carrybacks for existing temporary differences that reverse by the end of the subsequent calendar year or 10% of the insurer’s statutory capital and surplus required to be shown on its statutory balance sheet adjusted to exclude any net deferred tax assets.

33. Chapter 605 of the Laws of 2002 amends the Insurance Law as follows:

- Section 1 of the bill amends paragraph 2 of subsection (e) of section 7603 of the Insurance Law to increase the cap on moneys that may be transferred from the Property/Casualty Insurance Security Fund (P/CISF) to the Public Motor Vehicle Liability Security Fund (PMVLSF) from the current limit of \$10 million to a new limit of \$50 million.

34. Chapter 613 of the Laws of 2002 amends the Vehicle and Traffic Law as follows:

- Section 1 of the bill amends section 370 of the Vehicle and Traffic Law to provide that the surety company or insurance company providing a bond or policy of insurance required of a for-hire vehicle or motorcycle shall notify the Commissioner of Motor Vehicles of the expiration of such surety or policy within twenty days of the date of expiration of such surety or policy unless the owner of such motor vehicle or motorcycle has replaced coverage with another insurer, in which case the expiration date shall be the date the new coverage has commenced. The bill further provides that in the event of a total loss to the motor vehicle or motorcycle, the expiration date shall be the earlier of twenty days or when the plates have been turned in to the Commissioner.

35. Chapter 644 of the Laws of 2002 amends the Vehicle and Traffic Law and the Education Law:

- Section 1 of the bill adds a new subdivision 7-a to section 394 of the Vehicle and Traffic Law to permit driving schools to certify all or part of the driving experience required under section 8 of the bill.
- Section 2 of the bill amends subparagraph (ii) of paragraph (b) of subdivision 3 of Section 501 of the Vehicle and Traffic Law to require that the parent, guardian or person in a position of *loco parentis* supervising the holder of a class DJ or class MJ license, operating between 9 p.m. and 5 a.m. upstate, be duly licensed.
- Section 3 of the bill amends subdivision 4 of Section 501 of the Vehicle and Traffic Law to clarify that the probationary period required by this section does not apply to a class DJ, MJ or limited class DJ and MJ licenses.

- Section 4 of the bill Subparagraph (ii) of paragraph (a) of subdivision 5 of Section 501 of the Vehicle and Traffic Law to raise the minimum age of a supervising driver for a learner's permit holder upstate from eighteen to twenty-one.
- Section 5 of the bill amends the opening paragraph of paragraph (b) of subdivision 5 of Section 501 of the Vehicle and Traffic Law to subject a class DJ or class MJ learner's permit to the requirements of the new Section 501-b of the Vehicle and Traffic Law that is created by Section 7 of the bill.
- Section 6 of the bill amends subparagraphs (i), (ii) and (iii) of paragraph (b) of subdivision 5 of Section 501 of the Vehicle and Traffic Law to restrict holders of a class DJ or class MJ learner's permit (i) in the city of New York, to ensure that such persons are under the immediate supervision and control of a person at least twenty-one years of age who is the holder's parent, guardian, person in a position of loco parentis, driver education teacher or driving school instructor while operating a vehicle equipped with dual controls; (ii) in the counties of Nassau and Suffolk, to ensure that the permit holder is under the immediate supervision and control of a person at least twenty-one years of age who is the holder's parent, guardian, person in a position of loco parentis, driver education teacher, driving school instructor or licensed driver at least 21 years of age who has been designated by such holder's parent, guardian or person in a position of loco parentis; and (iii) in the remainder of the State, to ensure that between 9 p.m. and 5 a.m. a permit holder is under the immediate supervision and control of a person at least twenty-one years of age who is the holder's parent, guardian, person in a position of loco parentis, driver education teacher or driving school instructor.
- Section 7 of the bill adds a new Section 501-b to the Vehicle and Traffic Law to place additional restrictions on class DJ and class MJ learner's permits and licenses. 1. In addition to the restrictions listed in Section 501(5) of the Vehicle and Traffic Law, holders of class DJ and class MJ learner's permits: (a) may not operate a motor vehicle with any front seat occupants other than the supervising driver; (b) may not operate a motor vehicle unless every occupant of the vehicle is restrained by a safety belt or child safety seat as provided in Section 1229-c of the Vehicle and Traffic Law which is created by section 12 of the bill; (c) may not operate a motor vehicle with more than two passengers who are under the age of twenty-one and who are not members of such holder's immediate family, unless accompanied by a duly licensed parent, guardian, person in a position of loco parentis, driver education teacher or driving school instructor; (d) may not be eligible for issuance of a class DJ or class MJ license unless such learner's permit and/or limited class DJ or MJ license (as provided in Section 503-a of the Vehicle and Traffic Law created by section nine of the bill), singly or in combination, has been valid for at least six months. Any time period in which such class DJ or class MJ learner's permit or limited class DJ or MJ license has been suspended or revoked shall not be counted in determining the length of time that such learner's permit or limited class DJ or MJ license has been valid. In addition to the restrictions contained in Section 501(3), Section 501-b adds that a holder of a class DJ or class MJ license: (a) may not operate a motor vehicle unless every occupant of the vehicle is restrained by a safety belt or child safety seat as provided in Section 1229-c of the Vehicle and Traffic Law; and (b) may not operate a motor vehicle with more than two passengers who are under the age of twenty-one and who are not members of the licensee's immediate family, unless accompanied by a duly licensed parent, guardian, person in a position of loco parentis, driver education teacher or driving school instructor.
- Section 8 of the bill amends paragraph (d) of subdivision 2 of Section 502 of the Vehicle and Traffic Law to require that written consent for a class DJ or class MJ license include a certification that the applicant has operated a motor vehicle for no less than 20 hours under the immediate supervision and control of a supervising driver as authorized by Section 501(5) of the Vehicle and Traffic Law.

- Section 9 of the bill adds a new section 503-a to the Vehicle and Traffic Law to provide for limited class DJ and MJ licenses. A limited class DJ or MJ license is issued to any person who successfully completes a road test within the first six months of the validity of a class DJ or MJ learner's permit. Such limited class DJ or MJ license shall be valid only en route: (a) to and from the holder's place of employment; and/or (b) to and from a class, course or, between 5 a.m. and 9 p.m., an activity at an accredited school, college or university, or at a state approved institution of vocational or technical training in which the holder is enrolled; and/or (c) to and from a medical examination or treatment for such holder or a member of such holder's immediate family or household, as evidenced by a written statement to that effect from a licensed medical provider; and/or (d) to and from a place, including a school, at which the child or children of the holder or a member of the holder's immediate family are cared for on a regular basis; and/or (e) to and from any place when accompanied by a duly licensed parent, guardian or person in a position of loco parentis. A limited class DJ or MJ license shall automatically become a class DJ or MJ license after such license, singly or in combination with the class DJ or MJ learner's permit, has been valid for six months. Any time period during which such license or learner's permit has been suspended or revoked shall not be counted in determining such period of validity. A limited class DJ or MJ license shall be valid for operation to and from a place of employment only if the holder is in possession of a certification of employment by such holder's employer. A limited class DJ or MJ license shall be valid for operation to or from a school, college, university, or state-approved institution of vocational or technical training only if the holder is in possession of a certificate of enrollment issued by an administrator of such school, college, university or institution. (5) A limited class DJ or MJ license shall not be valid for operation of a vehicle in Nassau, Suffolk, Kings, Queens, New York, Bronx, Richmond, Westchester, Rockland or Putnam Counties, unless the holder is accompanied by a duly licensed parent, guardian or person in a position of loco parentis. It shall be a traffic infraction for the holder of a limited class DJ or MJ license to operate a motor vehicle upon a public highway for any use other than those authorized pursuant to this section.
- Section 10 of the bill amends subdivisions 1, 2 and 3 of Section 510-b of the Vehicle and Traffic Law to clarify that the suspension and revocation procedures provided in that section do not apply to a class DJ and class MJ license or a limited class DJ or MJ license.
- Section 11 of the bill adds a new section 510-c to the Vehicle and Traffic Law establishing grounds for the suspension and revocation of class DJ or class MJ learner's permits, licenses or limited licenses. A class DJ or class MJ learner's permit shall be suspended for 60 days (i) upon a conviction or finding of a serious traffic violation as defined in subdivision 4 of this section, committed while the holder had a class DJ or MJ learner's permit; or (ii) upon the second conviction or finding of such holder of a violation of any other provision of this chapter or any other law, ordinance, order, rule or regulation relating to traffic, committed while the holder had such learner's permit. A class DJ or class MJ learner's permit shall be revoked for 60 days upon the conviction or finding of the holder of a violation or violations, committed within six months after the restoration of such permit suspended under this section, which convictions or findings would result in the suspension of such permit pursuant to paragraph (a) of subdivision 1 of this section. A class DJ or class MJ driver's license, or a limited class DJ or MJ license shall be suspended for 60 days: (i) upon a conviction or finding of a serious traffic violation as defined in subdivision 4 of this Section, committed while the holder had such license; or (ii) upon the second conviction or finding of such holder of a violation of any other provision of the Vehicle and Traffic Law or any other law, ordinance, order, rule or regulation relating to traffic, committed while the holder had such license. A class DJ or class MJ license or a limited class DJ or MJ license shall be revoked for 60 days upon the conviction or finding of the holder of a violation or violations, committed within six months after the restoration of such license suspended pursuant to paragraph (a) of subdivision 2 of this section, which convictions or findings would result in the suspension of such license pursuant to paragraph (a) of subdivision

2 of this section. A driver's license which has been restored following a suspension of a class DJ or class MJ driver's license or limited class DJ or MJ license shall be revoked for 60 days upon the conviction or finding of the holder of a violation or violations, committed within six months of such restoration, of any violation or violations that would result in the suspension of a class DJ or class MJ driver's license or limited class DJ or MJ license pursuant to Section 510-c(2)(a) of the Vehicle and Traffic Law. The bill further provides that the term "serious traffic violation" shall mean a violation of: failure to drive on the right side of the road, etc. (VAT Article 25); failure to yield the right of way (VAT Article 26); leaving the scene of an incident without reporting (VAT § 600(1)); leaving the scene of an accident causing injury to certain animals (VAT § 601); failure to obey a traffic control signal (VAT § 1111); failure to obey a signal indicating the approach of a train (VAT § 1170); failure to obey a stop or yield sign (VAT § 1172); passing or overtaking a stopped school bus (VAT § 1174); speeding 10 or more miles over the posted speed limit (VAT § 1180(a), (b), (c), (d) and (f)); engaging in speed races or contests (VAT § 1182); operating a motor vehicle where the driver or a passenger under age 16 is not properly restrained by a seat belt or child safety seat (VAT § 1229-c(3-a), created by section 12 of the bill); and reckless driving (VAT § 1212).

- Section 12 of the bill adds a new subdivision 3-a to Section 1229-c of the Vehicle and Traffic Law to provide that no person holding a class DJ or class MJ learner's permit, license or limited license may operate a motor vehicle unless said person and all passengers under the age of 16 are restrained by a safety belt or child safety seat, as may be required.
- Section 13 of the bill amends Section 806-a of the Education Law to permit driver education courses to certify all or part of the driving experience required under section 8 of the bill.

36. Chapter 656 of the Laws of 2002 amends the General Business as follows:

- Section 1 of the bill amends subdivision 3 of Section 391-l of the General Business Law to increase from \$500 to \$1,000 the penalty imposed against any person, firm, partnership, association or corporation engaged in the business of renting motor vehicles which refuses to rent a vehicle to a person solely because he or she does not own a credit card.
- Section 2 of the bill generally amends Section 396-z of the General Business Law to:
 - ◆ Delete existing law which prohibits rental car companies from holding drivers responsible (beyond a \$100 limit) for damage to, or loss of, a rental vehicle for private passenger cars rented less than 30 continuous days.
 - ◆ Permit rental car companies to establish "optional vehicle protection" (OVP) coverage which would, for a fee, provide coverage to the driver of the rental vehicle for damage to, or loss of, the rented vehicle. Such OPV coverage is not mandatory; the driver must elect to purchase such coverage.
 - ◆ Provide that OVP coverage shall not exceed \$9 per day for vehicles valued at less than \$30,000 and \$12 per day for vehicles valued at more than \$30,000.
 - ◆ Provide that a car rental company shall not void OPV coverage unless damage caused was willful, driver was under the influence of drugs or alcohol, fraud, etc.
 - ◆ Permit the driver to cancel OVP coverage on 24 hours notice if renting the vehicle for 2 or more days.

- ◆ Provide that any advertisements setting forth the rental cost of a vehicle must also state the cost of OPV coverage.
 - ◆ Provide that car rental agreements must provide a notice explaining OPV coverage.
 - ◆ Permit inspection of damage to a rented vehicle by a driver or his insurance company upon notice to the car rental company; car rental company to provide driver or his insurer with their estimate of damages; claims not paid until such inspection; driver may request that claims be submitted to his carrier.
 - ◆ Provide that no car rental company shall require a deposit or advance charge against a credit card of an authorized driver for damages to a rental vehicle in the driver's possession or control.
 - ◆ Reduce the time within which a driver must notify the car rental company or law enforcement of the fact that the vehicle was stolen from 48 to 12 hours from the time of discovery of such theft.
 - ◆ Provide that a car rental company must mitigate the amount of damages to the rental car where possible and prohibit car rental companies from collecting the same damages from multiple sources such as third parties.
 - ◆ Require car rental companies to provide to the driver a copy of the owner's manual or similar diagram which describes how various parts of the car operate (lights, wipers, horn, cruise control, etc.)
- Section 3 of the bill amends Section 398-b of the General Business Law to provide that no car rental company may refuse to rent to a person because of the person's religion or disability. Failure to comply with anti-discrimination provisions of Section 398-b will result in a fine of between \$1,000 and \$2,500 for each violation and repeated violations may result in an order discontinuing such business.

37. Chapter 672 of the Laws of 2002 amends the Civil Practice Law and Rules as follows:

- Section 1 of the bill adds a new subsection (d) to Section 4545 of the Civil Practice Law and Rules to provide that voluntary charitable contributions received by an injured party shall not be considered to be a collateral source of payment that is admissible in evidence to reduce the amount of any award, judgment or settlement. Under existing law, the collateral source rule permits the court to reduce certain awards to the extent that the plaintiff will be indemnified by a collateral source such as insurance, social security, workers' compensation or employee benefit programs. To date, the issue of whether charitable contributions are considered a "collateral source" under Section 4545(c) of the Civil Practice Law and Rules has not been addressed by statute nor settled by any New York court.

38. Chapter 681 of the Laws of 2002 amends the General Municipal Law and the Insurance Law as follows:

- Sections 1 and 2 of the bill amend Section 92-a of the General Municipal Law and Section 4705 of the Insurance Law to authorize self-funded municipal employee health benefit plans to contract with outside administrators for the investigation, auditing, approval and payment of claims.

IV. Regulations Promulgated or Repealed

The following is a summary of Insurance Department regulations promulgated or repealed in 2002. These brief descriptions of the regulations are intended to provide general information and, therefore, should under no circumstances be used in place of the full text of the regulations or regarded as interpretation of Insurance Department intent or policy.

The 1st Amendment to Regulation 164 (11 NYCRR 101): Financial Risk Transfer Agreements between Insurers and Health Care Providers (Adopted on a permanent basis effective 1/30/02)

The only substantive change made by this regulation is a correction of a cross-reference in the regulation.

The New Regulation 173 (11 NYCRR 421): Standards for Safeguarding Consumer Information (Adopted on a permanent basis effective 2/2/02)

This regulation establishes standards for developing and implementing administrative, technical and physical safeguards to protect the security, confidentiality, and integrity of customer information, pursuant to Sections 501, 505(b) and 507 of the Gramm-Leach-Bliley Act (hereinafter "GLBA").

Section 501(b) of the GLBA requires state insurance regulatory authorities to establish appropriate standards relative to administrative, technical and physical safeguards for customer records and information. Section 505(a) and (b) provide that state insurance regulatory authorities must implement and enforce the standards prescribed under section 501(b) by rule with respect to the financial institutions subject to their respective jurisdictions. Section 505(c) provides that the failure of a state insurance regulatory authority to adopt regulations to implement these standards would preclude such authority from overriding insurance customer protection regulations prescribed by a federal banking agency pursuant to section 45 (a) of the Federal Deposit Insurance Act. Section 507 provides, inter alia, that a state regulation may afford persons greater privacy protections than those provided by the GLBA.

Accordingly, the regulation establishes standards relative to administrative, technical and physical safeguards for customer records and information to: (1) insure the security and confidentiality of customer records and information; (2) protect against any anticipated threats or hazards to the security or integrity of such records; and (3) to protect against unauthorized access to or use of such records or information that would result in substantial harm or inconvenience to any customer. The regulation ensures that licensees will develop and implement information security programs that prevent the unwarranted disclosure of nonpublic personal customer information.

The 1st Amendment to Regulation 125 (11 NYCRR 34): Requirements Pertaining to the Location of an Insurance Agent or Broker at Each Place of Insurance Business in New York (Adopted on a permanent basis effective 2/13/02)

The only substantive changes made by this regulation are those necessitated by statutory changes. Chapter 556 of the Laws of 1996 modified the requirements as to who may supervise the office of an insurance agent or broker. Chapter 505 of the Laws of 2000 created a new type of license, the life insurance broker license, which is referenced in subdivision (b) of section 34.2 of this amendment.

The 10th Amendment to Regulation 107 (11 NYCRR 71): Legal Defense Costs in Liability Policies (Adopted on a permanent basis effective 4/17/02)

The purpose of this Part is to balance insurers' need to be able to anticipate the ultimate exposure on a policy with the policyholders' needs to obtain meaningful coverage for payment of damages in the event of a loss. Since traditional liability insurance provides for defense of a claim to be provided in addition to the policy limits, and as such, the cost of defense is essentially unlimited, the original limit requirements under Regulation 107 were set at levels that were considered adequate to account for both defense and loss payment considerations.

This regulation establishes lines of insurance that may be written to provide for defense of a claim to be provided within policy limits (defense within limits). Information provided to the Department indicated that for certain of the lines of insurance for which defense within limits was allowed, the minimum limit requirements were greater than the needs of some policyholders, for example small businesses with a limited number of employees. The premium for the minimum permissible limits was often such that, as a business decision, the employer declined to purchase the coverage. As a consequence, the financial position of the employer, if faced with a claim, may be placed at undue risk and injured parties may have no means of recovery for damages suffered. In addition, some small and regional insurers with relatively limited financial capacity had indicated reluctance to participate in this market at the previously required minimum limits.

This regulation reduces the minimum required limit of liability for employee benefit liability, fiduciary liability and employment practices liability. As a result, small insurance agents and brokers, as well as regional insurers, will have an additional product line to offer and small businesses will be offered more affordable coverage.

The Repeal of Regulations 49 (11 NYCRR 11) and 50 (11 NYCRR 12): Expense Allowance Limits and Training Allowances (Adopted on a permanent basis effective 4/17/02)

These two Parts were promulgated pursuant to the old section 4228 of the Insurance Law, which was repealed by Chapter 616 of the Laws of 1997. The newly enacted section 4228, effective January 1, 1998, contains provisions relating to expense allowance limits and training allowances that conflict with the provisions of these regulations. This action repeals regulatory provisions that are no longer applicable by virtue of repeal of the authority for their promulgation.

The 3rd Amendment to Regulation 95 (11 NYCRR 86): Fraud Prevention (Adopted on a permanent basis effective 5/1/02)

Chapter 2 of the Laws of 1998 amended section 409 of the Insurance Law, relating to fraud prevention plans, to make it applicable to most entities licensed pursuant to Article 44 of the Public Health Law (Health Maintenance Organizations). Section 409 requires the superintendent to implement its provisions by promulgating a regulation, including those provisions requiring insurers to adopt and implement fraud prevention plans utilizing a special investigation unit (SIU). The superintendent determined that amendment of the regulation was necessary to ensure that these objectives are met, by requiring Health Maintenance Organizations to adopt and implement fraud prevention plans and to liberalize the requirements for SIU investigators so that insurers would be better able to recruit qualified investigators.

The 4th Amendment to Regulation 146 (11 NYCRR 361): Pooling Mechanism for Individual & Small Group Health Insurance (Adopted on a permanent basis effective 5/22/02)

Chapter 501 of the Laws of 1992 established requirements for open enrollment, community rating and portability of individual and small group health coverage, and provided for a pooling mechanism for individual and small group insurance to ensure the stabilization of health insurance markets and

premium rates. Chapter 504 of the Laws of 1995 provides for modification of pooling processes designed to share the risk of insurers and HMOs providing individual and small group health insurance coverage.

This regulation exercises the statutory authority and responsibility placed upon the Superintendent to implement and assure the ongoing operation of open enrollment and community rating, including mechanisms designed to ensure the stability of the individual and small group health insurance markets. Chapter 504 permits the Superintendent, after January 1, 2000, to establish more than one type of mechanism for insurers and HMOs to share risks or prevent undue variation in claims costs. This amendment phases out (as of January 1, 2000) pooling based on demographics for individual and small group coverage, other than Medicare supplement insurance, and replaces them with modified specified medical condition pools. It continues a demographic pooling mechanism for Medicare supplement insurance.

The 28th Amendment to Regulation 62 (11 NYCRR 52): Minimum Standards for the Form, Content and Sale of Medicare Supplement Insurance (Adopted on a permanent basis effective 6/19/02)

The enactment of the Omnibus Budget Reconciliation Act of 1990 required the mandatory standardization and federal certification of policies of Medicare supplement insurance. As a result of this Act, states are required to amend their laws and regulations to conform to the federal standards for Medicare supplement insurance. The revisions contained in this amendment merely make technical corrections to New York's Medicare supplement regulation to ensure continued compliance with federal standards.

Amendments to 72 Parts of 11 NYCRR (Adopted on a permanent basis effective 6/26/02)

These voluminous amendments update regulations and statutory references contained therein to be consistent with the Insurance Law recodification and to eliminate numerous obsolete provisions.

The 1st Amendment to Regulation 31 (11 NYCRR 173): Revenue Bonds; and the 29th Amendment to Regulation 62 (11 NYCRR 52): Minimum Standards for the Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure (Both Adopted on a permanent basis effective 8/21/02)

These amendments update the regulations and statutory references contained therein to be consistent with the Insurance Law recodification and current statutory language.

The 2nd Amendment to Regulation 35-C (11 NYCRR 64-2): Liability Insurance Covering All-Terrain Vehicles (Adopted on a permanent basis effective 9/11/02)

This amendment updates the regulation and provisions contained therein to be consistent with approved name changes of statutorily prescribed endorsements, to delete obsolete provisions and to make editorial changes.

The 2nd Amendment to Regulation 86 (11 NYCRR 16): Special Risk Insurance (Adopted on a permanent basis effective 9/11/02)

This amendment updates the regulation to include the definitions of various risks and exposures that have previously been added to the Class Two Risk List of the Free Trade Zone by Public Notice. These risks and exposures had been added to the list since the last amendment to this regulation in 1998.

The 26th Amendment to Regulation 83 (11 NYCRR 68): Charges for Professional Health Services (Adopted on a permanent basis effective 10/23/02)

This amendment repeals those fee schedules that have been superseded by fee schedules currently established by the Workers' Compensation Board. However, treatments provided at the time that the superseded fee schedules were effective are still subject to those fee schedules. It also repeals provisions referencing outdated hospital fee schedules applicable to No-Fault. However, hospital treatments provided at the time those fee schedules were effective are still controlled by those fee schedules. The Public Health Law establishes the applicable schedules to be used by hospitals when billing for services provided to patients involved in automobile accidents. Finally, the amendment repeals health provider schedules created by the Department, which are outdated and were rarely, if ever, used and references the current health provider fee schedules established by this Department.

The 5th Amendment to Regulation 30 (11 NYCRR Parts 105-109): Operating Expense Classifications (Adopted on a permanent basis effective 10/23/02)

This amendment deletes obsolete provisions and updates other provisions to be consistent with the current National Association of Insurance Commissioners' Annual Statement instructions. The amendment does not add any new requirements for regulated parties.

The 2nd Amendment to Regulation 1 (11 NYCRR Parts 1 and 2): Promulgation of Regulations; Opinions (Adopted on a permanent basis effective 11/6/02)

This amendment merely deletes obsolete provisions to reflect current law and the existing internal practices of the Insurance Department, and to make editorial changes for clarification purposes.

The 3rd Amendment to Regulation 47 (11 NYCRR 50): Separate Account and Separate Account Annuities (Adopted on a permanent basis effective 12/4/02)

This amendment merely corrects erroneous references and updates obsolete references.

Emergency Regulations

The following is a summary of Insurance Department Regulations promulgated on an emergency basis in 2002 that were in effect on December 31, 2002. No final action was taken with regard to these Regulations in 2002 although it is anticipated that they will be permanently adopted in 2003. These brief descriptions of the regulations are intended to provide general information and, therefore, should under no circumstances be used in place of the full text of the regulations or regarded as interpretation of Insurance Department intent or policy.

The Repeal of Regulation 147 (11 NYCRR 98) and Adoption of the New Regulation 147 (11 NYCRR 98): Life Insurance Reserve Requirements (Effective on an emergency basis since 11/15/01)

Section 1304 of the Insurance Law enables the Superintendent to require any additional reserves as necessary on account of policies, certificates and contracts of insurer's authorized to transact life insurance, annuities, and accident and health insurance. Section 1308 of the Insurance Law describes when reinsurance is permitted and the effect that reinsurance will have on reserves.

One major area of focus of the Insurance Law is the solvency of insurers doing business in New York. One way the Insurance Law seeks to ensure solvency is through requiring all insurers licensed to do business in New York State to hold reserve funds necessary in relation to the obligations made to policyholders. This regulation is necessary to help ensure the solvency of life insurers doing business

in New York. The Insurance Law specifies mortality and interest standards but does not specify an explicit method to be used to value life insurance policies that do not have level premiums and/or level benefits and relies on the superintendent to specify the method. Without this regulation, there would be no standard method for valuing such products. This could result in inadequate reserves for some insurers that would jeopardize the security of policyholder funds.

The new regulation requires that reserves for term products and secondary guarantees on universal life, universal life-type products, and variable life products meet the same standards as reserves for level premium products. The regulation permits the use of new select mortality factors and allows the appointed actuary for a life insurer to apply certain percentages, called X factors, to modify the mortality bases for deficiency reserves which will now give domestic insurance companies and foreign insurance companies licensed to do business in New York State the ability to compete in these markets with companies not so licensed.

The First Amendment to Regulation 172 (11 NYCRR 83): Financial Statement Filings and Accounting Practices and Procedures (Effective on an emergency basis since 12/28/01)

The purpose of this Part is to enhance the consistency of the accounting treatment of assets, liabilities, reserves, income and expenses by entities subject to the Part, by clearly setting forth the accounting practices and procedures to be followed in completing annual and quarterly financial statements required by law. Pursuant to the Insurance Law, the Superintendent is authorized to implement the National Association of Insurance Commissioners *Accounting Practices and Procedures Manual* ("Accounting Manual"), subject to any provisions in New York Statutes which conflict with particular points in those rules. The Accounting Manual includes a body of accounting guidelines referred to as Statements of Statutory Accounting Principles (SSAPs). The Accounting Manual represents a codification of Statutory Accounting Principles.

This Part was originally promulgated in late 2000, prior to the National Association of Insurance Commissioners adoption of a new Accounting Manual as of March 2001. The NAIC's adoption of the new Accounting Manual made amendment of the regulation necessary. Emergency action was required so that the revised accounting principles would be in place for use in the preparation of Quarterly Statements for 2001 and 2002 and for the Annual Statements as of December 31, 2001 and December 31, 2002.

The First Amendment to Regulation 171 (11 NYCRR 362): The Healthy NY Program and Direct Payment Market Stop-Loss Relief Programs (Effective on an emergency basis since 11/19/01)

The Legislature enacted Chapter 1 of the Laws of 1999 to provide for the Healthy New York Program, which was a new initiative designed to encourage small employers which do not currently provide health insurance coverage to their employees to offer such coverage and also designed to make coverage available to uninsured employees whose employers do not provide group health insurance coverage. In 2001 the Department adopted Regulation 171 to establish certain procedures and requirements necessary for effective implementation of the legislation.

This amendment is necessary to clarify eligibility for the Healthy NY Program and to simplify the application and administrative process for both enrollees and providers. Clarifying which persons are to be considered household members will eliminate the uncertainty involved in determining household income levels. The correct calculation of household income is crucial, as this is a major component in determining eligibility for Healthy NY. A simplified standardized application form will streamline the eligibility and administrative process thereby facilitating enrollment. These provisions should enhance the implementation and operation of the Healthy NY program while improving the efficiency that individuals and small employers will have to access comprehensive health insurance, as the standard application form will be made available from many sources.

The 8th Amendment to Regulation 20 (11 NYCRR 125): Credit for Reinsurance from Unauthorized Insurers (Effective on an emergency basis since 9/15/01)

Insurance Law Sections 1301(a)(14) and (c) give the Superintendent the authority to prescribe, by regulation, the conditions under which a ceding insurer may be allowed credit, as an asset or as a deduction from loss and unearned premium reserves, for reinsurance recoverable from an assuming insurer not authorized in this state.

This amendment implements minimum provisions of the National Association of Insurance Commissioners' ("NAIC") model law relating to "Credit for Reinsurance". By modifying the requirements regarding when ceding insurers can take credit for certain reinsurance contracts, these new provisions will help maintain the insurer's financial stability, thereby safeguarding the interests of both insureds and the general public.

The 9th Amendment to Regulation 20 (11 NYCRR 125): Credit for Reinsurance from Unauthorized Insurers (Effective on an emergency basis since 11/1/01)

Insurance Law Sections 1301(a)(14) and (c) give the Superintendent the authority to prescribe, by regulation, the conditions under which a ceding insurer may be allowed credit, as an asset or as a deduction from loss and unearned premium reserves, for reinsurance recoverable from an assuming insurer not authorized in this state.

The regulation provides alien reinsurers with the means whereby they may secure their United States obligations through the establishment of a multi-beneficiary trust. The current regulation requires that funds held in such a trust must be in the form of cash or readily marketable securities. Since this requirement was originally established, the Department has recognized the use of letters of credit as qualifying security in a number of similar trust vehicles. Recently the National Association of Insurance Commissioners' ("NAIC") amended its model regulation relating to "Credit for Reinsurance". Specifically it permits certain alien assuming reinsurers to include, subject to specified conditions, letters of credit in trust funds held for the protection of the United States insurers, and United States beneficiaries under reinsurance policies issued by such alien insurers. Modifying the requirements regarding alien reinsurers funding requirements to permit the use of letters of credit will permit alien reinsurers that use multi-beneficiary trusts to reduce their cost of capital in a manner similar to other methods used by unauthorized reinsurers that use single-beneficiary trusts.

To assure that the marketable securities in the trust funds provide security adequate for the protection of the United States insurers, and United States beneficiaries under reinsurance policies issued by such alien insurers, standards for the quality of the marketable securities held in the trust are established. These qualitative standards are consistent with those required for the minimum capital and surplus investments and the reserve investments for licensed property/casualty insurers in New York State. Currently, as a condition of accreditation, the alien insurers must stipulate to hold marketable securities in the trust that meet these standards.

The 1st Amendment to Regulation 120 (11 NYCRR 33): Managing General Agents (Effective on an emergency basis since 6/8/01; Adopted on a permanent basis effective 2/19/03)

Insurance Law Section 308 requires licensees to respond in writing to written inquiries or requests for reports, statements or data made by the Superintendent. Sections 2101, 2102 and 2103 give the Superintendent the authority to license and regulate the activities of agents, brokers and adjusters.

One of the main functions of the Superintendent is to regulate for the financial stability of insurers and to protect the general public and insureds from abuses that may occur. This amendment requires that certain contract provisions, at a minimum, must be included in a written contract between an insurer and a managing general agent ("MGA"). The amendment implements minimum provisions of

the National Association of Insurance Commissioners' ("NAIC") model law for MGAs, which has been adopted by several other states. These new provisions will help ensure that an insurer maintains proper supervision over an MGA and does not relinquish its authority, responsibilities and control to an MGA. This will help maintain the insurer's financial stability, thereby safeguarding the interests of both insureds and the general public, and help protect against any other abuses to insureds that may occur when another entity manages the affairs of the insurer. There have been many abuses in the past where MGAs have engaged in activities that proved to be harmful to the insurer and the public.

Section 33.4(c) also provides a clarification of the term "manager" for the purposes of the exception from the definition of an independent adjuster which is contained in Insurance Law Section 2101(g)(1)(A). While the statute provides an exception for a "manager", it does not define the term.

The 7th Amendment to Regulation 35-A (11 NYCRR 60-1): Minimum Provisions for Auto Liability Insurance / Supplemental Spousal Liability Insurance (Effective on an emergency basis since 11/18/02)

Insurance Law Section 3420(g) as amended by Chapter 584 of the Laws of 2002 requires insurers to provide notification to insureds of the availability of supplemental spousal liability insurance coverage, an explanation of such coverage, and the premium for such coverage. This notification must be provided at least once a year. The law requires the Superintendent to promulgate a regulation to provide guidelines to insurers for compliance with these requirements. This amendment provides the minimum requirements for such notification and sample notification language that may be utilized by insurers to comply with these requirements.

The 3rd Amendment to Regulation 124 (11 NYCRR 152): Physicians and Surgeons Professional Insurance Merit Rating Plans (Effective on an emergency basis since 6/12/02)

Insurance Law Section 2343(d) provides that the Superintendent shall, by regulation, establish a merit rating plan for physicians professional liability insurance. Section 2343(e) provides that the Superintendent may approve malpractice insurance premium reductions for insured physicians who successfully complete an approved risk management course, subject to standards prescribed by the Superintendent by regulation. Section 42 of Part A of the Laws of 2002, as amended by Section 16 of Part J of Chapter 82 of the Laws of 2002, requires that all physicians, surgeons and dentists participating in the excess medical malpractice insurance program established by the Legislature in 1986 participate in a proactive risk management program.

As required by statute, insurers must have a proactive risk management course available for their insureds as of July 1, 2002 in order for insureds to participate in the excess medical malpractice insurance program. It is expected that insurers will be able to do so in a relatively short period of time since most medical malpractice insurers already have had other risk management programs approved by the superintendent. The regulation also allows, but does not require that, an insurer may offer an internet-based risk management course to its insureds as soon as the Department determines that the course is in compliance with the provisions of this Part.

The Repeal of Regulation 56 (11 NYCRR 94) and Adoption of the New Regulation 56 (11 NYCRR 94): Rules Governing Individual and Group Accident and Health Reserves (Effective on an emergency basis since 12/31/02)

The regulation prescribes rules and regulations for valuation of minimum individual and group accident and health insurance reserves, including standards for valuing certain accident and health benefits in life insurance policies and annuity contracts.

The Insurance Law does not specify mortality, morbidity, and interest standards used to value individual and group accident and health insurance policies and relies on the superintendent to specify the method. Without this regulation, there would be no standard method for valuing such products and, in fact, the current regulation provides no guidance related to certain coverages such as group accident and health policies. This could result in inadequate reserves for some insurers, which would jeopardize the security of policyholder funds. Additionally, the current regulation requires higher reserves than necessary for certain individual accident and health insurance policies. The new regulation, by lowering such reserves for individual policies, will result in a lower cost of doing business in New York.

The regulation applies to financial statements commencing with December 31, 2002, which must be filed by March 1, 2003. Emergency action was necessary to allow insurers subject to the regulation ample time to achieve full compliance.

V. Circular Letters Issued In 2002*

Number	Date	Addressed to	Subject
1	1/18/02	All Insurers Licensed To Write Accident And Health Insurance In New York State, Including Article 43 Corporations And Health Maintenance Organizations	Clarification Of Emergency Care Coverage
2	1/25/02	All Authorized Property/Casualty Insurers, Co-operative Property/Casualty Insurers Financial Guaranty Insurers, Mortgage Guaranty Insurers, Accredited Reinsurers, Underwriters at Lloyds, State Insurance Fund, Title Insurers, and Reciprocal Insurers	Consideration of Events of September 11, 2001 in the Notes to the Annual Statement and the Statement of Actuarial Opinion
3	1/25/02	All Authorized Motor Vehicle Insurers and Insurance Producer Organizations	Motor Vehicle Liability and Collision Insurance Premium Reduction for Completion of an Accident Prevention Course Pursuant to Sections 2336(a) and (d) of the New York Insurance Law
Supplement 1 to CL No. 35 (2000)	1/25/02	All Licensed Property/Casualty Insurers Authorized to Write Workers' Compensation Insurance in New York State	Data Reporting for the Workers' Compensation Board's Treatment Utilization Pilot Program
Supplement 1 to CL No. 11 (2001)	2/1/02	All Property/Casualty Insurers Licensed to Do Business in New York State	New York State Insurance Disaster Coalition - Change to Reporting Forms
4	2/13/02	All Licensed Life Insurers, and Accredited Life Reinsurers, Hereinafter Referred to as "Insurers"	Issues Regarding Liquidity
5	3/1/02	All Public Health Law Article 44 HMOs and All Insurers Writing Medicare Supplemental Insurance	Insurance Department Web site
7	2/21/02	All Authorized Insurers, Fraternal Benefit Societies, Public Health Law Article 44 HMOs and the State Insurance Fund	Disclosure of Consulting Work Performed by Independent Certified Public Accountant Engaged to Provide an Opinion on Annual Financial Statement
9	4/9/02	All Motor Vehicle Self-insurers and Insurers Licensed to Write Motor Vehicle Insurance in New York State	Court Lifts Stay Against Implementation of the Revised No-Fault Regulation 68

Number	Date	Addressed to	Subject
Supplement 2 to CL No. 11 (2001)	4/9/02	All Property/Casualty Insurers Licensed to Do Business in New York State	New York State Insurance Disaster Coalition
10	4/11/02	All New York Domestic Insurers	USA Patriot Act of 2001
Supplement 1 to CL No. 10 (2002)	4/24/02	All New York Domestic Insurers	USA Patriot Act of 2001 - Treasury Department Update
11	5/1/02	All Property/Casualty Insurance Companies; Co-operative Property/Casualty Insurance Companies; Reciprocal Insurance; Financial Guaranty Insurance Corporations; and New York Medical Malpractice Plan	Property/Casualty Insurance Security Fund
12	5/3/02	All Authorized Insurers	New York Information Network
13	5/24/02	All Licensed Property/Casualty Insurers And Rate Service Organizations	Charges and Experience Reporting for Mandatory Workers' Compensation Coverage Under Comprehensive Personal Liability and Homeowners Policies
15	7/1/02	All Insurers Licensed to Write Accident and Health Insurance In New York State, Including Article 43 Corporations, Health Maintenance Organizations and Insurers Providing Disability Coverage	United States Department of Labor Benefit Claims Procedure Regulation
Supplement 4 to CL No. 11 (1998)	8/9/02	All Authorized Property/Casualty Insurers and Rate Service Organization	Procedures for the Filing of Policy Rules and Rates: New Mandatory Rate Filing Sequence Checklist
Supplement 1 to CL No. 33 (1999)	9/3/02	All Licensed Life Insurers, Fraternal Benefit Societies, Charitable and Segregated Gift Annuity Societies, Employee Welfare Funds, Retirement Systems, Viatical Settlement Licensees, Governmental Variable Supplements Funds, Property/Casualty Insurers, Co- Operative Property/Casualty Insurers, Financial Guaranty Insurers, Mortgage Guaranty Insurers, Title Insurers, Reciprocal Insurers, Accident And Health Insurers, Article 43 Corporations, Municipal Cooperative Health Benefit	The Use of Electronic Signatures and Records in Connection with the Marketing and Sale of Insurance by Means of Electronic Commerce

Number	Date	Addressed to	Subject
16	9/4/02	Plans, and Rate Service Organizations; State Insurance Fund; New York Medical Malpractice Insurance Plan; New York Property Insurance Underwriting Association; Motor Vehicle Accident Indemnification Corporation; Excess Line Association of New York; Registered Risk Retention Groups, Service Contract Providers, And Public Health Law Article 44 Health Maintenance Organizations And Integrated Delivery Systems; and Accredited Reinsurers	Rate Distinctions for Medicare Beneficiaries
Supplement 2 to CL No. 10 (2002)	9/27/02	All New York Domestic Insurers	USA PATRIOT Act of 2001- Proposed Rule Issued by the Financial Crimes Enforcement Network (Treasury Department)
17	10/3/02	All Licensees	Advisory on the Administrative Simplification Provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA)
20	10/31/02	All Insurers Participating in The New York Market Stabilization Pools For Individual and Small Group Health Insurance, Other Than Medicare Supplement Insurance	Reporting and Calculation Requirements
21	10/31/02	All Insurers Participating in The New York Market Stabilization Pools For Medicare Supplement Insurance	Reporting and Calculation Requirements
22	10/24/02	All Insurance Companies Authorized to Appoint Agents in New York State	Electronic Appointments
23	11/15/02	All Insurers Authorized to Write Motor Vehicle Insurance in New York State; Rate Service Organizations; and Insurance Producer Organizations	Supplemental Spousal Liability Insurance
24	11/1/02	All Public Health Law Article 44 Health Maintenance Organizations and Pre-paid Health Service Plans, Insurance Law Article 43 Corporations and Other Insurers ("Insurers") Eligible to Participate	Child Health Insurance Plan Premium Rate Adjustment Applications

Number	Date	Addressed to	Subject
		in the New York State Child Health Insurance Plan ("Plan")	
25	12/23/02	All Property/Casualty Insurers and Rate Service Organizations Doing Business in New York State, New York Property Insurance Underwriting Association, State Insurance Fund, New York Automobile Insurance Plan, and Excess Line Association of New York	Applicability, Guidelines and Procedures for Compliance with the Provisions of the Terrorism Risk Insurance Act of 2002; Guidelines for the Use of Limitations for Acts of Terrorism in Commercial Property/Casualty Policies
27	12/18/02	All Insurers Licensed to Write Accident and Health Insurance in New York State, Including Article 43 Corporations and Health Maintenance Organizations	Chapter 557 of the Laws of 2002 (Accident and Health Insurance Coverage Issued to or Through Association and Chamber Groups)

*Circular Letters No. 6, 8, 14, 18 and 19 were not issued in 2002. Circular Letter No. 26 was issued in 2003 as Circular Letter No. 1 (2003).

VI. Major Litigation

Medical Society of the State of New York, et al. v. Serio

Supreme Court, New York County
Appellate Division, First Department

This is a combined declaratory judgment and Article 78 proceeding challenging the most recent amendments to Department Regulation 68 (11 NYCRR Part 65) implementing the no-fault law (Article 51 of the Insurance Law). The new amendments were promulgated following the nullification of prior amendments to Regulation 68 in *Medical Society of State of N.Y. v. Levin*, 185 Misc.2d 536 (Sup. Ct. N.Y. Co. 2000), aff'd, 280 A.D.2d 309 (1st Dept. 2001) for failure to comply with SAPA. In this proceeding the petitioners again contend that the new amendments -- which were to become effective on September 1, 2001, but were stayed by the court pending determination of the proceeding -- were issued in violation of SAPA and are inconsistent with Article 51 of the Insurance Law.

On February 19, 2002, the Supreme Court (Justice William A. Wetzel) issued a decision and judgment upholding the amended Regulation 68 in its entirety. The court noted that the Department "went back to the drawing board" after the prior version of the regulation had been invalidated, and properly addressed all SAPA deficiencies. The court also rejected all of the substantive challenges to the regulation, finding that the Superintendent did not exceed his statutory authority in promulgating the amendments. Noting that the No-Fault system "is diseased by fraud of a dimension which threatens the economic viability of the program" the court concluded that "It is well within the authority of respondent Superintendent to promulgate new regulations to remedy this universally acknowledged problem."

The petitioners appealed to the Appellate Division, First Department. On October 22, 2002, the Appellate Division unanimously affirmed the judgment of the Supreme Court.

The petitioners filed a motion for leave to appeal and an appeal as of right to the Court of Appeals. On February 25, 2003, the Court of Appeals accepted the Notice of Appeal as of right. Regulation 68 remains in effect as of April 5, 2002, pending the outcome of the appeal.

Allstate Insurance Co. v. Serio

Government Employees Insurance Co., et al. v. Serio

United States Court of Appeals for the Second Circuit
New York Court of Appeals

These actions, filed by property and casualty insurers, challenge the Department's interpretation and enforcement of Section 2610(b) of the Insurance Law, which prohibits insurers from recommending or suggesting that repairs to motor vehicles be made in particular repair shops unless the insured expressly requests such a recommendation.

On May 4, 2000, the District Court (Richard Conway Casey, U.S.D.J.) granted summary judgment to the plaintiffs, and ruled that Section 2610(b), as applied to Allstate and GEICO, impermissibly restricted commercial free speech in violation of the United States and New York State Constitutions. In response to this decision, on May 10, 2000, the Department issued Circular Letter No. 16 (2000), which states that "it is clear from the decision that the First Amendment protection of commercial free speech would extend to . . . insurers that were not parties to the . . . actions" and that "attempts by the Department to enforce . . . section 2610(b) run afoul of First Amendment protections." The Circular Letter goes on to state that insurers are therefore "free to recommend or suggest that repairs to a damaged vehicle be made in particular places or repair shops regardless of whether the insured expressly requested such recommendations."

The Attorney General, acting pursuant to his statutory role in defending the constitutionality of state statutes, filed an appeal from the decision of the District Court to the U.S. Court of Appeals for the Second Circuit. In an opinion issued July 23, 2001, the court certified four questions to the New York Court of Appeals, requesting that court to interpret Section 2610(b) under state law and the New York State Constitution. On September 20, 2001, the New York Court of Appeals accepted the certification.

In a decision dated April 30, 2002, the Court of Appeals ruled that the Department's prior interpretation of Section 2610(b) was overly restrictive and inconsistent with the requirements of the statute. It was therefore unnecessary for the Court to reach the issue of the constitutionality of Section 2610(b) under the New York State Constitution. Upon receipt of the decision of the New York Court of Appeals, the U.S. Court of Appeals for the Second Circuit remanded the case to the District Court for further proceedings.

***Atlantic Express Transport Group Inc., et al. v. Gregory V. Serio
Carmine Montemarano, et al. v. Gregory V. Serio***
Supreme Court, New York County

These Article 78 proceedings arise out of the ancillary receivership of Reliance Insurance Company, an insolvent insurer. The petitioners in *Atlantic Express* are school bus operators insured by Reliance who received notification from the Department's Liquidation Bureau that although claims against them are covered by the New York Public Motor Vehicle Liability Security Fund, because the Fund is "financially strained" it cannot provide either defense or indemnification at this time. The petitioners alleged that the failure of the Fund to provide defense and indemnification is contrary to Article 76 of the Insurance Law, an abuse of discretion and arbitrary and capricious. They sought a judgment declaring that they are entitled to defense and indemnification, and directing the Superintendent, as Ancillary Receiver of Reliance Insurance Company, to provide such defense and indemnification.

The petitioners in *Montemarano* are plaintiffs in a personal injury action against Atlantic Express. They seek a judgment compelling the Superintendent, as Ancillary Receiver of Reliance Insurance Company, to provide defense and indemnification to Atlantic Express.

In January, 2003, the Supreme Court (Justice Faviola Soto) dismissed the petition in *Atlantic Express* on the grounds that the stay of proceedings issued in the Reliance ancillary receivership proceeding prohibits the case from being prosecuted. The dismissal was without prejudice should the stay be lifted. The *Montemarano* case was transferred to Justice Michael Stallman who presides in the ancillary receivership proceeding.

Excellus Health Plan, Inc. v. Gregory V. Serio
Supreme Court, Albany County
Appellate Division, Third Department

This is an Article 78 proceeding challenging the Department's interpretation and implementation of Section 4308(g) - (j) of the Insurance Law concerning "file and use" premium rates for health insurance. The Department had advised the petitioner, and other HMOs and health insurers, that they could not implement new health insurance rates filed pursuant to Section 4308(g) until the Department had completed a review of the rates. The petitioner contended that rates filed pursuant to Section 4308(g) are "deemed" approved, and can be implemented immediately without any further Department review.

In a decision issued on July 16, 2002, the Supreme Court (Justice George L. Cobb) granted the petition. The Court held that as long as the rate filing satisfies the explicit requirements of Section 4308(g) regarding anticipated loss ratios and certification by a member of the American Academy of Actuaries, the filing is approved by operation of law, without any opportunity for further review or

exercise of discretion by the Department. On March 13, 2003, the Appellate Division, Third Department, affirmed the judgment of the Supreme Court.

Consumers Union of U.S., Inc., et al. v. The State of New York, et al.
Consumers Union of U.S., Inc., et al. v. Gregory V. Serio
Supreme Court, New York County

These actions arise out of the conversion of Empire Blue Cross and Blue Shield to a for-profit entity. The plaintiffs challenged the conversion on several grounds, including unconstitutional impairment of a contractual obligation, violation of due process, unreasonable taking of property without just compensation, failure to comply with the Not For Profit Corporation Law, and breach of fiduciary duties by the Empire Board of Directors. The plaintiffs sought declaratory and permanent injunctive relief prohibiting the conversion, and alternative relief requiring all proceeds of the Empire conversation to be paid to a foundation that will carry on Empire's charitable mission.

In a memorandum decision issued February 28, 2003, the Supreme Court (Justice Ira Gammerman) granted the defendants' motion to dismiss the complaint. The Court held that none of the nine causes of action alleged in the complaint had merit. However, the Court also stated that the factual allegations of the complaint may be sufficient to support a cause of action for violation of Article III, Section 17 of the State Constitution, which provides that no private or local laws shall grant any corporation, association or individual any exclusive privilege, immunity or franchise. The Court indicated that Chapter 1 of the Laws of 2002 carves out an exception to the prohibition on conversion to for-profit status contained in Section 4301(j)(1) of the Insurance Law that applies exclusively to Empire. Accordingly, the Court did not dismiss the complaint, and granted the plaintiffs leave to serve an amended complaint within 30 days. The Court also continued the temporary restraining order it granted at commencement of the action which enjoined the defendants from transferring the proceeds of the sale of WellChoice stock issued in the name of the Public or Charitable Asset Fund.

Catholic Charities of the Diocese of Albany, et al. v. Gregory V. Serio
Supreme Court, Albany County

This is a declaratory judgment action challenging the "conscience clause" provision of Sections 3221(l)(16)(A) and 4303(cc)(1) of the Insurance Law, which provides an exception from the mandate to provide contraceptive coverage in group health insurance policies issued to "religious employers." The plaintiffs, various religious organizations that do not fall within the statutory definition of "religious employers," contend that Sections 3221(l)(16)(A) and 4303(cc)(1) violate the Establishment, Free Exercise, Free Speech and Equal Protection provisions of the United States and New York State Constitutions. They seek declaratory and injunctive relief against enforcement of the statutes.

VII. 2003 Legislative Recommendations

These are the legislative recommendations that were available at press time. Additional recommendations may be submitted throughout the year. The information which follows was accurate at the time the legislative recommendations were forwarded to the Legislature for introduction.

A. Governor's Program Bills for 2003

1. Expanding New York's Captive Legislation: Program Bill No. 9

This bill would amend the Insurance Law to allow the City of New York to form a captive insurance company to provide insurance coverages for liability related to or arising out of activities in or near the World Trade Center in response to the attacks of September 11, 2001. It also permits a broader range of sophisticated financial entities, including public entities, to form pure and group captive insurance companies and sponsored insurance companies in New York State.

Section 1 of the bill:

--amends Section 7002(a) of the Insurance Law to change the defined term "affiliates" to "affiliated companies" and to define an affiliated company as a company in the same corporate system as an industrial insured by virtue of common ownership, control, operation or management; or, relative to pure captive companies, companies that maintain a contractual or sub-contractual relationship with, and which have risk management controlled by, the industrial insured or its other affiliated companies, provided such companies voluntarily elect such affiliated status. Such term shall also include any statutory subsidiary or affiliate of a public entity as well as any contractor, subcontractor and consultant of any tier of a city with a population of one million or more persons for liability related to or arising out of activities in or near the World Trade Center site in response to the attacks of September 11, 2001.

--amends Section 7002(c) of the Insurance Law to add sponsored captive insurance companies to the definition of "captive insurance company" for purposes of Article 70 of the Insurance Law.

--amends the definition in Section 7002(e) of the Insurance Law of "industrial insured" (which are the entities permitted to form pure and group captive insurance companies) to reduce the threshold for businesses to operate a pure captive from a net worth of \$100 million to a net worth or annual revenues of at least \$25 million. Not-for-profit organizations and public entities with a total annual budget that exceeds \$25 million would have the ability to form and operate a pure captive. It also provides the Superintendent with discretionary authority to allow an industrial insured to operate as a pure captive that may not meet the specified standards in the definition, but which otherwise demonstrates to the Superintendent that it is qualified to do so. The definition of "industrial insured" for a group captive has also been amended, reducing the threshold from a net worth of \$100 million, to now apply to any insured who has a full-time employee acting as a risk manager, whose aggregate annual premiums for insurance is at least \$25,000, who has at least 25 full-time employees, or who is a public entity.

--amends the definition of "group captive insurance company" in Section 7002(f) of the Insurance Law to clarify that the captive insurance company can insure the risks of the owners' affiliated companies.

--amends the definition of "industrial insured group" in Section 7002(g) of the Insurance Law to provide that a public entity may only be a member of an industrial insured group with other public entities and to include risk retention groups formed pursuant to the federal Product Liability Risk Retention Act of 1981.

Section 2 of the bill reletters subsection (h) of section 7002 of the Insurance Law subsection (k) and adds six new subsections (h), (i), (j), (1), (m) and (n) which set forth the following new definitions:

--"participant" shall mean an entity insured by a sponsored captive insurance company where the losses of the participant are limited by contract to the assets of a protected cell.

--"participant contract" shall mean a contract by which a sponsored captive insurance company insures the risk of a participant and limits the losses of the participant to the assets of a protected cell.

--"protected cell" means a separate account established and maintained by a sponsored captive insurance company for one participant.

--"public entity" shall mean any of the following entities which are authorized to form and operate a subsidiary which would not be precluded from engaging in the activities of a captive insurance company: any department, bureau, division, commission, board or other agency of the State of New York, including any public benefit corporation or any public authority; any governmental entity operating a college, community college or university; any city with a population of one million or more persons; or a public corporation created pursuant to agreement or compact with another state or Canada.

--"sponsor" shall mean any entity approved by the Superintendent to provide all or part of the capital and surplus required by law and to operate a sponsored captive insurance company.

--"sponsored insurance company" shall mean any captive insurance company in which the minimum capital and surplus required by law is provided by one or more sponsors, that is formed or licensed under the Insurance Law, that insures the risks of separate participants through contract and that segregates each participant's liability through one or more protected cells.

Section 3 of the bill amends subsection (a) of section 7003 of the Insurance Law to permit a captive insurance company to offer title insurance on a primary basis or as reinsurance, to include sponsored captives in the prohibition against captives offering on a primary basis workers' compensation insurance and other insurance involving a demonstration of financial responsibility, to limit a sponsored captive to insuring only the risks of its participants, and to provide that a group captive insurance company insuring the risks of an industrial insured group would be subject to the provisions of section 5904(d) and (e) (requiring compliance with unfair claims settlement practices law and the unfair claims settlement practices) and section 5905 (a) (d) (relating to notices, prohibited solicitations, coverage and ownership with respect to risk retention groups) of the Insurance Law.

Section 4 of the bill amends subsection (c) of section 7003 of the Insurance Law to provide that where a captive insurance business was formed pursuant to articles of incorporation or association, such articles must be filed with the superintendent before such business receives a license to do a captive business. In the case of a pure captive insurance company formed by a city with a population of one million or more persons to insure such City and its affiliated companies for liability relating to or arising out of activities in or near the World Trade Center site in response to the attacks of September 11, 2001, the Superintendent shall consider, in addition to other statutory requirements, such factors as the unique risk insured by such captive and the source and limits of the premium payments together with any limitations on the acceptance of claims and the payment of accepted claims where such limitations provide an equitable basis for the allocation of assets of such company to pay claims. The bill also requires an applicant sponsored captive insurance company to file with the Superintendent: a business plan demonstrating how the applicant will account for the loss and expense experience of each protected cell and report such experience to the Superintendent; a statement acknowledging that all financial records of such company shall be made available for inspection by the Superintendent; all contracts or sample contracts between such company and any participants; and evidence that expenses shall be allocated to each protected cell in a fair and equitable manner.

Section 5 of the bill amends subsection (d) of section 7003 of the Insurance Law to provide that any proposed amendments to the articles of incorporation of a not-for-profit captive insurance company must be submitted to the superintendent for approval before filing with the secretary of state.

Section 6 of the bill adds a new section 7003-a to the Insurance Law to authorize one or more sponsors to form a captive insurance company under the Insurance Law and to establish and maintain one or more protected cells to insure the risk of one or more participants subject to the following: the shareholders of such company shall be limited to its participants and sponsors; such company shall maintain and account for separately the books and records of each protected cell to reflect the financial condition and results of operation of such protected cell, net income or loss, dividends/distributions to participants; the assets of the protected cell shall not be chargeable with the liabilities of any other insurance business conducted by such company; such company shall not sell, exchange or transfer assets between or among any of its protected cells without the consent of such protected cells; no sale exchange, transfer of assets, dividend or distribution may be made from a protected cell to a sponsor or participant without the Superintendent's approval (which cannot be given if such sale, exchange, etc., would result in insolvency or impairment with respect to a protected cell; each such company shall annually file with the Superintendent those financial reports requested by the Superintendent including, but not limited to, accounting statements detailing the financial experience of each protected cell; each such company shall notify the Superintendent in writing within ten business days of any protected cell that is insolvent or otherwise unable to meet its claim or expense obligations; participant contracts, including any changes in protected cell additions or withdrawals, shall not take effect without the prior written approval of the Superintendent. In addition, the business written by a sponsored captive, with respect to each cell, must be fronted by an insurance company (which may be licensed in any state), reinsured by a reinsurer authorized or approved by the State of New York or secured by a trust fund in the United States for the benefit of policyholders and claimants funded by an irrevocable letter of credit or other asset approved by the Superintendent (sets forth the amount and form of such security). Provides that the sponsor of a sponsored captive insurance company must be an insurer licensed in any state, a reinsurer approved under the laws of any state, or a captive insurer licensed in New York. Provides that associations, corporations, limited liability companies, partnerships, trusts and other business entities may be participants in any sponsored captive insurance company formed or licensed under the Insurance Law. Provides that a sponsor may be a participant in a sponsored insurance company and that a participant need not be a shareholder of the sponsored captive insurance company or any affiliate thereof. Provides further that a participant shall insure only its own risks through a sponsored captive insurance company.

Sections 7 and 8 of the bill amend subsection (a) of section 7004 of the Insurance Law to provide that no sponsored captive insurance company shall be issued a license unless it shall possess and thereafter maintain not less than one million dollars of paid-in capital and surplus.

Section 9 of the bill amends section 7005(a) of the Insurance Law to provide that a city with a population of one million or more persons may form a pure captive insurance company as a public benefit corporation or a not-for-profit corporation for any legal purpose including insurance that is retroactive to September 11, 2001, for risks incurred by such City and its affiliated companies arising out of activities in or near the World Trade Center site in response to the September 11, 2001 terrorist attacks. Any such captive shall be exempt from all state and local taxes. The members or directors of such corporation shall be appointed by or with the approval of the mayor of such city. The bill also provides immunity from personal liability to certain personnel of such City and such captive while exercising or carrying out their powers.

Section 10 of the bill reletters subsections (c), (d), (e), (f), (g), (h) and (i) of section 7005 of the Insurance Law as subsections (d), (e), (f), (g), (h), (i) and (j) and adds a new subsection (c) which provides that a sponsored captive insurance company may be incorporated as a stock insurer with its capital divided into shares and held by the stockholders, or as a mutual insurer without capital stock,

the governing body of which is elected by the participants and sponsors of the sponsored captive insurance company.

Section 11 of the bill amends section 7006 of the Insurance Law to require that any group captive insuring the risks of an industrial insured group that includes risk retention groups shall file its report in the form and according to the standards set forth under section 307 of the Insurance Law. A pure captive insurance company formed by a city with a population of one million or more persons to insure such city and its affiliates from liability related to or arising out of activities in or near the World Trade Center site in response to the terrorist attacks of September 11, 2001 must also file with the Superintendent evidence that the industrial insured continues to meet the standards set forth in Section 7002(c) of the Insurance Law.

Sections 12 and 13 of the bill amend subsection (a) and add a new subsection (d) to Section 7009 of the Insurance Law to restrict investments of group captives insuring the risks of an industrial insured group that includes risk retention groups to those set forth in Insurance Law § 1403.

Section 14 of the bill adds a new Title 12 to Article 9 of the Public Authorities Law to provide that every public authority and every public benefit corporation is authorized to form and operate a subsidiary as a pure captive insurance company or as a group captive insurance company pursuant to article seventy of the Insurance Law. Such Title also sets forth the form and composition of such subsidiaries.

Section 15 of the bill adds a new subdivision 6 to Section 82 of the Workers' Compensation Law to authorize the state insurance fund to form and operate a subsidiary as a pure or group captive insurance company.

Sections 16 and 17 of the bill amend sections 1500 and 1502-b of the Tax Law to exempt from the payment of certain fees, taxes or assessments those captives set up by any "public entity" as defined in Section 7002(1) of the Insurance Law. This expands the current exemption that applies now only to the MTA.

Section 18 of the bill amends section 108 of the Insurance Law to provide that the Business Corporation Law shall not apply to a captive insurance company formed under the Not-For-Profit Law.

B. Insurance Department Bills for 2003

1. Risk-Based Capital Standards for Property/Casualty Insurers and for Health Organizations: Departmental Bill No. 46

This bill would expand the use of risk-based capital ("RBC") standards, currently applicable to life and accident and health insurers, to property/casualty insurers and health organizations; to provide a more flexible and realistic statutory capital level that changes in relation to the size of the insurer or health organization and the level of risk inherent in an insurer or organization's operations; to identify inadequately capitalized insurance companies or health organizations that write property/casualty and health business; and to provide the Superintendent of Insurance with appropriate remedies as a property/casualty insurance company's or health organization's financial condition deteriorates and its capital falls below thresholds established by the RBC formula.

Section 1 of the bill adds a new Section 1324 to the Insurance Law entitled "Risk-based capital for property/casualty insurance companies." This section is summarized as follows:

Subsection (a) contains definitions.

Subsection (b) provides that the section is applicable to property/casualty insurers and sets forth standards for possible exemption from RBC standards for small single state insurers writing less than \$20 million in direct premiums in New York and for medical malpractice insurers writing predominantly in New York.

Subsection (c) establishes the filing date of the RBC reports for domestic insurers and provides for the submission of adjusted RBC reports.

Subsection (d) establishes the company action level event. This event requires the company to take actions that satisfy the Superintendent that the conditions which caused the event will be corrected.

Subsection (e) establishes the regulatory action level event. This event requires the Superintendent to analyze the company's financial condition and to issue an order aimed at correcting the conditions which led to the event.

Subsection (f) establishes the authorized control level event. This event permits the Superintendent to take the necessary actions to cause the domestic insurer to be placed into rehabilitation or liquidation.

Subsection (g) establishes the mandatory control level event. This event mandates that the Superintendent take the necessary actions to force the domestic insurer to stop writing new or renewal business or to cause the domestic insurer to be placed into rehabilitation or liquidation unless the insurer has demonstrated within ninety days that the conditions which led to the event can be corrected or unless the insurer is running off the business under a plan approved by the Superintendent.

Subsection (h) provides an insurer with the right to a confidential hearing in specified circumstances.

Subsection (i) provides that all RBC plans filed with the Superintendent and all reports, analysis and corrective orders arising from this section shall be kept confidential and not be made public or subject to subpoena, except to the extent the Superintendent finds that release is necessary to protect the public. It provides that the RBC formula is a regulatory tool which may indicate the need for corrective action with respect to a domestic insurer and it should not be used to rate or rank an insurer. It prohibits the disclosure by licensees of information on RBC levels to the public because the information may be misleading. However, insurers are permitted to rebut misleading information in certain circumstances. It prohibits the Superintendent from using RBC results in applying laws governing premium rates. The subsection also states that capital over the amount produced by the RBC calculation is desirable for insurers doing business in New York.

Subsection (j) provides authority for the Superintendent to take action against an authorized foreign insurer to protect the interests of New York policyholders, where the state of domicile of the foreign insurer has neither adopted the RBC law nor taken action as provided by the RBC law.

Subsection (k) establishes how notices shall be made by the Superintendent to insurers concerning regulatory action pursuant to this section.

Section 2 of the bill adds a new Section 1325 to the Insurance Law entitled "Risk-based capital for health organizations." This section is summarized as follows:

Subsection (a) contains definitions.

Subsection (b) provides that the section is applicable to health organizations and sets forth standards for possible exemption from RBC standards for small health organizations writing less than \$20 million in direct premiums in New York.

Subsection (c) establishes the filing date of the RBC reports for domestic health organizations and provides for the submission of adjusted RBC reports.

Subsection (d) establishes the company action level event. This event requires the domestic health organization to take actions that satisfy the Superintendent that the conditions which caused the event will be corrected.

Subsection (e) establishes the regulatory action level event. This event requires the Superintendent to analyze the domestic health organization's financial condition and to issue an order aimed at correcting the conditions which led to the event.

Subsection (f) establishes the authorized control level event. This event permits the Superintendent to take the necessary actions to cause the domestic health organization to be placed into rehabilitation or liquidation.

Subsection (g) establishes the mandatory control level event. This event mandates that the Superintendent take the necessary actions to force the domestic health organization to stop writing new or renewal business or to cause the domestic health organization to be placed into rehabilitation or liquidation unless the health organization has demonstrated within ninety days that the conditions which led to the event can be corrected or unless the health organization is running off the business under a plan approved by the Superintendent.

Subsection (h) provides a health organization with the right to a confidential hearing in specified circumstances.

Subsection (i) provides that all RBC plans filed with the Superintendent and all reports, analysis and corrective orders arising from this section shall be kept confidential and not be made public or subject to subpoena, except to the extent the Superintendent finds that release is necessary to protect the public. It provides that the RBC formula is a regulatory tool which may indicate the need for corrective action with respect to a domestic health organization and it should not be used to rate or rank an insurer. It prohibits the disclosure by licensees of information on RBC levels to the public because the information may be misleading. However, insurers are permitted to rebut misleading information in certain circumstances. It prohibits the Superintendent from using RBC results in applying laws governing premium rates. The subsection also states that capital over the amount produced by the RBC calculation is desirable for health organizations doing business in New York.

Subsection (j) provides authority for the Superintendent to take action against an authorized foreign health organization to protect the interests of New York policyholders, where the state of domicile of the foreign health organization has neither adopted the RBC law nor taken action as provided by the RBC law.

Section 3 of the bill amends subsection (b) of Section 2402 of the Insurance Law to include violations of Sections 1324 (i)(2)(B) and 1325 (i)(2)(B) (relating to actions by licensed producers) as defined violations.

Section 4 of the bill amends subsection (o) of Section 7402 of the Insurance Law to include an authorized 93 control level event or a mandatory control level event as a new ground for rehabilitation of a domestic property/casualty insurer or health organization (or, for liquidation pursuant to Section 7404). In addition, pursuant to Section 7406, such an event may be the grounds for conservation of the assets of a foreign insurer.

Section 5 of the bill of the bill amends Section 1322(e)(1)(H) and Section 1322(h)(1)(C) of the Insurance Law to correct an inadvertent error, to replace the word "regulatory" with the word "company", so that the language will appropriately refer to the "company" action level event.

Section 6 of the bill contains a severability provision.

2. Designates Third Party Notification for Long-Term Care Policies: Departmental Bill No. 64

This bill would implement the following measures which would benefit insurance consumers:

1. Require third party notification by insurance carriers in certain instances in regard to long-term care policies.
2. Require a "free-look" provision in individual long-term care policies of at least 30 days.

Section 1 of the bill amends Section 3111 of the Insurance Law to permit senior citizens who are insured under a long-term care policy to designate a third party to whom the insurer shall transmit notices of nonpayment of premiums due or notice of cancellation for nonpayment of premiums.

Sections 2 and 3 of the bill amend Sections 3216 and 4306 of the Insurance Law to require that a 30-day "free-look" period provision be made part of individual long-term care policies. A "free-look" period is the amount of time a consumer is allowed after policy issuance to evaluate the coverage and surrender if it is not what he or she is seeking.

3. Administrative Supervision of Article 43 Corporations, HMO's, Property/Casualty Companies and Life Companies: Departmental Bill No. 26

This bill would authorize procedures for administrative supervision by the Superintendent of Insurance of all corporations, associations, societies, orders, firms, and individuals subject to the provisions of article seventy-four of this chapter in order to remedy the financial condition and management of such insurers.

Section 1 of the bill adds a new Article 81 to the Insurance Law, entitled "Administrative Supervision of Insurers". Section 8101 sets forth the legislative purpose and findings. Section 8102 sets forth definitions of terms for purposes of new Article 81. Section 8103 provides that an insurer (as defined in the bill) may be subject to administrative supervision by the Superintendent if upon examination or at any other time it appears, in the Superintendent's discretion, that: (1) the insurer's condition renders the continuance of its business hazardous to the interests of its policyholders, creditors or the public; (2) the insurer has exceeded its powers; (3) the business of the insurer is being conducted fraudulently; or (4) the insurer has consented to administrative supervision. Section 8104 sets forth confidentiality provisions regarding information in the possession of the Superintendent or the Department relating to the supervision of the insurer. Section 8105 provides that during the period of supervision, the Superintendent or his designated appointee shall serve as the administrative supervisor of the insurer, and sets forth the powers of supervision. Section 8106 sets forth provisions in relation to the contesting of the Superintendent's action. Section 8107 provides for initiation of judicial proceedings by the Superintendent under Article 74, or other proceedings under the laws of the state, in certain circumstances. Section 8108 sets forth provisions regarding meetings between the Superintendent and the supervisor, attorneys, or representatives. Section 8109 sets forth governmental immunity provisions.

Section 2 of the bill amends Section 1109(a) of the Insurance Law to make Article 81 of the Insurance Law applicable to an organization complying with Article 44 of the Public Health Law.

VIII. Regulatory Activities

A. OPERATING STATISTICS

1. Licenses Issued During Year

Table 67
LICENSES ISSUED DURING YEAR
2001 and 2002

	2002	2001
Total	94,380	124,350
Adjusters^a		
Independent.....	5,747	3,981
Public.....	297	242
Agents^b		
Life/Accident and Health.....	18,945	107,466
Property and Casualty.....	34,436	7,375
Rental Vehicle.....	52	13
Mortgage Guaranty Insurance.....	0	2
Bail Bond.....	16	82
Limited Lines ^c	20	0
Brokers^d		
Life.....	642	95
Property and Casualty.....	32,913	4,536
Excess Line (Regular).....	664	177
Excess Line (Limited).....	23	16
Viatical Settlement.....	13	13
Consultants^e		
Life.....	22	172
General.....	356	44
Reinsurance Intermediaries^f	213	23
Service Contract Registrants^g	21	113

Note: Footnotes to table appear on next page

Footnotes to Table 67

- ^a Adjuster licenses issued pursuant to Section 2108 are renewable biennially as of January 1 of odd numbered years.
- ^b Life/Accident and Health Agent licenses issued pursuant to Section 2103(a) are renewable biennially as of July 1 of odd numbered years. Property and Casualty Agent licenses issued pursuant to Section 2103(b) are renewable biennially as of July 1 of even numbered years. Rental Vehicle Agent licenses issued pursuant to Section 2131 are renewable biennially as of July 1 of even numbered years. Mortgage Guaranty Agent licenses issued pursuant to Section 6535 are perpetual. Bail Bond Agent licenses issued pursuant to Section 6802 are renewable biennially as of January 1 of odd numbered years.
- ^c Limited Lines licenses – Effective January 1, 1987, licenses were issued to agents of assessment co-operative property/casualty companies enabling them to sell only coverage written by such companies. These licenses are renewable biennially as of July 1 of even numbered years.
- ^d Life Broker licenses issued pursuant to Section 2104(b)(1)(A) are renewable biennially as follows: Issued between 3/01 and 6/30, expiration on 2/28 of odd years; issued between 7/01 and 10/31, expiration on 6/30 of odd years; issued between 11/01 and 2/28(9), expiration on 10/31 of odd years. Property and Casualty Broker licenses issued pursuant to Section 2104 and Excess Line Broker licenses issued pursuant to Section 2105 are renewable biennially as of November 1 of even numbered years. Limited Excess Line Brokers are licensed to deal only with purchasing groups as defined in Regulation 134. Viatical Settlement Broker licenses issued pursuant to Section 7802 are renewable annually as of December 1.
- ^e Consultant licenses issued pursuant to Section 2107 are renewable on a biennial basis, Life Consultants as of April 1 of odd numbered years and General Consultants as of April 1 of even numbered years.
- ^f Reinsurance Intermediary licenses issued pursuant to Section 2106 are renewable biennially as of September 1 of even numbered years.
- ^g Service Contract Registrations issued pursuant to Section 9707 are renewable biennially as of March 1 of odd numbered years.

2. Results of Examinations for Licenses

Table 68
RESULTS OF EXAMINATIONS FOR LICENSES
Adjusters, Agents, Brokers and Consultants
2001 and 2002

<u>Type of Examination</u>	<u>2002</u>		<u>2001</u>	
	<u>Number Taking Examination</u>	<u>Percent Passing</u>	<u>Number Taking Examination</u>	<u>Percent Passing</u>
Total	44,256	53%	41,203	52%
Public Adjusters	95	25	62	34
Independent Adjusters - Total	2,287	68	2,833	69
Accident and Health.....	141	62	140	51
Automobile.....	324	65	345	48
Aviation.....	0	0	0	0
Casualty.....	542	48	515	51
Fidelity and Surety.....	9	11	12	58
Fire.....	111	51	52	38
General (All Lines).....	544	56	382	54
Health Service Charges.....	90	73	49	57
Inland Marine.....	3	67	17	18
Limited Auto (Damage or Theft Appraisals only).....	616	91	1,321	91
Agents - Total	39,257	52	36,272	50
Accident and Health.....	18,194	49	16,706	46
Life.....	19,424	54	17,875	53
Mortgage Guaranty.....	3	67	4	50
Property and Casualty.....	1,636	61	1,655	57
Bail Bond.....	42	26	32	31
Credit.....	0	0	0	0
Brokers	2,617	58	2,036	58
Consultants - Total	0	0	0	0
Life.....	0	0	0	0
General.....	0	0	0	0

3 Changes in Authorized Insurers During 2002

a. Life Insurance Companies

Foreign Company Licensed

Paragon Life Insurance Company,
St. Louis, MO..... Oct. 8

Restated Charter

First ING Life Insurance Company of New York,
Binghamton, NY..... Mar. 19
Manhattan Life Insurance Company,
Great Neck, NY..... Nov. 14
Sun Life Insurance and Annuity Company of New York,
New York, NY..... Dec. 20
The United States Life Insurance Company in the City of New York,
New York, NY..... Dec. 20

Amendments to Charter

AUSA Life Insurance Company Inc.,
Purchase, NY..... Jan. 25
Thomas Jefferson Life Insurance Company,
Purchase, NY..... Mar 18
Zurich Kemper Life Insurance Company of New York,
New York, NY..... Apr 5
Standard Security Life Insurance Company of New York,
New York, NY..... June 4
Conseco Life Insurance Company of New York,
Jericho, NY..... Aug. 23
Manufacturers Life Insurance Company of New York,
Valhalla, NY..... Sept. 23
IDS Life Insurance Company of New York,
Albany, NY..... Sept. 9
American Mayflower Life Insurance Company of New York,
Mineola, NY..... Oct. 11
GE Capital Life Assurance Company of New York,
Mineola, NY..... Oct. 11
Teachers Insurance and Annuity Association of America,
New York, NY..... Nov. 13

Changes of Name

“Thomas Jefferson Life Insurance Company” to “Fidelity and Guaranty Life Insurance
Company of New York,”
Purchase, NY..... Mar. 18
“First ING Life Insurance Company of New York” to “National Security Life and Annuity
Company,”
Binghamton, NY..... Mar. 19
“Aetna Life Insurance and Annuity Co.” to “ING Life Insurance and Annuity Company,”
Hartford, CT..... Mar. 27
“Zurich Kemper Life Insurance Company of New York” to “Zurich Life Insurance Company
of New York,”
New York, NY..... Apr. 6
“J.C. Penney Life Insurance Company” to “Stonebridge Life Insurance Company,”
Rutland, VT..... May 16

Changes in Capital

Standard Security Life Insurance Company of New York,
New York, NY (from \$3,586,845 to \$7,500,000)..... June 4

The Manufacturers Life Insurance Company of New York, Valhalla, NY (from \$2,000,000 to \$3,000,000)	Sept. 23
Merger Agreements Filed	
First Golden American Life Insurance Company of New York, of New York, NY into Reliastar Life Insurance Company of New York, Woodbury, NY.....	Apr. 1
American General Life Insurance Company of New York, of Syracuse, NY into The United States Life Insurance Company in the City of New York, New York, NY	Dec. 19
Keyport Benefit Life Insurance Company, of Purchase, NY into Sun Life Insurance and Annuity Company of New York, New York, NY.....	Dec. 20
Conversion	
Prudential Insurance Company of America, Newark, NJ (from a Mutual Company to a Stock Company)	Jan. 14
b. Accident and Health Insurance Companies	
Amendments to Charter	
U.S. Health Insurance Company, Uniondale, NY.....	May 9
MVP Health Insurance Company, Schenectady, NY.....	May 16
Change in Capital	
MVP Health Insurance Company, Schenectady, NY.....	May 16
Changes of Name	
“U. S. Health Insurance Company” to “Aetna Health Insurance Company of New York,” Uniondale, NY.....	May 8
“Empire Healthchoice Assurance, Inc.” to “Empire Healthchoice, Inc.,” New York, NY.....	Nov. 7
c. Property and Casualty Insurance Companies	
Domestic Company Incorporated	
Endurance Reinsurance Corporation of America, Westchester County, NY.....	Sept. 5
Domestic Company Licensed	
Endurance Reinsurance Corporation of America, Tarrytown, NY.....	Dec. 18
Foreign Companies Licensed	
Mid-Continent Insurance Company, Somerset, PA.....	Jan. 8
Planet Indemnity Company, Peoria, IL.....	Feb. 4
American Surety and Casualty Company, St. Petersburg, FL.....	Feb. 12
Commonwealth Insurance Company of America, Seattle, WA.....	Apr. 2
Coventry Insurance Company, Cincinnati, O.....	Apr. 5
PACO Assurance Company, Inc., Springfield, IL.....	May 1
Safety First Insurance Company, Chicago, IL.....	May 6

Platinum Underwriters Reinsurance, Inc., Baltimore, MD.....	May 30
USF & G Family Insurance Company, Milwaukee, WI.....	May 30
Teachers Insurance Company, Springfield, IL.....	June 7
Sompo Japan Fire & Marine Insurance Company of America, New York, NY.....	June 28
Sentinel Insurance Company, Ltd., Hartford, CT.....	Sept. 19
Economy Fire & Casualty Company, Freeport, IL.....	Oct. 24
First American Property & Casualty Insurance Company, Santa Anna, CA.....	Oct. 25
First American Specialty Insurance Company, Santa Ana, CA.....	Oct. 25
York Insurance Company, Chicago, IL.....	Nov. 1
Developers Surety and Indemnity Company, West Des Moines, IA.....	Nov. 26
Senior Citizens Mutual Insurance Company, Miami, FL.....	Dec. 18
GMAC Direct Insurance Company, Hazelwood, MO.....	Dec. 23
Peerless Indemnity Insurance Company, Lisle, IL.....	Dec. 31

Restated Charters

AIU Insurance Company, New York, NY.....	June 6
Erie Insurance Company of New York, Rochester, NY.....	Sept. 12

Amendments to Charters

Sorema North America Reinsurance Company, New York, NY.....	Jan. 1
Atlantic Mutual Insurance Company, New York, NY.....	Feb. 15
Seaboard Surety Company, New York, NY.....	Feb. 15
Westchester Fire Insurance Company, New York, NY.....	Mar. 26
GoldStreet Insurance Company, New York, NY.....	Apr. 12
The Yasuda Fire & Marine Insurance Company of America, New York, NY.....	June 14
International Credit of North America Reinsurance, Inc., Centerport, NY.....	June 17
Agway Insurance Company, DeWitt, NY.....	Aug. 28
Erie Insurance Company of New York, Rochester, NY.....	Sept. 12
Hereford Insurance Company, Long Island City, NY.....	Sept. 13

Sentinel Insurance Company, Ltd., Hartford, CT.....	Sept. 19
First American Property & Casualty Insurance Company, Santa Ana, CA.....	Oct 25
XL Reinsurance America Inc., New York, NY.....	Oct. 31
UMI Insurance Company, North Syracuse, NY.....	Nov. 14
General Security Insurance Company, New York, NY.....	Dec. 24
General Security Property and Casualty Company, New York, NY.....	Dec. 24
American Guarantee and Liability Insurance Company, New York, NY.....	Dec. 27
TM Casualty Insurance Company, New York, NY.....	Dec. 27
Trans Pacific Insurance Company, New York, NY.....	Dec. 27
National Continental Insurance Company, Hauppauge, NY.....	Dec. 27
Rampart Insurance Company, New York, NY.....	Dec. 30
HANYS Insurance Company, Inc., Albany, NY.....	Dec. 30

Restated Charters

Transcontinental Insurance Company, New York, NY.....	Apr. 12
American Home Assurance Company, New York, NY.....	July 2
Commerce and Industry Insurance Company, New York, NY.....	July 2

Changes of Name

“Sorema North America Reinsurance Company” to “General Security National Insurance Company,” New York, NY.....	Jan. 1
“Atlantic Alliance Fidelity and Surety Company” to “The Guarantee Company of North America USA,” Mount Laurel, NJ.....	Feb. 5
“Virginia Surety Company” to “Combined Specialty Insurance Company,” Glenview, IL.....	Mar. 14
“Zurich Reinsurance (NA)” to “Converium Reinsurance (North America),” Stamford, CT.....	Apr. 10
“J.C. Penney Casualty Insurance Company” to “Stonebridge Casualty Insurance Company,” Columbus, OH.....	May 16
“CitiCapital Insurance Company,” to “Associates Insurance Company,” South Bend, IN.....	Apr. 29
“ZC Insurance Company” to “Converium Reinsurance (North America) Inc., Fort Lee, NJ.....	Apr. 10
“Lincoln National Health & Casualty Insurance Company” to “Fort Wayne Health & Casualty Insurance Company, Fort Wayne, IN.....	May 16

“The Yasuda Fire & Marine Insurance Company of America” to “Sompo Japan Insurance Company of America,” New York, NY.....	June 14
“Colonial Penn Insurance Company” to “GE Property & Casualty Insurance Company,” Fort Washington, PA.....	July 1
“Colonial Penn Franklin Insurance Company” to “GE Casualty Insurance Company,” Fort Washington, PA.....	July 1
“Colonial Penn Madison Insurance Company” to “GE Indemnity Insurance Company, Fort Washington, PA.....	July 1
“Fulcrum Insurance Company” to “General Security Indemnity Company of Arizona,” Scottsdale, AZ.....	July 11
“USF & G Family Insurance Company” to “Platinum Underwriters Reinsurance, Inc.,” New York, NY.....	July 30
“SAFECO Insurance Company of Pennsylvania” to “SAFECO Insurance Company of Indiana” Indianapolis, IN.....	Aug. 6
“Agway Insurance Company” to “Countryway Insurance Company,” DeWitt, NY.....	Aug. 28
“American Risk Funding Insurance Company” to “ACIG Insurance Company,” Barrington, IL.....	Sept. 4
“Underwriters Insurance Company” to “Platte River Insurance Company,” Lincoln, NE.....	Sept. 5
“First American Insurance Company” to “Arch Insurance Company,” Kansas City, MO.	Sept. 6
“Unitrin Direct Advantage Insurance Company” to “Unitrin Advantage Insurance Company,” New York, NY.....	Nov. 14

Changes in Capital

Westchester Fire Insurance Company, New York, NY (from \$3,500,791 to \$4,503,671).....	Mar. 26
Goldstreet Insurance Company, New York, NY (from \$1,000,000 to \$700,000).....	Apr. 12
Executive Insurance Company, New York, NY (from \$900,000 to \$1,000,000).....	Apr. 30
International Credit of North America Reinsurance Inc., Centerport, NY (from \$1,000,000 to \$3,000,000).....	June 13
International Credit of North America Reinsurance Inc., Centerport, NY (from \$3,000,000 to \$1,000,000).....	June 17
XL Reinsurance America Inc., New York, NY (from \$4,200,000 to \$5,000,000).....	Oct. 31
American Guarantee and Liability Insurance Company, New York, NY (from \$5,000,000 to \$5,000,026.92).....	Dec. 27
National Continental Insurance Company, Hauppauge, NY (from \$6,928,900. To \$6,429,075).....	Dec. 27
Rampart Insurance Company, New York, NY (from \$5,000,000 to \$5,000,009.64).....	Dec. 30

Conversion

Allstate Fire and Casualty Insurance Company, Northbrook, IL (from a mortgage guaranty company to a property/casualty company).....	Apr. 6
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Redomestications Filed

Gulf Underwriters Insurance Company, Missouri to Connecticut.....	Mar. 20
Mapfre Reinsurance Corporation, California to New Jersey.....	Aug. 27

Progressive Home Insurance Company, Tennessee to Ohio.....	July 15
SAFECO Insurance Company of Pennsylvania, Pennsylvania to Indiana.....	Aug. 6
Illinois EMCASCO Insurance Company, Illinois to Iowa.....	Oct. 9
QBE Insurance Corporation, Delaware to Pennsylvania.....	Dec. 27

Merger Agreements Filed

American Continental Insurance Company, of Kansas City, MO into St. Paul Fire and Marine Insurance Company, St. Paul, MN.....	July 31
Atlas Assurance Company of America, of New York, NY into Peerless Indemnity Insurance Company, Lisle IL.....	Dec. 31

Domestication Filed

Nissan Fire & Marine Insurance Company, Limited, Japan into Sompo Japan Fire & Marine Insurance Company of America, New York, NY.....	June 28
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In Receivership

Far West Insurance Company, Omaha, NE.....	Mar. 18
Frontier Pacific Insurance Company, San Diego, CA.....	Mar. 19
PHICO Insurance Company, Mechanicsburg, PA.....	May 21
Connecticut Surety Company, Hartford, CT.....	Dec. 24

In Liquidation

Group Council Mutual Insurance Company, New York, NY.....	Mar. 19
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d. Assessment Co-operative Insurance Companies

Restated Charter

Erie and Niagara Insurance Association, Williamsville, NY.....	Dec. 3
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Amendments to Charters

Genesee Patrons Co-Operative Insurance Company, Batavia, NY.....	Feb. 21
Leatherstocking Cooperative Insurance Company, Cooperstown, NY.....	July 15

Changes of Names

“Broome County Co-operative Fire Insurance Company” to “Broom Co-operative Insurance Company, Windsor, NY.....	Mar. 27
“Chautauqua Patrons Insurance Association” to “Chautauqua Patrons Insurance Company,” Jamestown, NY.....	July 17

Merger Filed

Cambridge Co-operative Fire Insurance Company, of Cambridge, NY into Washington County Co-operative Insurance Company, Greenwich, NY.....	Apr. 1
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e. Title Insurance Companies

Foreign Company Licensed

Fidelity National Title Insurance Company,
Santa Barbara, CA..... June 20

f. Accredited Reinsurers

Recognized

United Wisconsin Insurance Company,
Milwaukee, WI..... Sept. 24
Kemper Commercial Insurance Company,
Long Grove, IL..... Oct. 8
California Casualty & Fire Insurance Company,
San Mateo, CA..... Nov. 8
California Casualty General Insurance Company,
San Mateo, CA..... Nov. 8
California Casualty Insurance Company,
San Mateo, CA..... Nov. 8
Harleysville Mutual Insurance Company,
Indianapolis, IN..... Dec. 10

Changes of Name

“NCM Americas, Inc.” to “Gerling NCM Credit Insurance Inc.,”
Baltimore, MD..... May 10
“Odyssey Re (Bermuda) Limited” to “Sphere Drake (Bermuda) Limited,”
New York, NY..... June 10
“Terra Nova Insurance Company Limited” to “Markel International Insurance Company
Limited,”
London, England..... Nov. 15
“CNA Reinsurance Company Limited” to “CX Reinsurance Company,”
London, England..... Dec. 9

Withdrawn

Sphere Drake (Bermuda) Limited,
Bermuda (US Branch-New York, NY) Aug. 9
Standard Insurance Company,
Portland, ME..... Oct. 31

g. Charitable Annuity Societies

Permits Issued

Metropolitan Opera Association, Inc.,
New York, NY..... Jan. 22
Lafayette College,
Easton, PA..... Mar. 20
Buffalo State College Foundation, Inc.,
Buffalo, NY..... May 31
Home Missioners of America,
Fairfield, OH..... June 7
Catholic Church Extension Society of
The United States of America, Chicago, IL..... Sept. 9
United States Fund for UNICEF,
New York, NY..... Sept. 11
Regents of the University of Michigan,
Ann Arbor, MI..... Sept. 27
General Board of the Church of the Nazarene,
Kansas City, MO..... Dec. 19

Change of Name

“The Juvenile Diabetes Foundation International” to “Juvenile Diabetes Research Foundation International,”
 Bala Cynwyd, PA..... Sept. 20

Permits No Longer Required

Greater New York Councils, Inc., Boy Scouts of America,
 New York, NY..... Apr. 16
 Jewish Museum,
 New York, NY..... Apr. 16
 Roswell Park Alliance Foundation,
 Buffalo, NY..... Apr. 16

h. Fraternal Benefit Society

Change of Name

“Aid Association of Lutherans” to “Thrivent Financial for Lutherans,”
 Appletown, WI..... July 12

i. Health Maintenance Organizations

Changes of Name

“Bronx Health Plan, Inc.” to “Affinity Health Plan, Inc.,”
 Bronx, NY..... Jan. 1

Mergers Filed

Healthsource HMO of New York, of Syracuse, New York into CIGNA Healthcare of New York,
 Syracuse, NY..... July 31
 Unitedhealthcare of Upstate New York, Inc., of East Syracuse, NY into Unitedhealthcare of New York, Inc.,
 New York, NY..... Dec. 31

In Liquidation

HUM Healthcare Systems, Inc.,
 Glens Falls, NY..... Sept. 4

j. Municipal Cooperative Health Benefit Plan

Authorized

Chautauqua County Municipality Medical Benefits Plan,
 Mayville, NY..... June 1

k. Financial Guaranty Companies

Domestic Company Incorporated

CDC IXIS Financial Guaranty North America, Inc.,
 New York, NY..... Apr. 11

Domestic Company Licensed

CDS IXIS Financial Guaranty North America, Inc.,
 New York, NY..... May 24

Restated Charter

MBIA Insurance Corporation,
 Armonk, NY..... Dec. 19

Amendments to Charter

Asset Guaranty Insurance Company,
 New York, NY..... Jan. 1
 Enhance Reinsurance Company,
 New York, NY..... Jan. 1

Changes of Name

“Asset Guaranty Insurance Company” to “Radian Asset Assurance Inc.,
 New York, NY..... Jan. 1

“Enhance Reinsurance Company” to “Radian Reinsurance Inc.,” New York, NY.....	Jan. 1
“Ace Guaranty Re Inc.” to “ACE Guaranty Corp.,” Baltimore, MD.....	Oct. 4

Change in Capital

Radian Reinsurance Inc., New York, NY (from \$4,000,000 to \$15,000,000).....	Feb. 26
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I. Mortgage Guaranty Companies

Change of Name

“Forestview Mortgage Insurance Company” to “Allstate Fire and Casualty Insurance Company,” Northbrook, IL.....	Apr. 2
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Conversion

Forestview Mortgage Insurance Company, Northbrook, IL (from a mortgage guaranty company to a property/casualty company).....	Apr. 2
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Redomestication Filed

Forestview Mortgage Insurance Company, Northbrook, IL (California to Illinois)	Apr. 2
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m. Pure Captive Insurance Company

Domestic Company Incorporated

GVP Risk Management Insurance Incorporated, Purchase, NY.....	May 29
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Licensed

Moody’s Assurance Company, Inc., New York, NY.....	June 14
TSI Insurance, Inc., New York, NY.....	Dec. 31

n. Viatical Settlement Companies

Authorized

Coventry First LLC, Wilmington, DE.....	Jan. 17
Portsmouth Settlement Company 1, Inc., Atlanta, GA.....	Mar. 18

License Suspended

Kelco, Inc., Lexington, KY.....	Nov. 19
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Withdrawn

Viaticus, Inc., Dover, DE.....	Dec. 31
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4. Examination Reports Filed During 2002

NAME OF COMPANY	MADE AS OF	DATE FILED
Domestic Life Insurance Companies		
Allstate Life Insurance Company Of New York	12/31/00	10/1/02
Amalgamated Life Insurance Company	12/31/00	9/10/02
American Medical and Life Insurance Company	12/31/00	5/13/02
American Progressive Life and Health Insurance Company of New York	12/31/00	8/8/02
Bankers Life Insurance Company of New York	12/31/00	9/6/02
Canada Life Insurance Company of New York	12/31/00	8/6/02
Combined Life Insurance Company of New York	12/31/00	5/29/02
Companion Life Insurance Company	12/31/00	8/26/02
AUSA Life Insurance Company, Inc.	12/31/00	6/5/02
Equitable Life Assurance Society Of the United States	12/31/00	11/27/02
First Central National Life Insurance Company of New York	12/31/00	4/2/02
First Great West Life & Annuity Insurance Company	12/31/00	5/29/02
First Reliance Standard Life Insurance Company	12/31/00	6/13/02
First Security Benefit Life Insurance and Annuity Company of New York	12/31/00	7/1/02
Guardian Life Insurance Company Of America	Special	3/14/02
Guardian Life Insurance Company Of America	5/31/02	10/29/02
Highmark Life Insurance Company of New York	12/31/00	1/10/02
Intramercia Life Insurance Company	12/31/00	5/29/02
Life Insurance Company of Boston And New York	12/31/01	10/31/02
Metropolitan Life Insurance Company	*	8/30/02
Monitor Life Insurance Company of New York	12/31/00	4/19/02
MONY Life Insurance Company	Special	12/6/02
National Security Life and Annuity Insurance Company	12/31/00	4/15/02
Northstar Life Insurance Company	12/31/00	1/31/02
Protective Life and Annuity Insurance Company	9/30/01	11/18/02
SBLI USA Mutual Life Insurance Company	12/31/00	4/17/02
Security Mutual Life Insurance Company Of New York	12/31/00	5/8/02
Sentry Life Insurance Company of New York	12/31/00	9/26/02
Standard Security Life Insurance Company of New York	12/31/00	6/3/02
Sun Life and Annuity Company of New York	12/31/00	9/23/02
USAA Life Insurance Company of New York	12/31/00	7/1/02
Utica National Life Assurance Company	12/31/00	5/14/02
Domestic Accident and Health Insurance Companies		
Empire Healthchoice Inc.	Special	7/5/02
MVP Health Insurance Company	Inc. in cap.	9/23/02
Oxford Health Insurance Inc.	Market Conduct	12/17/02
Domestic Property and Casualty Insurance Companies		
AIG National Insurance Company, Inc.	12/31/00	9/3/02
American Colonial Insurance Company	12/31/01	11/13/02
American Guarantee and Liability Insurance Company	12/31/98	1/25/02
Autoglass Insurance Company	12/31/99	9/30/02
CGU Insurance Company of Canada (US Branch)	12/31/00	8/22/02
Compass Insurance Company	12/31/00	10/24/02
CORPA Reinsurance Company	12/31/00	5/21/02
Countryway Insurance Company	12/31/00	5/7/02

NAME OF COMPANY	MADE AS OF	DATE FILED
Enhance Reinsurance Corporation Of America	On	12/6/02
Executive Insurance Company	12/31/00	5/20/02
Fire Districts of New York Mutual Insurance Company, Inc.	12/31/01	9/5/02
First Community Insurance Company	12/31/99	11/13/02
Gotham Insurance Company	12/31/00	5/15/02
Harleysville Insurance Company of New York	12/31/99	12/17/02
Hanys Insurance Company, Inc.	12/31/94	7/11/02
International Credit of North America Reinsurance Inc.	12/31/00	6/11/02
Medco Containment Insurance Company of New York	12/31/00	1/3/02
New York Marine and General Insurance Company	12/31/00	5/15/02
Nichido Fire and Marine Insurance Company, Ltd.	12/31/99	1/8/02
NIPPONKOA Insurance Company Of America	12/31/01	12/30/02
North Sea Insurance Company	12/31/00	5/21/02
Realm National Insurance Company	12/31/00	1/21/02
Response Indemnity Company	12/31/00	1/18/02
Rochdale Insurance Company	12/31/00	7/17/02
SUECIA Insurance Company	12/31/00	6/17/02
Tri-State Consumer Insurance Company	12/31/97	3/28/02
SCOR Reinsurance Company	12/31/98	10/22/02
Trygg-Hansa Insurance Company Ltd.	12/31/00	8/14/02
United Americas Insurance Company	12/31/00	9/26/02
Zurich American Insurance Company	12/31/98	1/25/02
Assessment Co-operative Property and Casualty Insurance Companies		
Farmers Mutual Insurance Company of Milan, Pine Plains and Stanford	12/31/00	4/24/02
Hartwick Town Insurance Company	12/31/01	12/2/02
Leatherstocking Cooperative Insurance Company	12/31/01	9/12/02
Pittstown Cooperative Insurance Company	12/31/00	3/13/02
Advance Prem. Co-operative Prop. and Casualty Insurance Companies		
New York Central Mutual Fire Insurance Company	12/31/00	9/3/02
Security Mutual Insurance Company	12/31/00	6/17/02
Sterling Insurance Company	12/31/00	5/17/02
Financial Guaranty Companies		
Radian Reinsurance Inc.	12/31/99	5/31/02
CDC IXIS Financial Guaranty NorthAmerica, Inc.	5/15/02	5/23/02
Title Insurance Companies		
Transnation Title Insurance Company of New York	12/31/00	2/15/02
Washington Title Insurance Company	12/31/00	8/14/02
Charitable Annuity Societies		
Jewish National Fund (Keren Kayemeth Leisrael) Inc.	12/30/00	1/29/02
Lincoln Center for the Performing Arts, Inc.	12/31/01	10/02/02
Long Island University	12/31/00	1/25/02

NAME OF COMPANY	MADE AS OF	DATE FILED
Salvation Army	12/31/01	10/3/02
Association of Lithuanian Workers	12/31/00	4/17/02
Polish Union of America	12/31/01	10/17/02
Health Maintenance Organizations		
Capital District Physicians Health Plan	12/31/00	12/4/02
GHI HMO Select, Inc.	12/31/00	7/1/02
Health Services Medical Corporation Of Central New York	9/30/00	2/22/02
Independent Health Association	12/31/00	11/12/02
MDNY Healthcare, Inc.	6/30/00	7/1/02
MDNY Healthcare, Inc.	12/31/01	9/13/02
MVP Health Plan, Inc.	12/31/99	1/7/02
Oxford Health Plans of New York, Inc.	9/30/01	12/17/02
Univera Healthcare-Southern Tier, Inc.	9/30/00	2/22/02
Vytra Health Plans Long Island, Inc.	12/31/98	4/12/02
Non-Profit Corporations		
CDPHP Universal Benefits, Inc.	12/31/00	12/4/02
Health Care Plan, Inc.	9/30/00	02/22/02
Independent Health Benefits Corporation	12/31/00	11/12/02
MVP Health Services Corp.	12/31/99	1/7/02
Preferred Assurance Company, Inc.	12/31/00	12/18/02
Vyra Health Services, Inc.	12/31/98	4/12/02
Retirement Systems and Pension Funds		
Board of Education Retirement System	6/30/99	1/23/02
Transit Police Superior Officers' Variable Supplements Fund	6/30/99	1/8/02
Housing Police Officers Variable Supplements Fund	6/30/99	1/8/02
Housing Police Superior Officers' Variable Supplements Fund	6/30/99	1/8/02
Underwriting Organizations		
American Offshore Insurance Syndicate	11/30/00	8/7/02
American Hull Insurance Syndicate	11/30/00	8/7/02
Viatical Settlement Companies		
Portsmouth Settlement Company 1, Inc.	12/31/00	3/13/02
Viaticare Capital, LP	12/31/00	5/7/02
ViatCare Financial Services, LLC	12/31/00	5/7/02
Municipal Cooperative Health Benefit Plans		
Chautauqua County School Districts' Medical Health Plan	6/30/01	12/11/02
Miscellaneous		
Hanys Member Hospital Self-Insurance Trust	12/31/94	8/12/02
Motor Vehicle Accident Indemnification Corporation	12/31/99	2/6/02
Water Quality Insurance Syndicate	11/30/01	8/14/02

* Response to Circular Letter

5. Rehabilitation, Liquidation, Ancillary Receivership and Conservation Proceedings

The insurance entities under the Liquidation Bureau's jurisdiction during 2002 were as follows:

Rehabilitations

Commenced: None

Continued: Executive Life Insurance Company of New York
Frontier Insurance Company

Completed: None

Liquidations

Commenced: Group Council Mutual Insurance Company
HUM Healthcare Systems, Inc.

Continued: American Agents Insurance Company
American Consumer Insurance Company
American Fidelity Fire Insurance Company
Capital Mutual Insurance Company
Consolidated Mutual Insurance Company
Contractors Casualty and Surety Company
Cosmopolitan Mutual Insurance Company
Dominion Insurance Company of America
First Central Insurance Company
Galaxy Insurance Company
Home Mutual Insurance Company of Binghamton, NY
Horizon Insurance Company
Ideal Mutual Insurance Company
Long Island Insurance Company
Medical Malpractice Insurance Association
Midland Insurance Company
Midland Property and Casualty Insurance Company
Nassau Insurance Company
Nem Re-Insurance Corporation
New York Merchant Bakers Insurance Company
New York Professional Liability Insurance Company
New York Surety Company
North Medical Community Health Plan, Inc.
Northumberland General Insurance Company (U.S. Branch)
Pan Atlantic Investors, Ltd.
Transtate Insurance Company
Union Indemnity Insurance Company of New York
United Community Insurance Company
U. S. Capital Insurance Company
Whiting National Insurance Company

Completed: None

Ancillary Receiverships

In the case of a New York-licensed foreign (*i.e.*, not domiciled in New York) insurer becomes insolvent, the Superintendent of Insurance must apply to the court to establish an Ancillary Receivership to enable the New York Department (and the Superintendent as Ancillary Receiver) to trigger the New York Security Fund to pay Security Fund–covered claims.

Commenced: Far West Insurance Company
Frontier Pacific Insurance Company
Phico Insurance Company

Continued: Acceleration National Insurance Company
American Druggists' Insurance Company
American Eagle Insurance Company
American Mutual Insurance Company of Boston
American Mutual Liability Insurance Company
Amwest Surety Insurance Company
Commercial Compensation Casualty Company
Credit General Insurance Company
Integrity Insurance Company
LMI Insurance Company
MCA Insurance Company
Mission Insurance Company
Mission National Insurance Company
Reliance Insurance Company
Transit Casualty Company
Western Employers Insurance Company

Completed: None

Conservations

All foreign or alien (*i.e.*, not domiciled in New York) insurers not licensed in New York but doing business on an excess and surplus lines basis must establish a trust fund in New York. If such an insurer becomes insolvent, the Insurance Department must apply to the court in order for the Insurance Department (and the Superintendent as Conservator) to conserve the assets of that trust fund for the benefit of all U.S. policyholders.

Commenced: Reliance Insurance Company of Illinois
United Capital Insurance Company

Continued: Alliance General Insurance Company
Alpine Insurance Company
FAI General Insurance Company, Ltd.
HIH Casualty and General Insurance, Ltd.
Municipal General Insurance, Ltd.
National Colonial Insurance Company
Northumberland General Insurance Company – 41 Trust
Pacific and General Insurance Company

Completed: Chancellor Insurance Company, Ltd.

Insurance Companies

During 2002, seven proceedings commenced while 57 insurance company proceedings continued. One proceeding was completed and closed. The 63 active insurance company proceedings were classified as follows:

2	Rehabilitations
32	Liquidations
19	Ancillary Receiverships
10	Conservations

As of December 31, 2002, assets, liabilities and current insolvency of the 63 active insurance company proceedings, taken as a group, were as follows:

Total Assets	\$3,392,133,511
Total Liabilities	\$6,977,076,375
Current Insolvency	\$3,584,942,864

During 2002, cash payments received from the New York State security funds on allowed claims totaled \$92,235,620 for claims, \$917,101 for return premiums, and \$31,285,055 for expenses. Payments by other states' guaranty funds are excluded from these totals.

During 2002, cash distributions paid to the New York State security funds from domestic estates totaled \$64,327,788. Distributions to the New York State security funds from other states' guaranty funds totaled \$15,979,654 for a combined total \$80,307,442.

Fraternal Benefit Societies

As of December 31, 2002, there were 174 pending liquidation proceedings. During 2002, 34 proceedings were terminated and 7 proceedings were commenced. The remaining assets of the 174 liquidation proceedings totaled \$946,549. During 2002, assets of \$404,107 were distributed to former members of fraternal benefit societies.

6. Insurance Department Receipts and Expenditures

**Table 69
DEPARTMENT RECEIPTS
Fiscal Year Ended March 31, 2002**

Taxes Collected Under the New York State Insurance Law:

Taxes collected by reason of retaliation under Section 1112	\$20,111,493.02
Excess Line - Section 2118	23,018,282.36
Organization Tax - Section 180, Tax Law	<u>15,949.92</u>
Total taxes collected	\$43,145,725.30*

Fees Collected Under Section 1112 of the NYS Insurance Law:

Filing Annual Statements and Certificates of Authority to Companies	\$123,824.94
Agents' Certificates of Authority	810,015.53
Admission Fees	<u>19,829.00</u>
Total	\$953,669.47

Licensing and Accreditation Fees:

Agents' Licenses - Section 2103	\$6,305,608.73
Adjusters' Licenses - Section 2108	171,150.00
Brokers' Licenses - Section 2104 and 2105	199,962.46
Bail Bond Agents' Licenses - Section 6802	825.00
Insurance Consultants' Licenses - Section 2107	51,647.00
Reinsurance Intermediary Licenses - Section 2106	13,000.00
Special Risk Licenses - Section 6302	192,000.00
Accredited Reinsurers - Section 107(a)2	117,080.00
Limited License	1,300.00
Duplicate License Fees	43,590.00
Viatical Licenses	26,000.00
Continuing Education Provider Fee	<u>404,790.00</u>
Total	\$7,526,953.19

Assessments and Reimbursement of Department Expenses:

Section 313 - Company Examinations	\$8,491,400.57
Section 332 - Assessment	104,731,373.06
Section 9104/9105 - Tax Distribution	122,173.82
Administrative Expense Security Funds	64,363.00
Reimbursement of Expenses - Other Bureaus	<u>7,532.52</u>
Total	\$113,416,842.97

(Table continued on next page)

Table 69
DEPARTMENT RECEIPTS
Fiscal Year Ended March 31, 2002
(continued)

Other Fees and Receipts:

Regulation 68 - Health Services Arbitration Expenses	\$22,000.00
Section 9107 - Certification & Filing Fees	131,413.25
Section 9108 - Fire Insurance Fee	9,205,946.16
Section 205 – Publications	18.00
Section 1212 - Summons and Complaints	915,060.00
Fines and Penalties	6,288,803.29
FOIL Requests	36,209.10
Miscellaneous	3,166.06
Regulation 134	1,600.00
Motor Vehicle Law Enforcement Fee	11,982,594.91
Continuing Education Filing Fees	621,180.00
CAPCO Application Fees	5,500.00
Section 7902 – Service Contract Registration Fee	17,750.00
Total	<u>\$29,231,240.77</u>

Total Departmental Receipts **\$194,274,431.70**

*This amount is in addition to the \$633 million collected by the Department of Taxation and Finance under Article 33 of the Tax Law (see table below).

Table 70
INSURANCE TAX RECEIPTS*
(in millions)

Fiscal Year	Net
1997-98	641.0
1998-99	673.0
1999-00	589.0
2000-01	584.0
2001-02	633.0

*Collected by the Department of Taxation and Finance under Article 33 of the Tax Law.
 Source: State of New York, Annual Budget Message, 2003-04

Table 71
DEPARTMENT EXPENDITURES
Fiscal Year Ended March 31, 2002
Paid in the First Instance from Appropriations

Personal Service	
Employee salaries	\$54,190,072.19
Maintenance and Operation	
General office supplies	\$513,547.20
Travel expense	1,856,720.62
Rental equipment	8,923.39
Repair and maintenance of equipment	188,689.56
Real estate rental	5,302,791.69
Postage and shipping	612,262.64
Printing	159,577.52
Telephone	1,374,884.22
Miscellaneous contractual services	5,102,281.97
OFT Computer	199,419.96
OGS Interagency courier	18,355.52
Equipment	2,780,950.88
Employee fringe benefits/indirect cost	<u>15,279,547.78</u>
Total maintenance	\$33,397,952.95
Total expenditures from Special Revenue Appropriations for fiscal year ended 3/31/02	\$87,588,025.14
Total Department receipts for fiscal year ended 3/31/02	\$194,274,431.70
Excess of Department receipts over Department expenditures	\$106,686,406.56

7. Security Funds Income and Disbursements

Table 72
PROPERTY/CASUALTY INSURANCE SECURITY FUND¹
Income and Disbursements
April 1, 2002

	To and Including 3/31/01	4/1/01 to 3/31/02	As of 4/1/02
Paid into the Fund	\$ 663,712,532.64	\$ 16,295,835.82	\$ 680,008,368.46
Interest income - net	438,137,259.00	2,649,316.59	440,786,575.59
Recoveries from companies in liquidation	472,378,571.76	62,382,229.72	534,760,801.48
General Fund Reimbursement	122,872,684.00	5,573,829.00	128,446,513.00
Total	\$1,697,101,047.40	\$ 86,901,211.13	\$1,784,002,258.53
Less disbursements:			
Administrative expenses	\$ 1,243,349.88	\$ 111,554.99	\$ 1,354,904.87
Awards and expenses of companies in liquidation	1,421,965,072.42	97,686,082.98	1,519,651,155.40
Refunds and credits to companies	44,442,985.54	-0-	44,442,985.54
Transfers to other funds ²	144,562,280.96	-0-	144,562,280.96
Total	\$1,612,213,688.80	\$ 97,797,637.97	\$1,710,011,326.77
Total of Fund	\$ 84,887,358.60	\$ (10,896,426.84)	\$ 73,990,931.76
Cash in bank and U.S. securities (at par)	\$ 84,887,358.60		\$ 73,990,931.76
Total of Fund	\$ 84,887,358.60		\$ 73,990,931.76

¹ Monies collected under Sections 7602 and 7603 of the Insurance Law

² State Purpose Fund - \$47,562,280.96 + \$87,000,000 per Chapter 55 of the Laws of 1982 and \$10 million transferred to the Public Motor Vehicle Liability Security Fund.

Table 73
PUBLIC MOTOR VEHICLE LIABILITY SECURITY FUND¹
Income and Disbursements
April 1, 2002

	To and Including 3/31/01	4/1/01 to 3/31/02	As of 4/1/02
Paid into the Fund	\$ 90,748,183.48	\$ 6,548,247.12	\$ 97,296,430.60
Interest income - net	27,641,392.56	75,123.66	27,716,516.22
Recoveries from companies in liquidation	49,165,967.48	605,797.09	49,771,764.57
Transfers	10,000,000.00	-0-	10,000,000.00
Total	\$ 177,555,543.52	\$ 7,229,167.87	\$184,784,711.39
Less disbursements:			
Administrative expenses	\$ 469,820.97	\$ 24,881.32	\$ 494,702.29
Awards and expenses of companies in liquidation	161,919,131.51	7,449,164.05	169,368,295.56
Refunds to companies	13,583,306.98	-0-	13,583,306.98
Total	\$ 175,972,259.46	\$ 7,474,045.37	\$ 183,446,304.83
Total of Fund	\$ 1,583,284.06	\$ (244,877.50)	\$ 1,338,406.56
Cash in bank and U.S. securities (at par)	\$ 1,583,284.06		\$ 1,338,406.56
Total of Fund	\$ 1,583,284.06		\$ 1,338,406.56

¹ Monies collected under Section 7601 of the Insurance Law from companies writing bonds and policies carrying coverages set forth in Section 370 of the Vehicle and Traffic Law.

**Table 74
WORKERS' COMPENSATION SECURITY FUND¹
Income and Disbursements
April 1, 2002**

	To and Including 3/31/01	4/1/01 to 3/31/02	As of 4/1/02
Paid into the Fund	\$ 127,603,843.79	\$ 8,547,369.82	\$136,151,213.61
Interest income - net	118,119,751.49	76, 681.34	118,196,432.83
Recoveries from companies in liquidation	94,142,171.43	10,747,143.98	104,889,315.41
Total	\$ 339,865,766.71	\$ 19,371,195.14	\$359,236,961.85
Less disbursements:			
Administrative expenses	\$ 827,835.16	\$ 26,660.11	\$ 854,495.27
Awards and expenses of companies in liquidation	242,726,298.77	32,240,289.32	274,966,588.09
Refunds to companies	27,381,071.74	-0-	27,381,071.74
Transfers ²	67,000,000.00	(15,000,000.00)	52,000,000.00
Total	\$ 337,935,205.67	\$ 17,266,949.43	\$355,202,155.10
Total of Fund	\$ 1,930,561.04	\$2,104,245.71	\$ 4,034,806.75
Cash in bank and U.S. securities (at par)	\$ 1,930,561.04		\$ 4,034,806.75
Total of Fund	\$1,930,561.04		\$ 4,034,806.75

¹ On March 1, 1990, the Stock Workers' Compensation and Mutual Workers' Compensation Security Funds were consolidated into a single fund known as the Workers' Compensation Security Fund.

² Payment to the Workers' Compensation Security Fund pursuant to Chapter 55 of the Laws of 1982

B. DEPARTMENT STAFFING

**Table 75: NEW YORK STATE INSURANCE DEPARTMENT
Number of Filled Positions by Bureau (as of March 2003)**

Bureau	Examiners	Attorneys	Actuaries	Other Professionals	Investigators	Support Staff	Total
New York City Office							
Executive	1			12		4	17
Life	87		10	3		9	109
Health	47		5			3	55
Administration*	1			8		9	18
Consumer Services	32			1		16	49
Frauds	4			1	25	6	36
OGC		23		4		8	35
Public Affairs/Research				2		2	4
Property	180		20			25	225
Systems	5			17		5	27
Capital Markets				6		2	8
Examiner Pool	27						27
NYC Total	384	23	35	54	25	89	610
Albany Office							
Executive				7		2	9
Life		11	19			6	36
Health	3	20	6			8	37
Administration*				13		21	34
Consumer Services	32			1		12	45
Frauds					3		3
OGC		6				1	7
Property	8					1	9
Systems				23		14	37
Licensing	2			7		39	48
Albany Total	45	37	25	51	3	104	265
ALL OTHER							
Buffalo Office							
Health	2						2
Consumer Services	2					1	3
Frauds					2		2
Mineola Office							
Consumer Services	3					1	4
Frauds					8		8
Syracuse Office							
Life	1						1
Health	1						1
Frauds					2		2
Oneonta Office							
					3		3
Rochester Office							
					2		2
All Other Total	9	0	0	0	17	2	28
Department Total	438	60	60	105	45	195	903

* Includes Human Resources Management & Offices Services.

Note: Table does not include five student assistants assigned to various bureaus during the year.

C. NEW YORK STATE INSURANCE DEPARTMENT

Publications as of 5/15/2003

Consumer Guides, Annual Reports, Directories, etc.

Automobile/Livery Guides

- Annual Ranking of Automobile Insurance Complaints
- Consumers Shopping Guide to Automobile Insurance
(upstate and downstate editions as well as abbreviated version in pamphlet form)
- Handbook for Livery Drivers (English & Spanish)

Frauds Guides

- Annual Frauds Bureau Report
- Welcome to the NYS Insurance Department Frauds Bureau – A Consumer Brochure

Health Guides

- External Review: Your Rights as a Health Care Consumer
- Healthy NY Guide (English & Spanish)
- Insurance Policies Covering Long Term Care Services in NYS
- New York Consumer Guide to Health Insurers
(ranks complaints from HMOS, commercial health insurers, and nonprofit indemnity health insurers; also includes grievances and utilization review appeals & performance evaluations)
- New York Consumer Guide to HMOs (interactive guide also available online)

Homeowners/Tenants Guides

- Coastal Homes and Insurance: A Guide for New York Homeowners
- Consumers Shopping Guide for Homeowners' and Tenants Insurance
(upstate and downstate editions)

Life Guides

- Consumers Shopping Guide for Life Insurance (abbreviated life Web guide also available)
- Policyholder Protection Provided by the Life Insurance Company Guaranty Corporation of New York

Miscellaneous Guides & Publications

- A Consumer's Guide to the New York State Insurance Department
- Annual Report to the Legislature
- Directory of Regulated Insurance Companies
- Statistical Tables from Annual Statements
Volume 1, Property/Casualty, Financial Guaranty, Mortgage Guaranty
and Assessment Cooperative Companies
Volume 2, Life and A & H Companies, and Fraternal Benefit Societies
Volume 3, Title Companies, HMOs, Nonprofit Health Insurers

Note: Copies of listed publications are available free of charge to New York State residents (limit: one per resident).