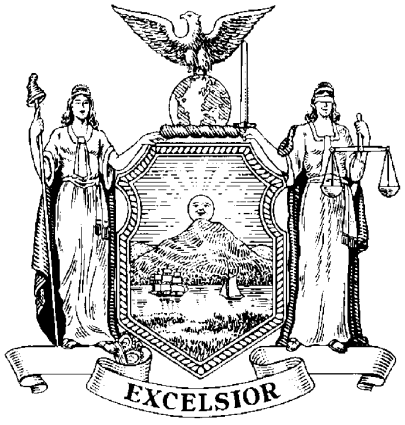
Annual Report of the Superintendent of Insurance to the New York Legislature

Calendar Year 2004



Governor George E. Pataki

Superintendent of Insurance Howard Mills

www.ins.state.ny.us

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

A Report to the New York State Legislature for the Year Ending December 31, 2004

George E. Pataki
Governor

Howard Mills
Superintendent of Insurance

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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

This report is printed on recycled paper.

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TABLE OF CONTENTS

TABLES

CHARTS

I. Major Developments

A. Howard Mills Nominated as Superintendent

In the final week of 2004, Governor George E. Pataki announced his intention to nominate former New York State Assemblyman Howard Mills as Superintendent of Insurance. Mr. Mills is succeeding Superintendent Gregory V. Serio, who had served in that office since 2001 and announced his resignation in late December 2004 after accepting a position in the private sector.

Superintendent Howard Mills

Superintendent Mills was first elected to the New York State Assembly in 1998 and was twice re-elected to a district representing Orange and Rockland counties. While in the State Legislature, Mr. Mills served as the Deputy Minority Leader and sat on the Banking, Housing, Insurance and Ways and Means Committees.

During his six years in the Assembly, the Superintendent was an outspoken advocate for reform in Albany and sharply critical of the "dysfunctional" New York budget adoption process while advocating sweeping budgetary and legislative reforms. Mr. Mills was also known for championing tougher criminal justice laws, debt reduction, spending restraint and agricultural causes.

Mr. Mills was the Republican nominee for the United States Senate in 2004 and did not seek re-election to the Assembly.

B. Auto Rate Premiums Are Reduced

State Farm and Progressive, two of the largest auto insurers, reduced their customers' rates in 2004, but that was only the start of a trend that would carry well into 2005 because of the Insurance Department's pro-active stance on behalf of consumers.

In 2004, the Department began to see results of its aggressive fraud-fighting campaign as New York State's overall loss ratio in the private passenger market fell from 0.86 for Calendar Year 2002 to 0.61 as of June 30, 2004. An 0.61 loss ratio means that roughly 61 cents out of every dollar collected in premiums is set aside to pay claims. Moreover, the state's average no-fault losses per claim dropped to $6,229 as of June 30, 2004 from $8,489 per claim as of year-end 2002.

In November 2004, Superintendent Serio announced the launch of an immediate and broad-based review of auto insurance rates for private passenger vehicles. Insurance companies representing more than 60% of the auto insurance market in New York were directed to appear before the Department to review their rate structures in the face of significant declines in losses in the auto insurance market. At press time, ten major auto insurers, representing well over 60% of the market, had filed for rate reductions in New York State, ranging from 3-10%. The reductions will save New York consumers nearly $350 million dollars in premiums in 2005.

C. Office of General Counsel

Insurance Brokers Practices Scrutinized

Superintendent Serio joined New York State Attorney General (AG) Eliot Spitzer at a press conference on Oct. 14, 2004 announcing that the AG's office had filed a civil lawsuit against Marsh & McLennan, one of the nation's largest insurance brokers, alleging that the company steered unsuspecting clients to insurers with whom it had lucrative payoff agreements, and that Marsh &

McLennan solicited rigged bids for insurance contracts. The Insurance Department also issued citations against the company.

"The civil lawsuit the Attorney General filed today addresses issues that the New York State Insurance Department has been concerned about for some time," Superintendent Serio stated, at the Manhattan press conference. "In fact, the Insurance Department was one of the first regulatory agencies to require, since 1998, that brokers disclose to their customers *all* compensation arrangements. In this way, customers understand the costs of coverage and the motivation of their broker in placing the business with certain insurers." The Insurance Department was involved during a joint investigation with the AG's office throughout 2004 in data collection and analysis as well as a review of relevant insurance laws and practices.

In January 2005, Acting Superintendent Howard Mills and the Attorney General announced a landmark agreement with Marsh & McLennan under which the company will provide $850 million in restitution to its policyholders who were harmed by its actions and adopt a new business model designed to avoid conflicts of interest. Marsh also issued a public statement in which it apologized for "unlawful" and "shameful" conduct, and promised to adopt reforms. Comparable agreements with two other brokers, Aon and Willis, were also announced in 2005.

D. Disaster Preparedness

1. Disaster Preparedness Bureau

Last year, the Department launched its new Disaster Preparedness and Response Bureau, designed to assist the New York insurance industry in preparing for and responding to disasters, including acts of terrorism. New York's Insurance Department is the first in the nation to create a bureau dedicated solely to disaster preparedness.

In 2004, New York insurers submitted Disaster Response Questionnaires and their Disaster Response Plans to the Department for review in accordance with Circular Letter No. 7 (2004), prepared by the Bureau. In addition, insurers submitted Business Continuity Questionnaires in compliance with the Circular Letter and attested to the existence of Business Continuity Plans. Such Plans will be subject to review during financial examinations.

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

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 in subsequent years, have raised significant issues, none more important than that of addressing the issue of comprehensive coverage for terrorist acts.

In November 2002, President George W. Bush signed the Terrorism Risk Insurance Act (TRIA) into law. TRIA 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.

The Department has strongly supported the extension of the TRIA program, scheduled to expire on December 31, 2005. Early in 2005, Acting Superintendent Mills testified before Congress on behalf of the National Association of Insurance Commissioners (NAIC) on the importance of extending this important program. In his testimony, Mr. Mills noted that since the inception of TRIA, not one dollar in losses has been paid out by the federal reinsurance program.

3. New York Insurance Network

The New York Insurance Department has 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 initiated by Governor Pataki to address safety and security issues on a statewide basis following the establishment of the federal Office of Homeland Security and New York's Office of Public Security.

The 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. Since its inception, NYIN has disseminated over 160 alerts to participating insurers.

E. Property Bureau (Automobile)

1. Revised No-Fault Regulation Promulgated

The average change for private passenger auto insurers receiving rate changes in 2004 was a *decrease* of 2.7%. For these insurers, liability rates increased 0.15% on average while physical damage rates, primarily collision and theft coverages, decreased 9.1% on average. The insurers receiving rate changes in 2004 represent 62% of the total market for private passenger automobile insurance. The overall impact on the rate level for the entire market (including those auto insurers with no approved rate changes in 2004) was an average 1.7% *decrease*. Such decreases are expected to continue in 2005 since most major auto insurers have already reduced rates in 2005.

2. No-Fault Regulatory Changes

The Department laid the foundation for reform of the No-Fault Automobile Insurance System when the revision to Regulation 68 took effect on April 5, 2002, and further built upon this foundation with the promulgation of the 28th Amendment to Regulation 83 effective October 6, 2004. In addition, the 28th Amendment to Regulation 83 contains regulatory reforms governing durable medical equipment and health care provider reimbursement.

The Amendment to Regulation 68 is a primary reason behind the reduction in New York State's average no-fault losses per claim from $8,489 as of year-end 2002 to $6,229 as of June, 30 2004. The Department anticipates additional savings as a result of Regulation 83 as well. As a result of these actions and anticipated future loss reductions, the New Yorkers are already benefiting from auto rate decreases approved for 2005.

3. Decline in Pending No-Fault Arbitration Cases

Under New York's no-fault law, claimants who are dissatisfied with no-fault automobile insurance decisions rendered by insurers can take their cases to arbitration. The Department has worked to reduce significantly the inventory of cases pending in the arbitration system from 116,200 at the close of March 2002 to 27,400 at the close of December 2004. Moreover, the percentage of pending cases that were conciliated (resolved prior to going to arbitration) in each of the last three years was 23% in 2002, 28% in 2003, and 33% in 2004.

The reduction in inventory coupled with the higher conciliation rate has produced a no-fault arbitration system that resolves cases more quickly than in prior years. This continuous improvement was evident in 2004, as the average age of cases closed in the arbitration system from conciliation

filing date decreased from 296 days at the close of December 2003 to 183 days at the close of December 2004.

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.

F. Property Bureau (Non-Auto)

1. Finite Risk Reinsurance

Finite risk reinsurance has received increased attention during the past year. Finite risk reinsurance is a product that can potentially be used by insurers to create the appearance that business has been ceded to reinsurers without actually transferring any risk. Upon examination of domestic insurers, the Department has been reviewing reinsurance agreements for transfer of risk for many years.

Due to the recent increased concerns regarding finite risk reinsurance, the Department has been involved in joint investigations with both the Securities and Exchange Commission and the New York Attorney General's Office, and increased scrutiny of certain reinsurance agreements has been instituted. Additionally, the Department is participating in efforts by the National Association of Insurance Commissioners to address accounting and disclosure issues related to finite risk reinsurance.

2. NYPIUA Issues

Chapter 121 of the Laws of 2004 extended the operating authority of the New York Property Insurance Underwriting Association (NYPIUA) to June 30, 2005, 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.

3. Market Conduct Investigations

The Property Bureau closed 128 market conduct investigations during the year. At year's end, 20 market conduct investigations were in progress. A total of 52 stipulations were entered into in 2004, resulting in fines totaling $1,298,000. In addition, fines totaling $116,750 were received from insurers and self-insurers for failure to pay arbitration awards in a timely manner.

G. Health Bureau

1. Healthy NY

Governor Pataki announced, in a year-end assessment of the program, that Healthy NY's enrollment on December 1, 2004 stood at 76,704, a 93 percent year-to-year increase. Healthy NY is the reduced-cost health insurance program that makes health care coverage available to small businesses, sole proprietors and other working individuals.

"Healthy NY has become a national model for states seeking an innovative way to provide affordable health insurance coverage to those who need it most," Governor Pataki said. "We are proud that Healthy NY is strengthening small businesses by enabling them to offer important health benefits

to their employees and providing families access to quality, comprehensive health care, and these latest figures prove that we are now reaching more people than ever."

Healthy NY continued to grow in 2005. As of April 1, 2005, enrollment in the program totaled 90,822.

2. External Appeal Program

In 2004, New York's external appeal program continued to provide health care consumers with the right to obtain an independent, impartial review when health plans denied services as not medically necessary, experimental or investigational, or because the services were provided in a clinical trial. Since the program's inception on July 1, 1999, there have been over 9,500 external appeal requests submitted by New Yorkers to the program.

3. Health Insurance Continuation Demonstration Project

The Health Bureau has been statutorily charged with implementing the New York State health insurance continuation assistance demonstration project. The statute creates two distinct pilot programs: one designed to assist entertainment industry workers, and the other designed to assist displaced workers meeting certain requirements as defined by federal law. The programs are designed to subsidize the Consolidated Budget Reconciliation Act (COBRA) premiums for the populations defined in the statute. This law became effective November 20, 2004 and the program for entertainment workers began January 1, 2005. By mid-May, more than 400 entertainment industry employees had applied for premium assistance.

H. Life Bureau

1. Speed to Market

During 2004, the Life Bureau continued to assist insurers in bringing products to market as quickly as possible. The Bureau has encouraged insurers to use the certified filing procedures authorized by Section 3201(b)(6) of the Insurance Law and Department circular letters. In fact, the Life Bureau streamlined the certified filing procedure by issuing Circular Letter No. 6 (2004), effective September 1, 2004.

The new filing procedure involves the use of a certification of compliance completed by an officer of the insurer. The new Circular Letter eliminated the requirement in Circular Letter No. 27 (2000) for filing a detailed product checklist with the Department and made the triage procedure for regular prior approval submission unnecessary. The Life Bureau has provided detailed guidance for filing under the new procedure on the Department's Web site.

2. "Past Travel" Guidelines Issued

A new Section 2614 was added to the Insurance Law on August 3, 2004 that prohibits an insurer from questioning an applicant about his or her lawful past travel as part of an insurance policy application process. The statute prohibits an insurer, or any agent thereof, from making any distinction or otherwise discriminating between persons, rejecting an applicant or canceling a policy or requiring a higher premium rate for reasons associated with an applicant's lawful past travel.

The essence of the new law is that past travel is not a reasonable risk classification or risk selection factor. The Life Bureau has enforced this prohibition by requiring companies to remove questions regarding past travel from application forms submitted for approval. In addition, the Life

Bureau has advised insurers to amend or revise previously approved application forms to delete questions regarding past travel.

3. Corporate-Owned Life Insurance (COLI)

In 2004, the Department promulgated Regulation 180 on an emergency basis in order to establish standards for life insurers issuing key person COLI policies to ensure that the employees or other persons on whose lives coverage is being written are actually *key persons*, as opposed to rank-and-file employees. The Regulation defines a *key person* as an employee who (1) is one of the five highest paid officers of the employer, (2) is a 5% owner of the employer, (3) had compensation from the employer in excess of $90,000 in the preceding year, (4) is among the highest paid 35% of all employees, or (5) makes a significant economic contribution to the company.

This Regulation will help to ensure that rank-and-file employees and other non-key employees receive the notice, consent and termination rights prescribed by Section 3205(d).

I. Consumer Services Bureau

1. Complaint Handling

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 54,249 cases in 2004. Of these, 42,546 involved complaints against insurance companies regarding loss settlements or policy provisions, of which 37.6% (16,002) were automobile complaints, 50.5% (21,496) were accident and health complaints, 8.7% (3,706) were non-auto property and liability complaints and 3.2% (1,342) were life and annuity complaints. In total, the Bureau received 56,823 cases during 2004.

2. Prompt Pay Fines

The Consumer Services Bureau continued its enforcement action against health insurers and HMOs that violated the prompt payment statute, enacted to ensure timely payments to health insurance claimants. In 2004, $455,400 in Prompt Pay fines was levied against 24 health insurers and HMOs. These fines were calculated using the new methodology developed in 2003. The new methodology considers 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 provides a more accurate picture of the overall performance of the insurer or HMO.

3. Service Contract Provider Fines

In 2004, the Consumer Services Bureau fined several companies for acting as a service contract provider without being properly registered: American Guardian Warranty; Guardian Warranty; Home Sure of America, and Warranty Acceptance Corp. Service contract providers offer repairs, replacement or maintenance**,** or indemnification for the repair, replacement or maintenance, of property due to a defect in materials or workmanship or wear and tear. The products covered include automobile~~s~~ and electronics equipment, among others. Manufacturers who issue original product warranties upon the sale of its products are exempt from the service contract provider registration requirement.

4. Annual Health Insurance 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 only Interactive Guide to HMOs available from any state insurance

department. The Interactive Guide can be accessed through the New York Insurance Department's Web site at **www.ins.state.ny.us**.

J. Frauds Bureau

1. Arrests Reach Record High

The Frauds Bureau participated in investigations that led to the arrest of 815 individuals for insurance fraud and related crimes during 2004. This marks a new record for the Bureau and represents an increase of 62% since 2000.

Frauds Bureau activities in 2004 resulted in court-ordered restitution of more than $9.6 million by 110 individuals. In 36 cases, individuals made voluntary restitution totaling over $1 million. In yet another 29 instances, insurers were able to achieve savings of more than $16.8 million in connection with fraudulent claims under investigation by the Frauds Bureau.

Governor Pataki and the New York Legislature have supported the Bureau's efforts to partner with the industry, prosecutors and law enforcement agencies at all levels of government to combat insurance fraud across the State. This support has contributed to the Bureau's accomplishments during the past year.

2. Fighting Auto Fraud

During the past three years, the Frauds Bureau has developed and expanded its collaboration with the police and district attorneys across New York State in fighting fraud on the local level. These efforts along with other Department initiatives have been successful by any measure. As of mid-2004, the industry had experienced eight straight quarters of reductions in the overall loss ratio in the private passenger auto market.

No-fault fraud accounted for just over half of the 27,279 total reports of suspected fraud received by the Bureau in 2004. The Bureau conducted a number of investigations into the operation of fraudulent medical facilities in both upstate and downstate regions. These investigations led to the takedown of several major no-fault fraud rings and the indictment of close to 200 individuals and corporations. As many as 80 arrests resulted from one investigation alone.

K. Capital Markets Bureau — Expanding Risk Measurement Systems

In 2004, in addition to keeping abreast of improving quality of certain fixed income investments and the rebound in the equity market, the Bureau oversaw the 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 periodically met with companies specializing in developing sophisticated risk measurement systems.

L. Systems Bureau – Internet Developments

The Department's Web site continued to play a vital role in communicating and providing services to diverse constituencies in 2004. During 2004, there were nearly 2.6 million visits to the Department's home page, a 21% increase over the previous year.

II. Review of New York State Insurance Business

A. LIFE BUREAU

1. Licensed Life Companies

There were 144 life insurance companies licensed to transact business in New York State as of December 31, 2004. The total admitted assets of licensed life insurers amounted to approximately $1.91 trillion at December 31, 2003, a ten-year gain of 80.7%. Bonds totaled $881.3 billion; stocks $52.6 billion; mortgage loans $149.8 billion; real estate $12.7 billion; policy loans $55.4 billion, and short-term holdings $23.1 billion. Other admitted assets totaled $738.4 billion.

2. Domestic Life Companies

Domestic life insurance companies had admitted assets of $716.2 billion on December 31, 2003, an increase of 85.6% since 1993. Insurance in force at December 31, 2003 of $4.25 trillion represents an increase of 66.0% since December 31, 1993.

3. Organizations Under Life Bureau Supervision

The Life Bureau supervised 482 organizations as of December 31, 2004. These organizations consisted of: 144 licensed life insurance companies — 86 domiciled in New York and 58 foreign; 42 fraternal benefit societies — 5 domiciled in New York, 36 foreign and 1 United States Branch of a Canadian Society; 12 retirement systems — 4 private pension funds and 8 governmental systems; nine governmental variable supplements funds; 190 charitable annuity funds; 26 employee welfare funds; 8 viatical settlement companies and 51 accredited reinsurers. Unless otherwise noted, tables and related data for life insurance companies refer to the **nationwide** operations of insurers licensed to do business in the State.

Table 1
ADMITTED ASSETS
Life Insurance Companies Licensed in New York State
Selected Years, 1993-2003
(dollar amounts in billions)

Admitted Assets	2003	2002	1998	1993
Total	$1,913.3	$1,719.6	$1,521.2	$1,059.0
Percent increase from 1993	80.7%	62.4%	43.6%	---
Type of asset				
Bonds	$881.3	$802.3	$627.9	$493.1
Stocks	52.6	47.1	53.2	35.6
Mortgage Loans	149.8	145.7	133.0	155.8
Real Estate	12.7	14.5	20.0	34.5
Policy loans/liens	55.4	56.5	56.4	46.6
Short-term holdings	23.1	27.9	27.4	19.8
Other	738.4	625.4	603.3	273.6

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, 1998-2003
(in billions)

	2003	2002	1998
Assets	$1,913.3	$1,719.6	$1,521.2
Liabilities	1,805.8	1,623.4	1,443.0
Capital & Surplus	107.5	96.2	78.2

Source: New York State Insurance Department

Table 3
TOTAL LIFE INSURANCE IN FORCE
Life Insurance Companies Licensed in New York State
Selected Years, 1993-2003
(dollar amounts in billions)

Class of Business	2003	2002	1998	1993
Total insurance in force	$10,529.7	$10,142.7	$8,098.0	$6,494.6
Percent increase from 1993	62.1%	56.2%	24.7%	---
Ordinary	$5,801.1	$5,580.3	$4,358.9	$3,228.1
Group	4,668.0	4,462.1	3,656.2	3,190.8
Credit	53.9	57.4	75.4	67.7
Industrial	6.6	6.8	7.4	8.0

Source: New York State Insurance Department

Table 4
SOURCES OF INCOME*
Life Insurance Companies Licensed in New York State
Selected Years, 1998-2003
(dollar amounts in millions)

	2003		2002		1998	
Source of Income	**Amount**	**Percent of Total**	**Amount**	**Percent of Total**	**Amount**	**Percent of Total**
Group life	$15,340.5	5.3%	$15,630.0	5.5%	$13,425.7	4.8%
Group annuities	64,053.1	22.1	63,103.8	22.1	78,779.1	28.2
Group A & H	22,500.8	7.7	21,277.8	7.4	21,000.1	7.5
Ordinary life	42,485.9	14.7	43,327.7[r]	15.2[r]	40,186.7	14.4
Individual annuities	53,032.4	18.3	50,823.7	17.8	30,189.7	10.8
Individual A & H	4,504.5	1.6	4,543.6	1.6	3,778.7	1.4
Credit life	263.7	0.1	240.1	0.1	321.5	0.1
Industrial life	169.7	0.1	204.0	0.1	238.3	0.1
Total Premiums	**$202,350.4**	**69.9%**	**$199,150.3[r]**	**69.8%[r]**	**$187,919.8**	**67.3%**
Supplementary contracts	360.2	0.1%	376.1	0.1%	8,854.4	3.2%
Net investment income	72,603.7	25.0	71,990.1	25.2	67,451.3	24.2
Other income	14,631.9	5.0	14,066.4[r]	4.9[r]	14,745.8	5.3
TOTAL	**$289,946.2**	**100.0%**	**$285,582.9**	**100.0%**	**$278,971.3**	**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.
[r] Revised from Annual Report for Calendar Year 2003.
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, 1998-2003
(in millions)

	2003	2002	1998
Total premiums	$202,350.4	$199,150.3	$187,919.8
Investment income	72,603.0	71,990.1	67,451.3
Supplementary contracts	360.2	376.1	8,854.4
Other income	14,631.9	14,066.4	14,745.8
Total income	289,945.5	285,582.9	278,971.3
Net gain from operations	13,842.1	11,243.0	7,365.3
Net income	12,419.3	3,747.9	9,522.5

*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, 1993-2003
(dollar amounts in billions)

Insurance In Force	2003	2002	1998	1993
Total	$1,420.7	$1,387.0	$1,033.3	$766.9
Percent increase from 1993	85.3%	80.9%	34.7%	---
Class of business				
Ordinary	$887.6	$830.2	$608.6	$458.5
Group	525.1	548.5	417.2	297.7
Credit	7.2	7.6	6.6	9.7
Industrial	0.7	0.8	0.9	1.0

Source: New York State Insurance Department

Table 7
ADMITTED ASSETS/INSURANCE IN FORCE
DOMESTIC LIFE INSURANCE COMPANIES
Selected Years, 1993-2003
(dollar amounts in billions)

Domestic Life Insurers	2003	2002	1998	1993
Admitted assets	$716.2	$639.0	$549.3	$385.9
Percent increase from 1993	85.6%	65.6%	42.3%	---
Insurance in force	$4,245.1	$4,018.0	$3,429.7	$2,556.7
Percent increase from 1993	66.0%	57.2%	34.1%	---

Source: New York State Insurance Department

4. Licensed Fraternal Benefit Societies

At the close of 2003, 45 fraternal benefit societies were licensed to conduct insurance business in New York State. Of these, 6 were domestic, 38 were foreign and 1 was an alien society. In the ten-year period ending December 31, 2003 the admitted assets of licensed societies rose from $37.7 billion to $69.1 billion, an increase of 83%. Insurance in force rose $83.4 billion over the period to $280.0 billion, an increase of 42%.

Table 8
FRATERNAL BENEFIT SOCIETIES
Selected Years, 1993-2003
(in billions)

Fraternal Benefit Societies	2003	2002	1998	1993
Admitted assets	$69.1	$63.9	$45.9	$37.7
Insurance in force	$280.0	$272.2	$209.1	$196.6

Source: New York State Insurance Department

5. Private Retirement Systems

At the close of 2003, 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 2003, the assets of these four private pension funds totaled approximately $162 billion. The following table shows data for the private pension funds for selected years from 1993 to 2003:

Table 9
PRIVATE PENSION FUNDS
Regulated by NYS Insurance Department
Selected Years, 1993-2003
(in millions)

Private Pension Funds	2003	2002	1998	1993
Total admitted assets	$162,043.6	$129,336.7	$154,883.5	$63,770.7
Payments to annuitants and beneficiaries	$9,097.7	$10,482.8	$8,265.1	$2,193.2

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 2003 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 to their employees. The aggregate assets of the eight governmental systems as of the end of their respective fiscal years ending in 2003 were approximately $248 billion. During the period from 1993 to 2003, the assets of these retirement systems increased at the compound rate of 5.2% per year.

The governmental retirement systems cover a total of 1.9 million active and retired members. The number of active employees in the public retirement systems in 2003 increased by 10% from its 1993 level, while the number of pensioners increased by 22% over the same period. The substantial increase in pensioners, as compared with a lesser increase in the work force, reinforces the need for maintaining adequate actuarial reserves.

The New York City Administrative Code provides for nine 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 City guarantees the payment of the variable supplements benefits. 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, 2003 totaling $2.9 billion.

The following table shows data for the public employee retirement systems, excluding the variable supplements funds, for selected years from 1993 to 2003:

Table 10
PUBLIC RETIREMENT SYSTEMS AND PENSION FUNDS
Regulated by NYS Insurance Department
Selected Years, 1993-2003
(in millions)

Public Retirement Systems & Pension Funds	2003	2002	1998	1993
Total admitted assets	$247,681	$266,930	$275,045	$148,591
Payments to annuitants and beneficiaries	$14,081	$14,188	$10,360	$7,087

Source: New York State Insurance Department

7. Segregated Gift Annuity Funds for Charitable Organizations

At the end of 2003, 179 charitable annuity societies held permits under Section 1110 of the Insurance Law. In return for, or conditioned upon, the receipt of gift funds, such organizations agree to pay an annuity to the donor, or a nominee. These agreements must provide to the issuer, upon the death of the annuitant, a residue equal to at least one-half the original gift or other consideration for such annuity. In the ten-year period ending December 31, 2003, admitted assets of these funds increased by 340% and the annual payments increased by 435%. This reflects the rapid growth in the number of licensed societies during the period under review.

Table 11
SEGREGATED GIFT ANNUITY FUNDS
Selected Years, 1993-2003
(in millions)

Segregated Gift Annuity Funds	2003	2002	1998	1993
Total admitted assets	$1,444.5	$1,230.4	$730.7	$328.5
Annual payments to annuitants	$132.2	$114.0	$61.2	$24.7

Source: New York State Insurance Department

8. Employee Welfare Funds

Twenty-four employee welfare funds covering 72,130 employees were supervised by the Department at the close of 2003. 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 $96.1 million in 2003. Benefits paid totaled $92.2 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 $6.5 million representing 6.8% of contributions.

The amounts reported for employee welfare funds have decreased dramatically (in 2002, benefits paid to fund members totaled $374.4 million) due to the fact that the fund with the largest membership did not have its license renewed in 2003.

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 2003, seven companies were licensed or authorized to act as viatical settlement companies in New York.

As of December 31, 2003, these companies had combined assets of $21.9 million, with the largest accounting for $8.9 million. The assets primarily consisted of life insurance policies purchased, cash and accounts receivable. Costs of purchasing these policies amounted to $8.0 million, which comprised about 63.5% of the $12.6 million total face value.

The amounts reported for licensed viatical settlement companies have decreased dramatically (in 2001, nine viaticals had combined assets of $433 million) due to the fact that the viatical settlement company with the largest New York market share surrendered its license in 2002.

10. Examinations of Insurers Conducted in 2004

Table 12
EXAMINATIONS CONDUCTED
Life Bureau
2004

		Regularly Scheduled		Other	
		Initiated			
	Total	In 2004	Prior to 2004	Special	On Organi-zation*
Life insurance companies	40	24	15	1	0
Fraternal benefit societies	5	3	2	0	0
Retirement systems and pension funds	1	0	1	0	0
Segregated gift annuity funds of charitable organizations	34	34	0	0	0
Viatical settlement companies	2	2	0	0	0
Welfare funds	0	0	0	0	0
Total	**82**	**63**	**18**	**1**	**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, 2004, there were 482 companies that were licensed or accredited 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, 2004

Life – New York	86
Life – Other States	58
Accredited Reinsurers	51
Fraternals – New York	5
Fraternals – Other States	36
Fraternals – Canadian, U.S. Branch	1
Charitable Annuities	190
Retirement Systems	21
Viaticals	8
Welfare Funds	26
Total	**482**

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 are 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 2003 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 2004, the real estate unit submitted nine 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 acquisition and construction of home office real estate, real estate valuation, leases between members of holding company systems and mortgage loan participation agreements.

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.

The actuarial staff also reviews 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.

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. Follow-up work is also required after such reorganizations take place, mainly to assure fair treatment of the policyholders who existed prior to the reorganization (the "closed block").

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, New York State Education Law and New York City Administrative Code). During 2004 a separate Pension Unit with a staff devoted full time to pension issues was established. More detail concerning public retirement systems is available in subsection (6) of this Life Bureau section of the Annual Report.

The staff 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. Separate accounts generally provide life insurance and annuity policyholders with a specialized investment option that permits the policyholder to assume most or all of the investment risk. The number of such submissions increased by 5% in 2004 when compared with 2003. Many 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.

Submissions under New York's agent compensation law (Section 4228) comprised the next greatest number of actuarial filings again in 2004. The Bureau experienced an 18% year-to-year increase in such submissions in 2004. There were 16 submissions of investment income allocation methodology in 2004, 46% more than in 2003. There were 13 submissions related to mergers, acquisitions and new company formations during 2004, a 38% decrease compared with 2003.

There were only six synthetic GIC submissions during 2004, nine fewer than in 2003. Four were from a single, large domestic insurer and the other two from a foreign company.

14. Guardian Life Section 4219(a) Waiver

On December 1, 2004, pursuant to Section 4219(b) of the Insurance Law, the Department granted Guardian Life Insurance Company of America permission to exceed the surplus limitations prescribed in Section 4219(a) of the Law for the one-year period from January 1, 2004 to December 31, 2004. The excess of surplus was the result of recent accounting rule changes as well as a one-time business restructuring with certain insurance subsidiaries. In addition, Guardian has decided to pursue legislation to modernize the formulae calculating the surplus limitations of Section 4219(a) of the Insurance Law.

15. Life Bureau – Albany

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

In 2004, the Life Bureau in Albany received 1,868 policy form submissions (files) consisting of 7,408 life and annuity policy forms and other financial products offered by life insurance companies, fraternal benefit societies, charitable annuity societies and viatical settlement companies as indicated in Table 14 below. Of the 1,868 files received, 20.7% were approved under the regular prior approval procedure, 25.2% were approved under a certification procedure (Section 3201(b)(6), Circular Letter No. 27 (2000) or Circular Letter No. 6 (2004)), 27.4% were filed for out-of-state use or for reference, 18.8% were rejected or withdrawn and 7.8% remain pending.

In 2004, the Life Bureau processed a total of 1,865 policy form submissions (files) consisting of 7,182 policy forms as indicated in Table 14. Of the 7,182 forms processed in 2004, approximately 42.9% were submitted for prior approval, 35.5% were submitted under a certified filing procedure and 21.7% were filed for out-of-state use.

Table 14
NUMBER OF FILES & POLICY FORMS
RECEIVED AND PROCESSED BY TYPE
LIFE BUREAU, 2004

PRODUCT TYPE	RECEIVED		PROCESSED	
	Files	**Forms**	**Files**	**Forms**
Individual Life	657	2,771	672	2,753
Group Life	180	928	183	803
Individual Annuity	538	1,792	552	1,798
Group Annuity	395	1,454	359	1,323
Credit Insurance	17	73	11	38
Viatical Settlement	4	54	6	93
Miscellaneous	77	336	82	374
TOTAL	**1,868**	**7,408**	**1,865**	**7,182**

Note: Individual and group life includes term and whole life insurance, indeterminate premium, universal life insurance, variable life insurance. Individual and group annuity includes fixed and variable annuity, separate account agreements, funding agreements, structured settlements, charitable annuities and synthetic guaranteed investment contracts. Credit insurance includes credit life, disability and unemployment insurance.

b. Review of Actuarial and Other Form-Related Filings

In conjunction with the policy form approval process, the Life Bureau received 432 other filings related to the policy form approval process and products offered for sale in New York, including 50 rate and actuarial filings, 96 inquiries and complaints, 49 FOIL requests, 28 prefilings under Circular Letter No. 64-1, 55 compensation filings and 103 annual illustration certification filings.

Table 15
POLICY FORM-RELATED FILINGS RECEIVED IN 2004

Fraternal Benefit Societies (Constitution, Articles of Incorp., Bylaws, etc.)	12
Calculation of Life Estates	17
Circular Letter No. 64-1	28
Compensation Filings	55
FOIL Requests	49
Inquiries & Complaints	96
Rate & Actuarial Filings	50
Violations & Market Conduct	16
Informational Filing	7
Regulation 74 Illustration Certification Filings	103
Total	**432**

c. Speed to Market

During 2004, the Life Bureau continued to assist insurers in bringing products to market as quickly as possible. Detailed product outlines are available on the Department's Web site and are periodically updated. The Life Bureau has encouraged insurers to utilize the certified filing procedures authorized by Section 3201(b)(6) of the Insurance Law and Department circular letters. In fact, the Life Bureau streamlined the certified filing procedure by issuing Circular Letter No. 6 (2004), effective September 1, 2004. The new filing procedure involves the use of a certification of compliance completed by an officer of the insurer. The new Circular Letter eliminated the requirement in Circular Letter No. 27 (2000) for filing a detailed product checklist with the Department and made the triage procedure for regular prior approval submission unnecessary. The Life Bureau has provided detailed guidance for filing under the new procedure; go to the "insurer" icon on the Department's Web site.

From January through August of 2004, the Life Bureau received 319 Circular Letter No. 27 (2000) certified files, consisting of 1,290 forms. From September through December 2004, the Life Bureau received 338 Circular Letter No. 6 (2004) certified files, consisting of 1,367 policy forms. In addition, the Life Bureau received 13 deemer filings authorized by Section 3201(b)(6) consisting of 21 policy forms. The 670 certified filings (and 2,678 forms) constitute more than 45% of all files (and forms) submitted for prior approval and sale in New York.

During the year, the Life Bureau processed the 1,290 Circular Letter 27 (2000) policy forms in an average of 73.6 days and the 1,367 Circular Letter No. 6 (2004) policy forms in an average of 12.4 days. Of the total 1,290 Circular Letter No. 27 policy forms, 780 were approved, 335 were rejected and 114 were withdrawn. Of the total 1,367 Circular Letter No. 6 policy forms, 871 were approved, 343 were rejected and 53 were withdrawn.

As noted above, the Life Bureau has continued to process policy forms submitted under the deemer authority in Section 3201(b)(6) of the Insurance Law. However, the number of forms processed under Section 3201(b)(6) has been steadily declining from the high of 478 in 2001.

d. SERFF

In addition to the traditional paper filings, the Life Bureau accepts electronic form filings for all types of individual and group life and annuity products, as well as compensation filings, through the NAIC-sponsored System for Electronic Rate and Form Filing (SERFF). The Department's Web site provides detailed filing guidelines for SERFF submissions to assist insurers in making such filings with the Department.

During the year, the life insurance industry's use of SERFF has continued to expand. At the start of 2004, there were 51 life insurance companies using SERFF to make policy form submissions. During 2004 another 27 companies used SERFF for the first time. In 2004, insurers submitted 544 files, consisting of 2,051 policy forms through SERFF. This total represents 27.9% of all policy form filings in 2004. Continued growth both in the number of insurers using SERFF as a submission platform and in the percentage of filings made through SERFF is expected. During the first six month of 2004, 25.4% of the submissions were through SERFF; that percentage increased to 33.4% in the final six months of 2004.

e. Nonforfeiture Law Interest Rate Change – Web Site Guidance

Chapter 596 of the Laws of 2004 amended several provisions of the nonforfeiture law for annuities in Section 4223 of the Insurance Law. The Law raised the involuntary cashout amount for small and inactive accounts to $5,000 from $2,000 to correspond to the limit established in the Internal Revenue Code (IRC) Section 411(a)(11)(A). The Law also amended the charges used in calculating the actual accumulation amount in deferred annuities for the first time since 1979 by increasing the maximum annual administrative charge from $30 to $50, eliminating the $1.25 collection charge and simplifying the contract charge to a flat fee of $50.

In addition, the Law excepted group annuity certificates issued in conjunction with group annuity contracts funding employee benefit plans from the requirements of Section 4223. This change recognizes that plan sponsors have fiduciary responsibilities in selecting, monitoring and terminating plan funding vehicles and that the benefits provided under group annuity contracts are generally better than benefits provided under annuity contracts subject to the nonforfeiture law.

The most important provision in Chapter 596 of the Laws of 2004 replaces temporarily the fixed 1.5% minimum nonforfeiture interest rate (which reverts to 3% on May 15, 2005) with an index rate that is based upon the five-year Constant Maturity Treasury Rate reported by the Federal Reserve as of a date, or average over a period, within the 15 months prior to the contract issue or redetermination date reduced by 125 basis points. The minimum interest rate is capped at 3% and cannot fall below 1%. The minimum interest rate at issue must be specified in the contract and the basis and calculation for setting such rate must be filed with the Superintendent. If the contract provides that the minimum rate of interest may be redetermined, the redetermination date, basis, calculation and period must be stated in the contract.

The index rate approach was called for because of the historic low interest rate environment. Some insurers had difficulty supporting the 3% minimum interest rate required by Section 4223. The index approach will result in a guaranteed minimum interest rate at issue that reflects the then current market. These changes are needed to ensure the availability of deferred annuity products in New York and to protect the financial health of licensed life insurers.

The Life Bureau is developing filing guidance for the Department's Web site to assist insurers in submitting policy forms that utilize the new indexed minimum interest rate.

f. Past Travel Legislation

A new Section 2614 was added to the Insurance Law on August 3, 2004 that prohibits an insurer from questioning an applicant about his or her lawful past travel as part of an insurance policy application process. The statute prohibits an insurer, or any agent thereof, from making any distinction or otherwise discriminating between persons, rejecting an applicant or canceling a policy or requiring a higher premium rate for reasons associated with an applicant's lawful past travel.

The essence of the new law is that past travel is not a reasonable risk classification or risk selection factor. The Life Bureau has enforced this prohibition by requiring companies to remove questions regarding past travel from application forms submitted for approval. In addition, the Life Bureau has advised insurers to amend or revise previously approved application forms to delete questions regarding past travel.

g. Accelerated Death Benefit Regulation

Between 1997 and 2003, Section 1113 (a)(1) of the Insurance Law was amended to add two triggers for accelerated death benefits under life insurance policies. The triggers allow for the acceleration of the death benefit based on certification by a licensed health care practitioner (1) of any condition which requires continuous care for the rest of the insured's life or (2) that the insured is chronically ill as defined by the Internal Revenue Code. The accelerated payments under these triggers must be federally tax qualified.

Regulation 143 sets forth the rules that implement Section 1113(a)(1) with respect to accelerated death benefits. Currently, Regulation 143 sets forth the rules for accelerating death benefits for the two previous triggers in Section 1113 (a)(1) for the diagnosis of a terminal illness when the life expectancy does not exceed 12 months and for the diagnosis of a medical condition requiring extraordinary care or treatment regardless of life expectancy.

During 2004, Life Bureau staff drafted substantial revisions to Regulation 143, in consultation with the industry, to establish rules for the implementation of the two triggers. The two triggers will provide additional methods of funding long-term care services by making these accelerated death benefits available to New York policyholders. The final draft of the revised regulation has been submitted to the Governor's Office of Regulatory Reform for their review.

h. Key Person Corporate-Owned Life Insurance (COLI)

Section 3205 of the Insurance Law sets forth the requirements for insurable interest that reflect the state's public policy against contracts wagering on human life. Section 3205(a)(1)(B) has long been interpreted to permit an employer to insure the lives of its *key employees* because the employer has a lawful and substantial economic interest in the continued life, health or bodily safety of such employees. In 1996, subsections (d) and (e) were added to Section 3205 to permit employers to insure the lives of *rank-and-file* as well as *key* employees under corporate-owned life insurance programs designed to fund employee benefit plans. However, to prevent abuses associated with corporate-owned life insurance covering rank-and-file employees (also called *janitors insurance* or *dead peasant insurance*), subsections (d) and (e) provided employees with notice, consent and termination rights in connection with such coverage.

In 2004, the Department promulgated Regulation 180 on an emergency basis in order to establish standards for life insurers issuing Section 3205(a)(1)(B) key person COLI to ensure that the employees or other persons on whose lives coverage is being written are actually *key persons*, as opposed to rank-and-file employees. The Regulation defines a *key person* as an employee who (1) is one of the five highest paid officers of the employer, (2) is a 5% owner of the employer, (3) had compensation from the employer in excess of $90,000 in the preceding year, (4) is among the highest paid 35% of all

employees, or (5) makes a significant economic contribution to the company. The definition of key employee in the Regulation is based on the definitions of *highly compensated individual* and *highly compensated employee* in Sections 105(h)(5) and 414(q) of the Internal Revenue Code. This definition of key employee was also contained in a draft COLI bill pending in the United States Senate in 2004 which provided for the taxation of death proceeds of COLI under certain circumstances.

This Regulation will help to ensure that rank-and-file employees and other non-key employees receive the notice, consent and termination rights prescribed by Section 3205(d).

i. Sale and Marketing of Life Insurance on Military Installations

During 2004, there was national press coverage regarding improper life insurance sales practices on military installations in several states. In December, the U.S. Government Accountability Office surveyed all of the state insurance commissioners regarding such sales, state-federal coordination and jurisdiction. The Life Bureau responded to the survey questions. The GAO's report of the survey findings has not yet been published.

In addition, federal legislation (the Military Personnel Financial Services Protection Act) passed the House of Representatives in the autumn that would have clarified the Department's jurisdiction over insurance sales on military installations. However, the legislation did not make it to a vote in the Senate. Identical bills were introduced in both Houses of Congress in early 2005.

j. Guaranteed Living Benefits – Update

During 2004, the Life Bureau received an increase in the number and variety of submissions providing for guaranteed living benefits in variable annuity contracts. Such guaranteed living benefits make variable annuities more attractive to risk averse consumers by mitigating market losses in the variable sub-accounts. Guaranteed living benefits in deferred variable annuity contracts (VAGLBs) generally provide for guaranteed minimum account values during the accumulation phase (GMAB) or guaranteed minimum income benefits upon annuitization (GMIB) or guaranteed minimum withdrawal benefits (GMWB).

Although insurers have developed more VAGLB options and features, the new product designs are increasingly complex and difficult for consumers to understand. The Life Bureau has provided some interim guidance to insurers through the approval process and has consulted with the Life Insurance Council of New York (LICONY) regarding approval requirements and disclosure. Additional guidance will be provided in product outlines posted on the Department Web site.

It should be noted that the extension of guarantees to separate account products and the additional risks posed by such products have raised a number of questions and concerns in New York and other states regarding the appropriate type of regulation needed for such benefits. It is expected that additional guidance will be incorporated in the next revision of Regulation 47 "Separate Accounts and Separate Account Annuities."

k. Statutory Examinations

The Reserve and Risk Management Actuaries in the Life Bureau (Albany) continue to expand their analysis of life insurers' risks beyond the traditional analysis of minimum statutory formula reserves and asset/liability matching. For the Bureau's domestic insurers this analysis ultimately culminates in the Department issuing the insurer a Certificate of Reserve Valuation. Historically, the 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 continued volatility of economic conditions, the Bureau has expanded its series of additional sensitivity tests, in addition to

the required asset adequacy analysis, for variables related to policyholder behavior and investment assumptions. This type of additional analysis has proven to more effectively determine an insurer's susceptibility to deteriorating economic conditions and has resulted in several insurers restructuring their asset portfolios to better support company obligations. In addition, the Bureau's analysis has also led to the establishment of extra reserves for insurers with significant exposure to various kinds of risk including mortality, morbidity, investment, and general economic exposure. During the year, the Bureau expanded its analysis to include self-support at the plan-of-insurance level as well as overall risk management perspective.

Internally, the Bureau has further refined 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 limited resources on insurers that are more susceptible to deteriorating economic conditions.

In addition, the Bureau continued to be heavily represented in the activities of the National Association of Insurance Commissioners (NAIC). During the year, the Bureau was very active in the establishment of minimum reserve and capital standards for Variable Annuities with Guaranteed Benefits (VAGB). With VAGB products, the insurer places minimum performance guarantees on the underlying funds. In addition, the Bureau has been the leader in closing a loophole in the NAIC's Actuarial Guideline 38 for universal life insurance with secondary guarantees (secondary guarantees). In December 2004, the Department adopted an emergency amendment to Regulation 147 which incorporates the guidance the Bureau suggested with respect to secondary guarantees and Actuarial Guideline 38. The emergency amendment to Regulation 147 and the proposed changes to AG38 have become very controversial and political in recent months.

Also this year, significant progress was realized with issues related to the management of liquidity risk.

All of these efforts materially improved the Bureau's risk-based examination focus during 2004. Going forward, the Bureau will continue efforts to further improve its focus on the timely identification of risks faced by the insurance industry. During the next year, the Bureau plans to analyze reinsurance treaties to ensure proper reserve credit and risk transfer to the reinsurer.

The Bureau has updated Regulation 56 to be generally consistent with the NAIC model health insurance reserve regulation. In the near future, this Regulation will apply to all long-duration health insurance issued by life, health, and property insurers. In addition, the Bureau adopted a regulation to update its mortality standards for life insurance reserves and cash surrender values.

B. PROPERTY BUREAU

1. Entities Supervised by the Financial Regulation Division

As of December 31, 2004, the Financial Regulation Division side of the Property Bureau exercised regulatory authority over some 1,639 insurer and noninsurer entities.

The Bureau regulated 997 insurer entities as of year-end 2004. Table 16 provides a breakdown.

Table 16
ENTITIES REGULATED BY PROPERTY BUREAU
2004

Number of Regulated Entities	Type of insurer/reinsurer/entity
79	Accredited reinsurers*
19	Advance premium co-operatives
26	Assessment co-operatives
10	Associations, pools, and syndicates
27	Captive insurers
14	Financial guaranty insurers
26	Mortgage guaranty insurers
1	Property Insurance Underwriting Association (FAIR Plan)
755	Property/casualty insurers
22	Title insurers (including two accredited reinsurers)
18	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, 2004, the Department recognized 50 active Lloyd's syndicates as accredited reinsurers.

In addition, the Bureau oversaw the operation of 68 risk retention groups in 2004, 176 reinsurance intermediaries, 9 insurer-controlling producers, and 407 managing general agents.

The Property Bureau received 20 applications for licensing during 2004. Sixteen insurers were newly licensed including 1 foreign mortgage guaranty insurer, 1 foreign title company and 14 foreign stock insurers. At the close of the year, 14 domestic stock companies, one of which is a domestic reciprocal insurer, 3 domestic financial guaranty insurers, 1 foreign title insurer and 18 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 companies refer to the **nationwide** operations of insurers authorized to do business in this State. Data for stock insurers include 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 2003 by all New York-licensed property and casualty insurers aggregated totaled $287.4 billion, of which 77.1% represented stock company writings. As noted previously, the following underwriting and investment results deal with the **nationwide** business of New York licensed companies:

Table 17
NET PREMIUMS WRITTEN AND SURPLUS TO POLICYHOLDERS
Property and Casualty Insurers Licensed in New York State
1998-2003
(dollar amounts in millions)

	Stock Companies				Mutual Companies			
Year	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
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
2002	737	205,017	181,615	1.1	78	62,576	63,789	1.0
2003	706	221,356	203,973	1.1	72	66,070	66,315	1.0

Source: New York State Insurance Department

b. Underwriting Results

Results for 2003 show a **net** underwriting loss of $6.6 billion for stock companies and a **net** underwriting loss of $0.4 billion for mutual companies.

Table 18
UNDERWRITING RESULTS
Property and Casualty Insurers Licensed in New York State
2000-2003
(dollar amounts in millions)

Year		Stock Companies		Mutual Companies	
		Number of Companies	Amount	Number of Companies	Amount
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
2002	Underwriting gains	167	$2,617.3	18	$740.7
	Underwriting losses	480	22,285.4	60	6,759.6
	No gain or loss	90	0.0	0	0.0
2003	Underwriting gains	248	$6,476.8	26	$1,426.5
	Underwriting losses	360	13,116.1	46	1,827.8
	No gain or loss	98	0.0	0	0.0

Source: New York State Insurance Department
Detail may not add to totals due to rounding.

c. Investment Income and Capital Gains

Investment income and net capital gains for stock and mutual companies from 2000 to 2003 are as follows:

Table 19
INVESTMENT INCOME AND CAPITAL GAINS
Property and Casualty Insurers Licensed in New York State
2000-2003
(in millions)

Year		Stock Companies	Mutual Companies
2000	Net investment income	$26,717.1	$6,486.8
	Realized capital gains	5,494.5	5,249.9
	Unrealized capital gains	-12,761.2	-3,475.7
	Net gain from investments	$19,450.5	$ 8,261.0
2001	Net investment income	$23,689.3	$5,735.7
	Realized capital gains	3,353.5	565.6
	Unrealized capital gains	-7,792.4	-7,065.7
	Net gain from investments	$19,250.4	$ -764.4
2002	Net investment income	$26,794.6	$5,366.4
	Realized capital gains	4,350.8	-2,168.6
	Unrealized capital gains	-17,405.1	-6,969.4
	Net gain from investments	$13,740.4	$-3,771.7
2003	Net investment income	$24,348.0	$5,142.8
	Realized capital gains	2,559.7	0.8
	Unrealized capital gains	15,159.3	8,783.1
	Net gain from investments	$42,067.1	$13,926.6

Source: New York State Insurance Department

d. Underwriting and Investment Exhibit

During 2003, dividends to stockholders amounted to $10.4 billion, while dividends to policyholders aggregated to $1.3 billion (for both mutual and stock insurers). The contribution to surplus for 2003 for stock companies was $11.1 billion compared with $18.8 billion for 2002. However, the net increase in surplus for stock companies in 2003, $31.7 billion, was considerably higher than the comparable $10.1 billion 2002 increase. Likewise, the net change in surplus for mutual companies was $12.4 billion in 2003, up from $-7.4 billion a year earlier. Net income nearly doubled for both stock and mutual companies between 2002 and 2003.

Table 20
AGGREGATE UNDERWRITING AND INVESTMENT EXHIBIT
Property and Casualty Insurers Licensed in New York State
2002 and 2003
(in millions)

	Stock Companies		Mutual Companies	
	2003	**2002**	**2003**	**2002**
Net gain or loss from:				
Underwriting	$ -6,639.3	$-19,668.1	$-401.3	$-6,018.9
Investments [a]	26,907.7	31,145.5	5,143.6	3,197.8
Other income	-567.5	-1,035.5	-263.9	361.5
Net gain or loss	$19,700.9	$ 10,441.8	$4,478.3	$-2,459.7
Less:				
Dividends to policyholders	589.7	691.3	742.6	650.0
Federal income taxes incurred	3,961.0	956.1	754.2	-1,284.5
Net income	**$15,150.3**	**$ 8,794.4**	**$3,489.5**	**$-1,825.1**
Surplus changes other than net income:				
Dividends to stockholders				
• Cash	$ -9,850.0	$ -8,410.5	$0.0	$0.0
• Stock	-468.9	-9.3		
US Branches – Net remittance to/from home office	-36.0	-1.0	0.0	0.0
Total dividends and remittance	$ -10,354.9	$ -8,420.7	$0.0	$0.0
Unrealized capital gains/losses	15,159.3	-17,405.1	8,783.1	-6,969.4
Cumulative effect of changes in accounting principles	-36.0	1,331.5	0.6	244.4
Miscellaneous items	660.4	6,993.2	384.9	1,161.9
Contributions to surplus	11,140.3	18,838.9	2.1	1.0
Total other sources	$16,569.1	$1,337.8	$9,170.7	$-5,562.1
Net increase or decrease in surplus	**$31,719.4**	**$10,132.2**	**$12,662.2**	**$-7,389.2**

[a] Excludes unrealized capital gains.
Source: New York State Insurance Department

e. Selected Annual Statement Data

From 2000 to 2003 aggregate (*i.e.,* stock and mutual) net premiums written increased by 32.2%; admitted assets increased 14.2%; unearned premium and loss reserves increased 21.2%; and other liabilities decreased 6.6%. Capital and surplus to policyholders increased by 6.2%.

Table 21
SELECTED ANNUAL STATEMENT DATA
Property and Casualty Insurers Licensed In New York State
2000-2003
(dollar amounts in millions)

	2003	2002	2001	2000
		Stock Companies		
Number of insurers	706	737	710	683
Net premiums written	$221,356	$205,017	$178,615	$160,173
Admitted assets	623,466	626,595	574,923	511,202
Unearned premium & loss reserves	375,852	356,381	327,186	295,849
Other liabilities	43,067	88,631	72,353	46,383
Capital	4,767	5,209	5,025	4,932
Surplus to policyholders	203,973	181,615	175,383	168,969
		Mutual Companies		
Number of insurers	72	78	75	74
Net premiums written	$ 66,070	$ 62,576	$ 57,015	$ 57,305
Admitted assets	180,141	165,464	168,215	192,189
Unearned premium & loss reserves	79,687	77,708	73,067	80,098
Other liabilities	25,407	23,967	22,427	26,939
Surplus to policyholders	66,315	63,781	72,721	85,206

Source: New York State Insurance Department

f. Direct Premiums Written, by Line

There were large increases in property/casualty writings in New York State in 2003 as direct premiums written for all property/casualty lines increased by 6%. Major lines, *i.e.*, those with greater than $1 billion premium written in 2003, with at or above average year-to-year increases in 2003 included private passenger auto, commercial auto, other liability, homeowners multi-peril, financial guaranty, and medical malpractice.

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Table 22
DIRECT PREMIUMS WRITTEN BY PROPERTY/CASUALTY INSURERS
New York State — 1999-2003[1]
(dollar amounts in millions)

Property and Casualty Lines	1999	2000	2001	2002	2003	Percentage Change 1999-2003	Percentage Change 2002-2003
All Premiums Written	22,173	23,282	26,047	29,588	31,347	41%	6%
Private Passenger Auto	8,165	8,173	9,018	9,913	10,554	29	6
Bodily Injury and Property Damage Liability	5,368	5,352	6,040	6,718	7,247	35	8
Comprehensive and Collision	2,797	2,821	2,978	3,195	3,307	18	4
Commercial Auto	1,429	1,491	1,755	1,985	2,167	52	9
General (Other) Liability	1,825	2,148	2,447	3,478	3,741	105	8
Workers' Compensation	2,725	3,154	3,283	3,412	3,403	25	0
Commercial Multi-Peril	2,002	2,085	2,349	2,688	2,779	39	3
Homeowners' Multi-Peril	2,230	2,326	2,469	2,662	2,901	30	9
Financial Guaranty[2]	381	449	664	1,006	1,153	203	15
Medical Malpractice	859	815	858	945	1,027	20	9
Inland Marine	527	519	607	660	690	31	4
Accident and Health	410	442	498	473	426	4	-10
Ocean Marine	353	351	404	469	440	25	-6
Fire	256	277	334	411	442	73	8
Fidelity and Surety	348	357	380	358	433	24	21
Allied Lines	122	135	173	256	312	156	22
Mortgage Guaranty	164	170	203	231	231	41	0
Product Liability	103	111	140	162	165	60	1
Boiler and Machinery	56	62	76	91	87	55	-4
Aircraft	40	47	56	78	141	253	82
Credit	45	41	39	40	40	-11	0
Burglary and Theft	10	10	9	8	10	-1	28
All Other[3]	123	119	286	263	205	66	-22

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

[1] New York State business of all NYS licensed companies. 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 2003 Annual Statements of the companies authorized to transact business in the State of New York were filed for audit and analysis in 2004, 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 2,895 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 2004, the State Insurance Fund acquired stocks and bonds totaling $29.7 billion and sold stocks and bonds totaling $18.7 billion. Upon review, the Property Bureau recommended the approval of the acquisitions of $29.7 billion and the sales of $18.7 billion. In 2003, the Bureau recommended approval of acquisitions totaling $16.6 billion and sales totaling $10.0 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 918 companies in 2004. 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 2004, 82 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 2004, 118 holding company transaction files, and 315 holding company registration statements and amendments, were reviewed and closed by the Property Bureau. In addition, 23 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, 2003, there were seven domestic and seven 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, 2000-2003
(dollar amounts in millions)

Year	Net Premiums Written (during year)	Surplus to Policyholders (end of year)	Ratio of Premiums to Surplus
2000	$1,404.5	$7,372.8	0.19
2001	1,894.7	8,223.1	0.23
2002	2,670.8	9,403.9	0.28
2003	3,360.7	10,794.2	0.31

Source: New York State Insurance Department

Table 24
UNDERWRITING RESULTS
Financial Guaranty Insurers Licensed in New York State, 2000-2003
(dollar amounts in millions)

Year		Number of Companies	Amount
2000	Underwriting gains	8	$569.0
	Underwriting losses	6	32.5
2001	Underwriting gains	8	$791.6
	Underwriting losses	5	50.4
2002	Underwriting gains	9	$970.3
	Underwriting losses	5	28.1
2003	Underwriting gains	9	$1,301.1
	Underwriting losses	4	26.2
	No gain or loss	1	0.0

Source: New York State Insurance Department

Table 25
INVESTMENT INCOME AND CAPITAL GAINS
Financial Guaranty Insurers Licensed in New York State, 2000-2003
(in millions)

	2003	2002	2001	2000
Net investment income	$1,092.1	$1,125.1	$1,067.3	$1,096.1
Realized capital gains	159.0	168.8	109.8	355.2
Unrealized capital gains	124.1	51.3	12.2	-344.0
Net gain from investments	$1,375.1	$1,345.3	$1,189.4	$1,107.2

Source: New York State Insurance Department

Table 26
AGGREGATE UNDERWRITING AND INVESTMENT EXHIBIT
Financial Guaranty Insurers Licensed in New York State
2000-2003
(in millions)

	2003	2002	2001	2000
Net gain or loss from:				
Underwriting	$ 1,274.9	$ 942.1	$ 741.3	$ 536.5
Investments [a]	1,251.0	1,294.0	1,177.1	1,451.2
Other Income	13.0	15.7	10.8	3.5
Net gain or loss	$2,538.9	$2,251.8	$1,929.2	$1,991.2
Less:				
Dividends to policyholders	0.0	0.0	0.0	0.0
Federal income taxes incurred	727.8	578.2	506.6	337.1
Net income	**$1,811.1**	**$1,674.0**	**$1,422.7**	**$1,654.1**
Surplus changes other than net income:				
Dividends to stockholders				
• Cash	$ -623.9	$ -442.2	$ -506.1	$-1,020.2
• Stock	0.0	0.0	-12.5	0.0
Total dividends and remittance	$ -623.9	$ -442.2	$ -518.6	$-1.020.2
Unrealized capital gains	124.1	51.3	12.2	-344.0
Cumulative effect of changes in accounting principles	0.0	11.1	-43.6	0.0
Miscellaneous items	-346.5	-361.9	-390.5	-811.6
Contributions to surplus	607.1	220.8	317.5	4.1
Total other sources	$ -239.3	$ -520.9	$ -623.0	$-2,171.7
Net increase or decrease in surplus	**$ 1,571.8**	**$ 1,152.6**	**$ 799.6**	**$ -517.6**

[a] Excludes unrealized capital gains.
Source: New York State Insurance Department

Table 27
SELECTED ANNUAL STATEMENT DATA
Financial Guaranty Insurers Licensed In New York State
2000-2003
(dollar amounts in millions)

	2003	2002	2001	2000
Number of Companies	14	14	13	14
Exposure	$2,253,613.0	$2,174,240.9	$1,855,915.0	$1,668,180.0
Net premiums written	3,360.7	2,670.8	1,894.7	1,404.5
Admitted assets	27,659.0	25,595.3	22,690.8	20,048.5
Unearned premium & loss reserves	9,223.8	8,336.1	7,227.5	6,613.2
Other liabilities	7,641.0	7,855.3	7,240.1	6,062.5
Capital	246.7	247.0	231.0	211.0
Surplus to policyholders	10,794.2	9,403.9	8,223.1	7,372.8

Source: New York State Insurance Department

4. Mortgage Guaranty Insurance

At year-end 2003, there were 2 domestic and 24 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
2000-2003
(dollar amounts in millions)

Year	Net Premiums Written (during year)	Surplus to Policyholders (end of year)	Ratio of Premiums to Surplus
2000	$2,925.0	$3,591.2	0.81
2001	3,211.1	4,090.8	0.78
2002	3,539.5	3,779.8	0.93
2003	3,849.0	3,708.2	1.04

Source: New York State Insurance Department

Table 29
AGGREGATE UNDERWRITING AND INVESTMENT EXHIBIT
Mortgage Guaranty Insurers Licensed in New York State
2000-2003
(in millions)

	2003	2002	2001	2000
Net gain or loss from:				
Underwriting	$1,201.3	$1,525.6	$1,505.1	$1,515.4
Investments [a]	809.7	798.3	746.9	640.1
Other Income	2.0	-2.6	9.3	-55.1
Net gain or loss	$2,013.1	$2,321.3	$2,261.4	$2,100.4
Less:				
Dividends to policyholders	0.0	0.0	0.0	0.0
Federal income taxes incurred	628.0	824.7	350.3	260.7
Net income	**$1,385.1**	**$1,496.6**	**$1,911.1**	**$1,839.7**
Surplus changes other than net income:				
Dividends to stockholders				
• Cash	$ -677.6	$ -876.1	$ -258.4	$-52.5
• Stock	0.0	0.0	0.0	0.0
Total dividends	$ -677.6	$ -876.1	$ -258.4	$ -52.5
Unrealized capital gains	315.7	56.1	35.6	23.5
Cumulative effect of changes in accounting principles	0.0	0.0	78.8	0.0
Miscellaneous items	-863.9	-1,203.2	-1,164.6	-991.8
Contributions to surplus	-276.5	47.6	10.5	-56.9
Total other sources	$-1,502.3	$-1,975.6	$-1,298.1	$-1,077.7
Net increase or decrease in surplus	**$ -117.2**	**$ -479.0**	**$ 613.0**	**$ 762.0**

[a] Excludes unrealized capital gains.
Source: New York State Insurance Department

TABLE 30
SELECTED ANNUAL STATEMENT DATA
Mortgage Guaranty Insurers
2000-2003
(dollar amounts in millions)

	2003	2002	2001	2000
Number of companies	26	25	23	24
Net premiums written	$ 3,849.0	$ 3,539.5	$ 3,211.1	$ 2,925.0
Admitted Assets	20,511.8	19,279.3	17,102.7	14,718.2
Unearned premium & loss reserves	6,580.5	5,842.5	5,269.9	4,724.6
Other liabilities	10,369.5	9,637.0	7,741.9	6,402.4
Capital	70.5	66.5	62.0	63.8
Surplus	3,708.2	3,799.8	4,090.8	3,591.2

Source: New York State Insurance Department

5. Title Insurance

Nine domestic and 13 foreign companies were licensed to write title insurance in New York State at the close of 2003.

Table 31
SELECTED ANNUAL STATEMENT DATA
Domestic Title Insurance Companies
2000-2003
(dollar amounts in millions)

	2003	2002	2001	2000
Number of Companies	9	9	10	10
Net premiums written	$397.8	$873.5	$613.1	$496.3
Admitted assets	262.4	507.5	440.1	417.4
Liabilities	129.3	320.0	273.4	254.4
Capital	7.9	9.4	10.9	10.8
Surplus	133.1	187.6	166.7	163.0

Source: New York State Insurance Department

6. Advance Premium Co-operative and Assessment Corporations

At year-end 2003, there were 18 advance premium corporations under the supervision of the Property Bureau. The total number of advance premium corporations remained unchanged from 2002 to 2003. The net premium volume of the advance premium corporations increased by 8.5% from the prior year (2002).

A total of 27 assessment corporations were under the Bureau's supervision at year-end 2003. The total number of assessment corporations remained unchanged from 2002 to 2003. The net premium volume of these 27 companies increased by 12.8% from the prior year.

During 2003, the Bureau initiated eight examinations of the advance premium and assessment corporations.

Table 32
SELECTED ANNUAL STATEMENT DATA
Advance Premium and Assessment Corporations
2000-2003
(dollar amounts in millions)

Year		Total	Advance Premium Corporations	Assessment Corporations
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
2002	Number of companies	45	18	27
	Total assets	$1,499.0	$1,267.8	$231.2
	Net premiums written	769.5	682.9	86.6
	Surplus funds	565.7	434.6	131.1
2003	Number of companies	45	18	27
	Total assets	$1,696.2	$1,445.2	$251.0
	Net premiums written	838.9	741.2	97.7
	Surplus funds	637.4	498.8	138.6

Source: New York State Insurance Department

7. Special Risk Insurers (Free Trade Zone)

Calendar Year 2003 was the 25th 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, 2003. For the first time, net premiums written during the year broke the $1 billion mark, bringing net premiums written since inception to approximately $7.8 billion. Net premiums written since inception are as follows:

Table 33
NET PREMIUMS WRITTEN
Special Risk (Free Trade Zone)
1978-2003
(dollar amounts in millions)

1978-1997	$4,293.1
1998	466.2
1999	482.6
2000	423.9
2001	407.6
2002	719.4
2003	1,004.6
Total	**$7,797.4**

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 in order to provide or obtain 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, 2003, 65 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 2003, 65 risk retention groups filing financial statements with this Department reported total nationwide direct premiums written of $1.3 billion and total nationwide net premiums written of $504.0 million. These risk retention groups reported direct premiums written of $207.0 million in New York State during this same period.

9. Financial Examinations of Insurers

a. Number of Examinations

The Property Bureau's Financial Examination Unit is required to conduct examinations of all domestic insurers on a regular basis. During Calendar Year 2004 a total of 160 such examinations were conducted.

Table 34
EXAMINATIONS CONDUCTED
by the Financial Regulation Division of the Property Bureau
2004

	Regularly Scheduled			Other Financial Exams		
	Total	Started in 2004	Started Prior to 2004	Special	On Organi-zation[1]	Increase in capital[2] and other
Property and casualty insurers, including financial guaranty insurers	147	50	93	3	1	0
Other insurers and captives	8	2	6	0	0	0
Title and mortgage guaranty insurers	5	4	1	0	0	0
Total	**160**	**56**	**100**[3]	**3**	**1**	**0**

[1] Examination conducted when insurer is first incorporated in New York State.
[2] Examination when insurer increases its capital.
[3] This total includes 33 reports with completed field work that were not filed as of 1/1/05.

b. Electronic Audit Program – TeamMate

During 2004, the Financial Examinations Unit expanded the use of "TeamMate Audit Management System," an electronic workpaper program, for its examinations. This software, developed by PricewaterhouseCoopers, ensures uniformity, consistency and efficiency in the examination process. The majority of all financial examinations started in 2004 were conducted using this software. Additionally, during 2004, TeamMate was "rolled out" to the Financial Division's Actuarial Unit, thereby allowing its loss reserve analyses to be easily incorporated into the examination TeamMate projects.

10. Lloyd's of London

Underwriters at Lloyd's (Lloyd's of London) consist of underwriting syndicates at Lloyd's that meet the requirement for recognition as accredited reinsurers in New York. As of December 31, 2004, 50 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. Finite Risk Reinsurance

Finite risk reinsurance has received increased attention during the past year. Finite risk reinsurance is a product that can potentially be used by insurers to create the appearance that business has been ceded to reinsurers without actually transferring any risk. Upon examination of domestic insurers, the Department has been reviewing reinsurance agreements for transfer of risk for many years. Due to the recent increased concerns regarding finite risk reinsurance, the Department has been involved in joint investigations with both the Securities and Exchange Commission and the New York Attorney General's Office, and increased scrutiny of certain reinsurance agreements has been instituted. Additionally, the Department is participating in efforts by the National Association of Insurance Commissioners to address accounting and disclosure issues related to finite risk reinsurance.

12. Certified Capital Companies

New York's first venture capital investment bill (Chapter 389 of the Laws of 1997) was signed into law on August 7, 1997 to spur the growth of businesses and employment in New York State. The bill created a tax credit incentive mechanism to increase investment of financial resources of insurers into New York State's venture capital markets by providing a dollar-for-dollar tax credit to insurers investing in certified capital companies (CAPCOs).

Sections 142 through 145 of that bill amended the New York Tax Law by adding new Sections 11 and 1511(k) providing for:

- the establishment of certified capital companies;
- the creation of $100 million in tax credit incentives to insurance companies that invest in the CAPCOs; and
- the New York State Insurance Department's oversight of the program.

CAPCOs can be partnerships, corporations, trusts or limited liability companies whose primary business activity is the investment of cash in qualified businesses, emphasizing viable smaller business enterprises which traditionally have had difficulty in attracting institutional venture capital. Organized on a "for-profit" basis, CAPCOs must be located, headquartered and licensed (or registered) to conduct business in New York State.

The law was amended in 1999, 2000 and 2004 adding three additional programs. The Department allocated an aggregate of $340 million in tax credits under the four programs, detailed as follows:

	Programs			
	1	2	3	4
Allocated Tax Credits (in millions)	$100	$30	$150	$60
Number of participating CAPCOs	5	5	5	6
Number of Insurer-Investors	30	28	44	43

The tax credits allocated to the insurer-investors are taken at 10% a year for 10 years going forward from the year designated in the statute for each program. The CAPCOs are required to invest at least half of their certified capital in qualified businesses within four years of the starting date of each specific certified capital program. Chapter 59 of the Laws of 2004, which was signed into law on August 20, 2004, amended various aspects of the statute among which is the new requirement that

CAPCOs that received certified capital investments under Program Four and subsequent programs shall pay to the Department for deposit in the general fund an amount equal to 30% of the net profits on qualified investments.

As of December 31, 2003, the CAPCOs invested approximately $145.8 million in 113 qualified businesses: Program One CAPCOs invested 55.6% of their total $100 million certified capital; Program Two CAPCOs invested 51.8% of their $30 million total; and Program Three CAPCOs invested 49.8% of their $150 million certified capital.

The qualified businesses invested in were predominately high technology companies; significant investments were also made in media, financial services and manufacturing. Fifty-five qualified businesses had less than $1 million and 16 businesses had over $5 million in assets at the time of a CAPCO's initial investment; the CAPCOs' investments in these businesses accounted for approximately 40.4% and 19.4%, respectively, of the total invested. Sixty-three "early-stage" businesses, as defined by the statute, received approximately $60.4 million (41.5%). Eighty-two qualified businesses, headquartered downstate (New York City, Long Island and Westchester), received 72.3% of the total dollars invested; 15 businesses located in the Capital District received 10.3%.

Of the $74.6 million Program Three investments made, 31.7% were made in 26 qualified businesses located in Manhattan, 33.7% in 22 businesses in "underserved areas," defined by the statute as outside Manhattan and Empire Zones, and 34.6% in 14 businesses located in Empire Zones.

With CAPCO and other venture entity investments in these qualified businesses, overall the total number of employees in these businesses increased by 627 positions, and the number of New York employees increased by 27 positions, since inception of the CAPCO Program in 1997.

A separate report to the Governor and the Legislature on the New York CAPCOs is submitted annually by the Superintendent of Insurance on or before June 1st of each year pursuant to Section 11(j) of the New York Tax Law.

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

a. Number of Filings

During 2004, the Market Regulatory Section of the Property Bureau received 6,869 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
2004

Line of Business	Rates & Rules	Policy Forms	Classes and Territories	Totals
Fire and Allied Lines	345	267	1	613
Farmowners Multiple Peril	40	33	0	73
Homeowners Multiple Peril	288	161	1	450
Multiple Line	75	74	0	149
Commercial Multiple Peril	405	337	0	742
Inland Marine	244	158	0	402
Medical Malpractice	100	78	0	178
Earthquake	4	1	0	5
Flood	1	1	0	2
Rain	3	2	0	5
Workers' Compensation & Employer's Liability	84	86	0	170
Other Liability	1,022	883	2	1,907
Motor Vehicle Insurance	1,026	388	5	1,419
Aircraft	9	13	0	22
Fidelity & Surety	191	79	0	270
Glass	6	1	0	7
Burglary & Theft	172	64	0	236
Boiler & Machinery	30	29	0	59
Credit	0	4	0	4
Animal Mortality	5	4	0	9
Mortgage Guaranty	30	19	0	49
Residual Value	3	3	0	6
Title	8	5	0	13
Financial Guaranty	3	76	0	79
Prepaid Legal Service Plan	0	0	0	0
Warranty Reimbursement	0	0	0	0
Total	**4,094**	**2,766**	**9**	**6,869**

* These figures include approximately 121 consent-to-rate filing applications; 65 group property & casualty filings; 108 manuscript policy form filings; and 223 rating plans submitted in 2004. During 2004, 331 policy form filings and 316 rate or rating rule filings were disapproved. In addition, the Bureau continued speed-to-market (STM) initiatives and accepted electronic submission of filings through the System for Electronic Rate and Form Filing (SERFF). The Bureau received 434 STM and 2,777 SERFF form and rate filings in 2004, which are included above.

b. Advisory Rate/Loss Cost Changes

The following table lists major revisions in rates or loss costs that were approved or acknowledged during 2004. 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 determining their individual company rates.

Table 36
MAJOR EFFECTS OF PRINCIPAL RATE & LOSS COST CHANGES
Filed in 2004 by Property and Casualty
Rate Service Organizations

	Percent Changes in Average State-Wide Rates
Automobile	
Automobile Insurance Plans Service Office	
Private Passenger Automobile	
(Rates Revised)	
Bodily Injury Liability	-2.0
Property Damage Liability	-2.0
Personal Injury Protection	-2.0
Uninsured Motorists	-2.0
Liability Subtotal	-2.0
Comprehensive	-2.0
Collision	-2.0
Physical Damage Subtotal	-2.0
Total All Coverages	**- 2.0**
effective August 15, 2004	
Insurance Services Office, Inc.	
Commercial Automobile	
(Loss Costs Revised)	
Commercial Cars	
Single Limit Liability	-8.4
Personal Injury Protection	-13.7
Liability Subtotal	- 8.6
Comprehensive	-19.5
Collision	-8.1
Physical Damage Subtotal	-11.2
Total Commercial Cars	**- 8.9**
Garages	
Single Limit Liability	0.0
Personal Injury Protection	0.0
Liability Subtotal	0.0
Physical Damage – Garage Dealers	
Comprehensive	-15.0
Collision	+10.2

Physical Damage – Garage Keepers	
Comprehensive	-15.0
Collision	-8.8
Physical Damage – Garage Dealers and Keepers Subtotal	-9.8
Total Garages	**- 3.2**
Private Passenger Types	
Single Limit Liability	-5.2
Personal Injury Protection	0.0
Liability Subtotal	-4.8
Comprehensive	-25.0
Collision	-8.8
Physical Damage Subtotal	-14.0
Total Private Passenger Types	**- 7.1**
Total All Coverages	**- 8.2**
Total Liability	**- 7.5**
Total Physical Damage	**- 12.2**
effective April 1, 2005	

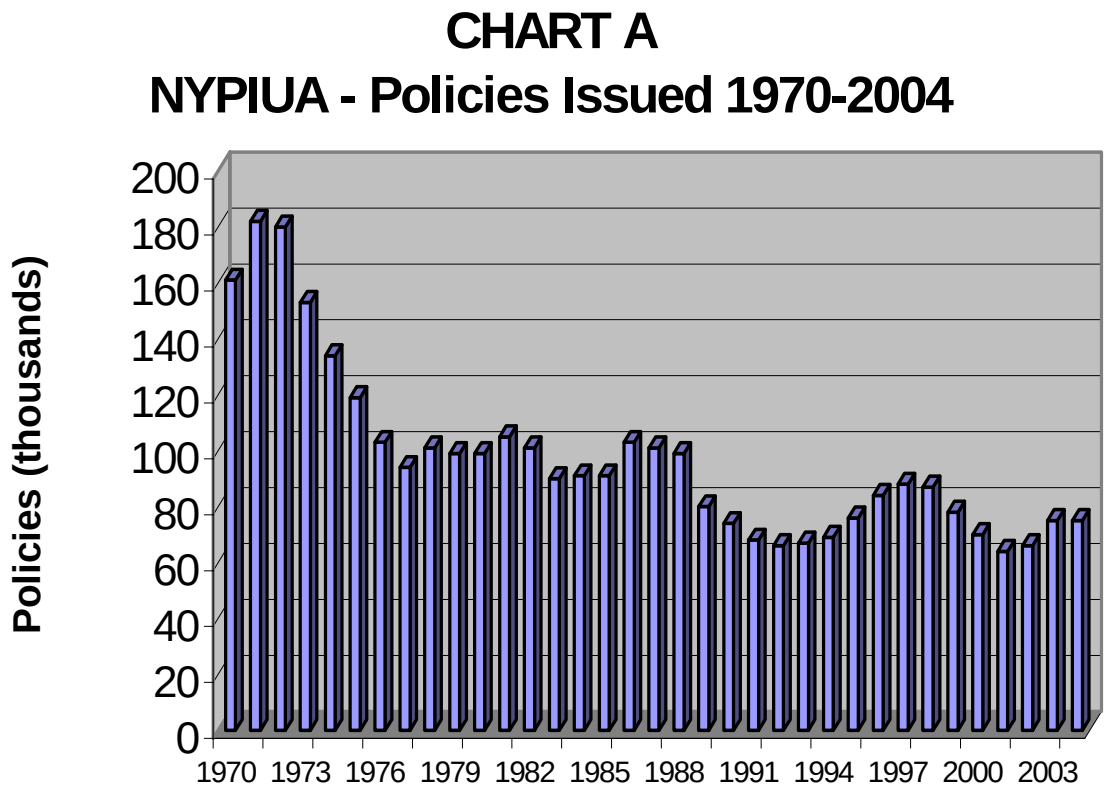
Liability Other Than Automobile

American Association of Insurance Services	
Personal and Premises Liability Program	**+36.4**
(Loss Costs Revised)	
effective February 1, 2005	
Insurance Services Office, Inc.	
General Liability	**+6.2**
Increased Limit Factors and Table Revised	
effective November 1, 2004	
Underwriters Rating Board	
Businessowners	**+0.037**
High Risk Special Events Liability	
effective February 1, 2005	

14. New York Property Insurance Underwriting Association (NYPIUA)

a. Policies Issued

The following graph illustrates the number of policies issued by the New York Property Insurance Underwriting Association from 1970 through 2004:



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 from 1989 through 1992 as many NYPIUA policies were rewritten in the voluntary market. The number of NYPIUA policies issued began to increase gradually from 1993 through 1997 reflecting, in part, the ongoing concern for adequate coastal property insurance coverage. In 1998, 1999, 2000 and 2001 the number of NYPIUA policies issued declined. However, the number of policies issued by the Association has increased in 2002, 2003 and 2004. The number of policies issued in 2004 totaled 75,301.

b. Financial Information

For the Fiscal Year ending December 31, 2004, the Association's Financial Report indicated premiums earned of $32,069,566 and a net underwriting gain of $6,051,431. Other income of $4,399,055, comprised of net investment income of $5,050,662; premium balances charged off $76,324; bond amortization loss of $718,784; gain on sale of securities of $103,023; grant program of $98,937 and policy installment fees of $139,415, resulted in net income before taxes of $10,450,486.

The change in assets not admitted of $13,684 and taxes incurred of $418,081 resulted in a net change in the Members' Equity Account of $10,018,721. The cumulative operating profit as of December 31, 2004 was $136,918,249. After all assessments (net of distribution of $40,268,192), the net Members' Equity Account totaled $96,650,057.

In accordance with Section 5405© of the New York Insurance Law, the Association estimated a surplus from operations of $1,685,000 for the Calendar Year 2005. 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, 2005, since its assets exceed its liabilities.

Based on the Department's own review of the data submitted, no estimated deficit from operations was approved for the Association for the Fiscal Year ending December 31, 2005.

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 2004, the Department approved rate revision for Farm Property classes of business. This revision resulted in an average statewide decrease of 0.8%. This revision corresponds with loss costs revisions promulgated by the Insurance Services Office for the voluntary market. Also, the Department approved NYPIUA's adoption of Insurance Services Office's Terrorism Coverage loss costs.

d. Legislation in 2004

Chapter 121 of the Laws of 2004 extended the authority of the New York Property Insurance Underwriting Association to operate until June 30, 2005.

15. Medical Malpractice Insurance

a. Establishment of Rates and Premium Surcharges

Chapter 120 of the Laws of 2004 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, 2005.

The Department established primary medical malpractice insurance rates in New York for the July 1, 2004 through June 30, 2005 policy year. The combined overall rate level effect was +7.0% above the rates established for the previous year. This overall effect represented an across-the-board +7.0% rate change for all insurers providing physicians and surgeons medical malpractice liability coverage in the voluntary market. The rate change for the Medical Malpractice Insurance Plan, which provides coverage for insureds unable to obtain coverage in the voluntary market, was +20.0%.

The rate level increases of +9.5% for policy year July 1, 2003 through June 30, 2004 and +7.0% for policy year July 1 2004 through June 30, 2005 followed six years of relatively unchanged physicians and surgeons medical malpractice insurance rates.

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 2004-to-2005 policy year, it was determined that no change was needed to these factors.

c. Physicians Excess Medical Malpractice Insurance for '04–'05

Chapter 119 of the Laws of 2003 continued the excess medical malpractice program provided for in §18 of Chapter 266 of the Laws of 1986, as amended for the period July 1, 2004 through June 30, 2005.

Chapter 1 of the Laws of 2002 required all physicians, surgeons, and dentists participating in the excess medical malpractice insurance program to participate in a proactive risk management program. After consultation with representatives of insurers and the Medical Society of the State of New York, the Superintendent promulgated the Third Amendment to Regulation 124, which contains standards for the establishment and administration of this risk management program.

d. Dissolution of the Medical Malpractice Insurance Association (MMIA)

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 the Medical Liability Mutual Insurance Company (MLMIC) had received full payment for its assumption of MMIA's liabilities and, by order of the Supreme Court of the State of New York entered May 14, 2001, MMIA was placed into liquidation, with the Superintendent of Insurance named as the liquidator. The final liquidation process is still ongoing.

e. 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. In 2004, all members of the Plan participated in the Medical Malpractice Insurance Pool of New York State (Pool).

For 2004, the Pool insured 16,146 individuals (including professional corporations) compared with 4,115 the previous year. (*For an explanation of the increase, see the footnote on the following table*.) A breakdown of the individual insureds by type, and a comparison with previous years, is shown as follows:

Table 37
MEDICAL MALPRACTICE INSURANCE POOL OF NEW YORK STATE
Insured Individuals (including professional corporations)
2002-2004

Type of Insured	Policies as of December 31, 2004	Policies as of December 31, 2003	Policies as of December 31, 2002
Primary Insureds			
Physicians	587	561	551
Dentists	159	163	168
Podiatrists	79	73	64
Nurse-Anesthetists	7	10	5
Nurse-Midwives	15	9	2
Professional Corps.	33	29	29
Excess Layer Insureds			
First Layer Excess	13,743	1,701	292
Second Layer Excess	1,523	1,569	1,295

Note: Most of the increase in the number of insureds in the Pool from 12/31/03 to 12/31/04 is attributable to an increase in writings of First Layer Excess coverage, and was a result of one voluntary insurer nonrenewing its First Layer Excess book of business for the policy year beginning July 1, 2004.

In addition to these individuals, the Pool insured 376 facilities, up from 259 the year before. The increase in the number of these insureds is mainly attributable to an increase in the number of adult homes and nursing homes not able to obtain coverage in the voluntary market.

16. Workers' Compensation

a. Workers' Compensation Rate Credits for Managed Care Programs

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 in 1997, the Department has approved rate credits for a total of 40 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 35 as of year-end 2004.

In 1997, it came 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 New York State 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. The Department has received requests and approved a 5% credit for 32 insurance carriers desiring to implement a similar program through 2004.

17. Insurance Availability Issues

While liability insurance coverages continued to be generally available during 2004, some markets experienced difficulties. 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. The survey format allows insurers to provide the Department with consistent and accurate information on insurers' underwriting plans for the coming year. As in previous years, several risk and coverage categories have been added based on the Bureau's observation of market conditions during the period since the last survey was issued.

Beginning in 2000, the data call included a second survey that requested information on Free Trade Zone business written during the prior year. By conducting this survey in conjunction with 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 are used to produce the Department's Annual Free Trade Zone Update. The survey format was revised slightly in 2004 in order to capture more meaningful data.

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, which was further exacerbated as a result of the events of September 11, 2001.

The Department has continued to monitor form and rate filings affecting this market, and has conducted surveys of market conditions for contractors' liability insurance.

c. Standby JUA Authority

The Omnibus Liability Bill enacted in June 1986 added Section 5412 to the Insurance Law to grant the Superintendent of Insurance the authority to activate a mandatory joint underwriting association (JUA) whenever he or she determines after a public hearing that there is no meaningful market available for a line of insurance.

18. Automobile Insurance

a. No-Fault Motor Vehicle Insurance Law Activity – 2004

i. No-Fault Regulatory Changes

The Department laid the foundation for reform of the No-Fault Automobile Insurance System when the revision to Regulation 68 took effect on April 5, 2002, and further built upon this foundation with the promulgation of the Twenty-Eighth Amendment to Regulation 83 (11 NYCRR 68) effective October 6, 2004. In addition, the 28th Amendment to Regulation 83 contains regulatory reforms governing durable medical equipment and health care provider reimbursement.

The Amendment to Regulation 68 as well as the fee schedule revisions contained in Regulation 83 have been important reasons for the reduction in New York State's average no-fault losses per claim from $8,489 as of year-end 2002 to $6,229 as of June, 30 2004. Although the changes to the fee schedule in Regulation 83 were not fully implemented late 2004, the Department anticipates additional savings to be reflected from this Amendment as well. As a result of these actions and anticipated future loss reductions, the people of New York are already benefiting from rate reductions approved for 2005.

ii. Optional Arbitration System

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

From 1978 through 1994, the number of no-fault arbitration requests received by the Department ranged from approximately 8,000 to 12,000 cases per year. Each year, 4,000 of those cases were submitted by injured persons. Health care providers and other assignees that accepted assignments from injured persons submitted the balance. From 1995 to 2001, there was a substantial increase in the number of arbitration requests filed each year. Chart A illustrates that this enormous case growth was entirely due to requests filed by health care providers and other assignees while those submitted by injured persons actually declined.

The increasing volume of filings compromised the Department's ability to administer effectively the conciliation process and oversee the operation of the no-fault reparations system. 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 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 arbitration system totaled 110,993 cases.

In order to develop a program to address the increasing inventory of pending cases in 2002, the Department engaged in an extensive examination of the arbitration system. 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;

- In order to deter abuse of the arbitration system, 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;

- Expedited hearings for injured claimants and health care providers that submit bills within 90 days of denial or nonpayment can be conducted to resolve rapidly disputes for those injured persons and health care providers that 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;

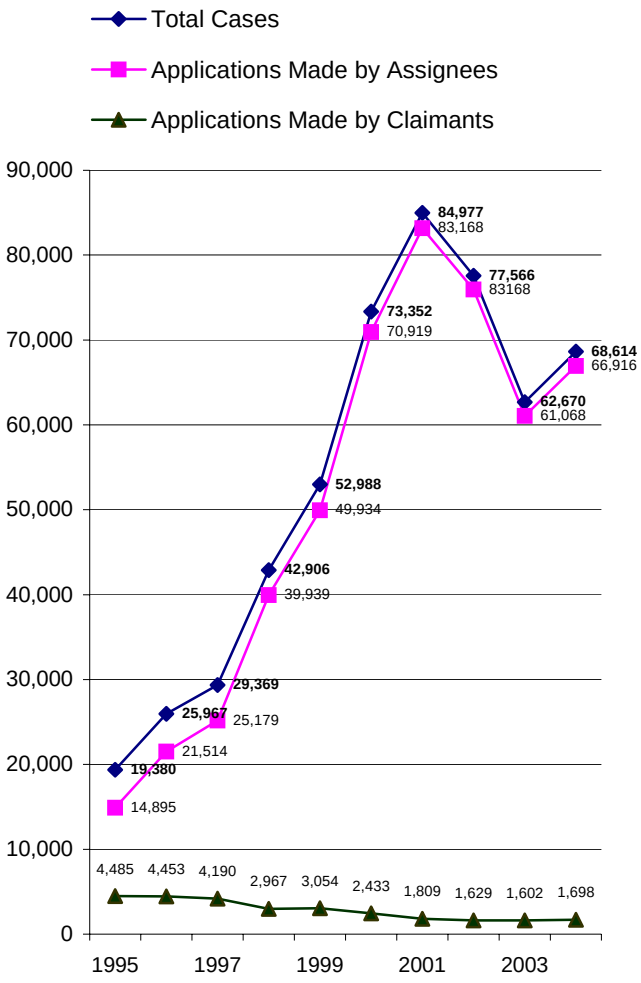
- The number of no-fault arbitrators has more than doubled and there are now approximately 100 arbitrators who have been appointed to resolve no-fault disputes; and

- Insurers were mandated to develop action plans to address their entire pending inventory of arbitration cases in a prompt and efficient manner.

As a result of the above measures, the inventory of cases pending in the arbitration system decreased from approximately 116,200 at the close of March 2002 to about 27,400 at the close of December 2004 and the percentage of pending cases that were conciliated in each of the last three years was 23% in 2002, 28% in 2003, and 33% in 2004.

The reduction in inventory coupled with the higher conciliation rate has produced an arbitration system that resolves cases in a speedier time frame. This continuous improvement was evident in 2004, as the average age of cases closed in the arbitration system from conciliation filing date decreased from 296 days at the close of December 2003 to 183 days at the close of December 2004.

CHART B
Sources of Applications for Requests for No-Fault Arbitration
1995 – 2004



19. Homeowners Insurance

a. New York's Coastal Areas

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

The Department continues to monitor carefully 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 (800) 300-4593. 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, 2004, C-MAP had issued 4,297 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 121 of the Laws of 2004 extended the operating authority of NYPIUA to June 30, 2005, 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 85 of the Laws of 2003 extended the life of a special advisory panel, originally established in accordance with Chapter 42 of the Laws of 1996, through June 30, 2005. 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 that use computer simulation modeling as part of their homeowners insurance rate review and development process in this State, to 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 2004, 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 is staffed by Department examiners during regular business hours. Consumers can contact the staff at the Mineola office either in person at 200 Old Country Road in Mineola or by telephone at (800) 300-4593 or (800) 300-4576.

20. Market Conduct Activities

a. 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.

There were 45 market conduct investigations in progress at the beginning of 2004 and 103 initiated during the year. The Department closed 128 market conduct investigations during the year. At year's end, 20 market conduct investigations were in progress. A total of 52 stipulations were entered into during the year, resulting in fines collected for admitted violations totaling $1,298,000. In addition, fines totaling $116,750 were received from insurers and self-insurers for failure to pay arbitration awards in a timely manner.

The following chart provides a breakdown of the market conduct activities for Calendar Year 2004:

Table 38
MARKET CONDUCT INVESTIGATIONS
by Type of Investigation
2004

Type of Investigation	Outstanding at 1/1/2004	Initiated during 2004	Completed during 2004	Outstanding at 12/31/2004
Claims	11	11	12	10
Rating/Underwriting	8	5	7	6
Public Automobile	1	0	1	0
Focused Underwriting	11	1	12	0
Privacy	5	5	10	0
Frauds	6	10	16	0
Desk Audits:				0
Section 3425 Compliance	0	22	20	2
Rating Complaints	0	1	0	1
Reg. 35-A	0	1	0	1
Internet Web site Reviews	0	47	47	0
Workers' Compensation Large Deductible	3	0	3	0
Total	**45**	**103**	**128**	**20**

The following chart details the fines collected or processed and the stipulations entered into during Calendar Year 2004:

Table 39
MARKET CONDUCT FINES COLLECTED & PROCESSED
by Type of Investigation
2004

Type of Investigation	Number	Amount
Claims	16	$653,900
Underwriting/Rating	8	154,700
Public Automobile	1	75,000
Desk Audits: Section 3425	18	90,000
Section 3426-NYIL	9	324,400
Total	**52**	**$1,298,000**
Penalties: Failure to timely pay N.F. Arbitration Awards	467	116,750
Total Fines Collected & Penalties Processed	**519**	**$1,414,750**

b. Penalties Imposed Under Insurance Law Section 3425

Section 3425-NYIL 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)-NYIL, 18 stipulated fines totaling $90,000 were collected during Calendar Year 2004 (included in the total fines collected in Section 20(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 in a timely manner, 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©(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 2004, the Department processed fines totaling $116,750 from 96 insurers and self-insurers for their failure to pay arbitration awards in a timely manner in 467 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, one insurer signed a stipulation whereby it agreed to review all automobile no-fault and/or automobile physical damage claim files as designated in the stipulation, and remit all underpayments to insureds and/or claimants. As a result of the terms of the stipulation, this insurer remitted $900,978.

e. Insurer Internet Web Site Monitoring

The Market Conduct Unit continued the monitoring and review of insurer Internet Web sites during 2004. In addition, as part of these reviews, the Unit has been verifying the accuracy of quotes generated online. As part of Circular Letter No. 31, dated October 29, 1998, the Department advised the industry of the general guidelines that would be followed when monitoring the marketing of insurance products on the Internet. Supplement 1 to Circular Letter No. 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. Forty-seven insurer Web sites were reviewed during the course of 2004. In general, the Web sites reviewed were found to be in substantial compliance with the Department's general guidelines. Additional insurer Web site reviews will be conducted in 2005.

f. Insurance Information & Enforcement System (IIES)

As mentioned in the prior year's report, 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. The registry program also and helps to identify, sanction and ultimately remove uninsured vehicles from New York's highways.

Section 317 of the New York Insurance Law authorizes the Superintendent to impose fines against insurers that 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 that 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 2004 the Department had bi-weekly meetings with the Department of Motor Vehicles to monitor and oversee the progress of the IIES program. The next step in the process is to conduct investigations into the quality and timeliness of the data being submitted by insurers to DMV. Based on information received from DMV, insurers that have been found to submit poor quality data and/or late data will be subject to disciplinary action. It is expected that this series of investigations will commence during 2005.

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 2003, the Market Conduct Unit continued its investigations of insurers to assess their policies and procedures in place to ensure compliance with privacy regulatory requirements. Five privacy

investigations were initiated during 2004, five carried over from the prior year and ten were completed during 2004. 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 2005.

It should be noted that PricewaterhouseCoopers was hired by the NAIC and Washington, D.C. to perform privacy reviews of nationally significant insurers starting in 2003. The New York State Insurance Department has also agreed to accept PricewaterhouseCoopers privacy reviews. The Market Conduct Unit has a list of the insurers that will be examined by PricewaterhouseCoopers. On a going-forward basis, if the company examined is on the PricewaterhouseCoopers list, prior to the onset of the investigation, the unit will contact legal counsel to determine whether the Department should accept the PricewaterhouseCoopers privacy review or perform its own review. If a company the Department is targeting is not on the PricewaterhouseCoopers list, then the Bureau will perform the privacy reviews in the usual manner.

h. Section 3426-NYIL Focused Market Conduct Investigations

As mentioned in the prior year's report, the Market Conduct Unit commenced a series of investigations in 2001 into insurer compliance with Section 3426 of the Insurance Law. These investigations were specifically focused on determining the propriety of cancellation, nonrenewal and conditional renewal notices (*i.e.*, premium increases of 10% or more) issued on commercial policies by insurers, especially since the terrorist attacks. The Department held meetings with these insurers regarding their lack of compliance with Section 3426-NYIL in the issuance of invalid conditional renewal notices in the latter part of 2003 and early 2004. Appropriate disciplinary action was taken against these insurers for noncompliance with statutory requirements during Calendar Year 2004. However, the Market Conduct Unit continues to monitor insurer compliance with this section of the law as part of their routine underwriting/rating investigations.

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 that 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. The Market Conduct Unit continues to conduct these investigations as part of their routine investigations.

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 charging filed rates, using unapproved rates and rating plans and were involved in improper marketing practices. During Calendar Year 2004, 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 $75,000 for noncompliance 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 to 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 2004, the Market Conduct Unit initiated a review of ten insurers to determine whether they were following the requirements outlined in the statute and regulation. Six investigations continued from the prior year and 16 investigations were completed during 2004. 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 Insurance Law and Department Regulation 95.

l. Electronic Audit Program-TeamMate

The Market Conduct Unit has been implementing a new computer program for the conversion of its auditing procedures, workpapers and procedural memos to an electronic auditing environment, specifically PriceWaterhouseCoopers TeamMate Audit Management System. This new computer program will provide greater consistency, efficiency and easy access.

An extensive amount of time and resources has been devoted to the development of and training in this program for market conduct purposes. All market conduct examiners received training on the TeamMate project in 2004. This program was implemented in 2004 on a limited basis giving office-based supervisors unlimited remote access to ongoing examinations.

During the year 2004 one claims investigation was performed using the TeamMate Audit Program. It is anticipated that more investigations and ultimately all investigations will be performed using this program in the future. This program, once fully implemented, will facilitate consistency in audit procedures between the different examiners and will eliminate the use of paper files since all the data will be electronically stored.

21. 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.

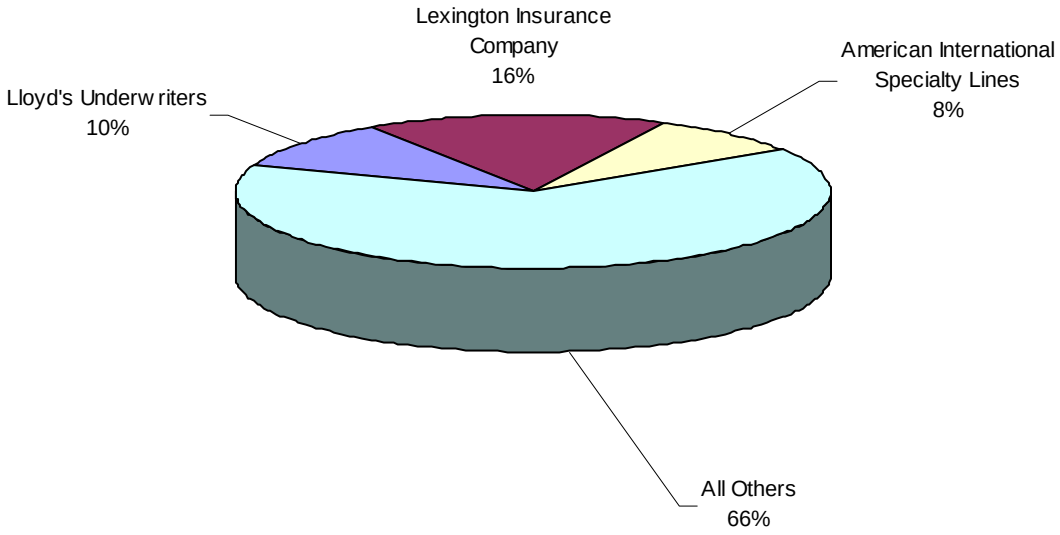
Since insurers providing this coverage are not licensed by this Department, statistical data relating to the amount and nature of premiums written in the excess line market must be obtained from excess line brokers through tax statements required to be filed no later than March 15 of each year relating to business written during the previous Calendar Year. For Calendar Year 2004, total excess line gross premiums written on risks located or resident both in and out of New York State amounted to approximately $3.865 billion, of which approximately $2.610 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 1,174 licensed excess line brokers and approximately 517 who are active and filed approximately 127,324 affidavits for the year 2004. Fifty complaints and inquiries and 1,245 filings regarding excess line business were received in 2004.

In 2004, there were approximately 177 unauthorized insurers eligible to do business in New York pursuant to Regulation 41. This includes 82 foreign insurers; 35 alien insurers; and Lloyd's, with 60 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 2004, the Unit reviewed 77 EL-1 filings, 115 annual statements and 16 trust agreements.

The following is a chart of the percentage of total 2004 excess line premium writings attributable to the three largest excess line insurers in New York State.

CHART C: Top Three Excess Line Insurers by Percentage of Premium Volume, 2004



a. Business Written in New York

Excess line premiums written in New York State increased from $2.097 billion in 2003 to $2.610 billion in 2004, a gain of 24.45%. The increase in premium volume appears to be the result of the ability to offer coverage not available in the authorized market and, to a lesser extent, the result of increased pricing caused primarily by the hardening of the insurance market. The largest dollar increase over the previous year occurred in the other liability line, up by $340 million in 2004, of which $109 million is from umbrella liability, $85.6 million is from environmental impairment, $69 million is from manufacturers and contractors, and $54 million is from excess liability. Other increases included errors and omission, up by $145 million; commercial multiple peril, up by $17 million; malpractice, up by $11.2 million; inland marine, up by $8.7 million; fidelity and surety, up by $8.2; million; auto physical damage, up by $4 million; and other lines, up by $3.8 million. The largest percentage increase occurred in the burglary and theft line, which was up by 187% or $6.7 million over the previous year.

The largest dollar decline over the previous year occurred in the fire and allied lines, down $31 million, a decrease of 7.43%. The largest percentage decline, 60%, occurred in a relatively small-volume line, aircraft physical damage.

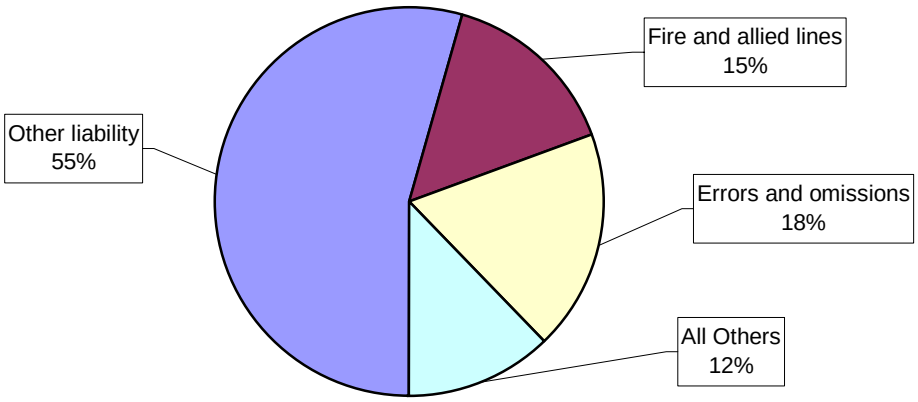
Table 40
EXCESS LINE PREMIUMS WRITTEN
Risks Located in New York State
2001-2004
(dollar amounts in thousands)

Line of business	2004	2003	2002	2001
Fire and allied lines	$ 393,807	$ 425,417	$ 296,786	$ 4,777
Inland marine	52,162	43,462	30,308	26,181
Auto liability	15,757	15,629	4,154	7,243
Malpractice	23,319	12,089	9,392	5,683
Errors and omissions	480,076	334,685	221,245	159,651
Commercial multiple peril (excluding fire)	111,068	93,737	82,315	59,723
Other liability	1,419,191	1,079,015	603,313	276,432
Auto physical damage	21,291	17,163	19,055	18,491
Aircraft physical damage	1,049	2,651	233	2,736
Burglary and theft	10,369	3,613	5,503	3,722
Fidelity and surety	23,116	14,844	5,040	22,340
Other lines	58,621	54,794	46,964	48,418
Total	$2,609,827	$2,097,100	$1,324,307	$685,398
Excess line premiums as a percentage of all property and casualty insurance premiums written in New York	7.07%*	6.25%	4.29%	2.56%

*Estimated
Source: Excess Line Association of New York

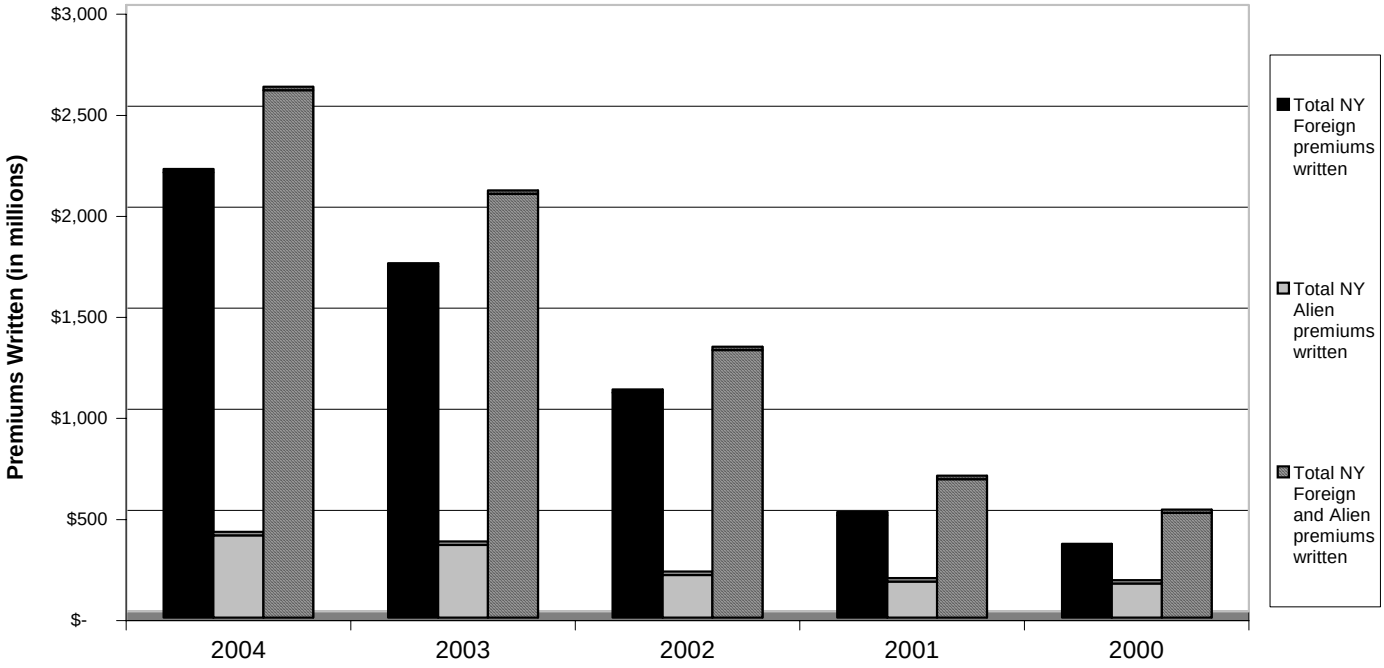
The pie chart below shows the three major lines of business written in the excess line market based on premium volume.

Chart D
Top Three Lines of Excess Line Business Written, NYS, 2004



The following is a graph of excess line business for the years 2000 to 2004 by alien and foreign insurers.

CHART E
New York Excess Line Premiums, 2000-2004



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 75 excess line brokers have filed 215 binding authority agreements representing insurers not licensed or authorized to do business in this State. During Calendar Year 2004, the Excess Line Association of New York reviewed and accepted 26 new, renewed and/or amended binding authority agreements 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 Investigations

The Excess Line Unit is currently investigating the activities of a purchasing group that provided its members with auto physical damage coverage in violation of Article 59 of the Insurance Law and the federal Liability Risk Retention Act of 1986. A purchasing group may only provide commercial liability coverage. Also, the underlying insurance policy was purportedly issued by an eligible excess line insurer, which subsequently denied the existence of such coverage. The Bureau's investigation has determined that the first $24,000 of coverage for each vehicle is underwritten by a company that is not an insurance company. Premium payments in the amount of approximately $1.5 million have been made to this entity. The Department has advised the purchasing group to cease the program and pay back all premiums. The Excess Line Unit will continue to scrutinize the actions of the purchasing group.

Another purchasing group program came to the Bureau's attention because of a complaint regarding a cancellation. The cancellation was legitimate. The coverage provided, however, included property insurance in violation of Article 59 of the Insurance Law and the federal Liability Risk Retention Act of 1986. In addition, the insurance company providing the coverage did not pay claims in a timely manner. Many of these claims from the major blackout in 2003 were paid late in 2004 and some even in 2005. The purchasing group was instructed not to accept new members but could renew existing members. The Excess Line Unit is continuing to monitor the insurance company's claims-payment activities regarding any unpaid claims relating to the blackout. The insurance company's misconduct was referred to the Market Conduct Unit.

Another investigation the Unit is involved in concerns a broker who does not have an excess line license but is placing such coverage on a wholesale basis in the State of New York using other licensees as a front for this activity. The Bureau is currently reviewing this matter and will interview all individuals involved to determine the extent of this activity.

The Excess Line Unit has completed an investigation of a complaint regarding an excess line broker who added an extra 0.5% to the excess line premium tax of 3.6% in order to cover his administrative costs. A review of the broker's records revealed the average cost to each policyholder was only several dollars. The broker has ceased charging the extra 0.5% and acknowledges the Department's warning that any further violations will result in disciplinary actions.

The Unit commenced an investigation of an excess line broker who may be fronting for several brokers/entities. The Bureau has requested and received data and documentation including a copy of a "forged license." A statement under oath has been taken and will be instrumental in the implementation of disciplinary action.

The Unit in conjunction with the Consumer Services Bureau is also involved in an investigation regarding placements of truckers insurance allegedly placed with an excess line insurer. No money was ever remitted to the company. One sublicense was revoked; the other indicted.

During a routine EL-1 review, a broker's name appeared as placing insurance with an excess line insurer without the requisite excess line broker's license. The broker was fined for violating Section 2117, negotiating and placing business with excess line carriers without the appropriate excess line broker's license.

Other investigations during 2004 have resulted in the Unit collecting additional premium taxes and penalties amounting to $1,239,019 and fines totaling $30,800.

f. Liability Risk Retention Act (LRRA) of 1986 – Purchasing Groups

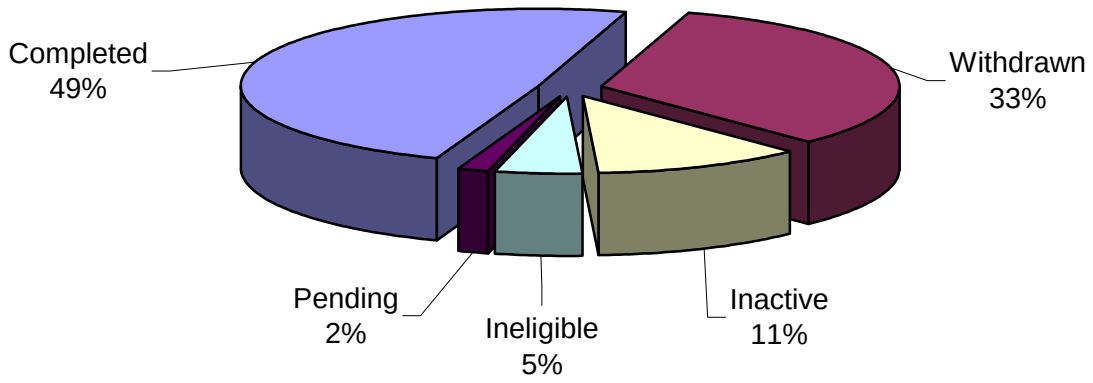
Purchasing groups are allowed, pursuant to the federal Liability Risk Retention Act of 1986, to buy commercial liability insurance on behalf of their members on a group basis. These groups are exempt from any state insurance laws that hinder or prohibit group self-insurance programs and the purchase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

Since the inception of the LRRA, the Department has received notices of intent from 845 purchasing groups. Subsequently, 279 have withdrawn their notice of intent, 97 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, 2004, 33% of the remaining 428 purchasing groups (13 of which are in pending status) have named unlicensed companies as their intended insurers. In 2004, the Department received notices of intent from 12 purchasing groups.

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 97 complaints and inquiries regarding purchasing groups were received in 2004, a decrease from 122 in the prior year.

The following chart shows the purchasing group filings as of December 31, 2004, by status category:

CHART F: Purchasing Group Filings, 2004



g. 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, $685 million in 2001, $1.324 billion in 2002, $2.097 billion in 2003, $2.610 billion in 2004 or a 504% increase over the 2000 writings. This significant increase in the nonadmitted market is a consequence of the diminished capacity in the admitted market. Mold risk, vacant properties and substantial capacity risks, and the exposures caused by Section 240 of the Labor Law also added to the increased premium volume in the excess line 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 the Terrorism Risk Insurance Act of 2002 (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. As a result of this, premium volume in fire and allied lines decreased by $31.6 million in 2004. The excess line market activity will continue to be monitored but it is anticipated that the trend toward increases in writings over the past four years will not be as dramatic as a result of the improved availability in the admitted market.

h. Excess Line Association of New York

On January 26, 2004, the Excess Line Association of New York relocated to their new headquarters at One Exchange Plaza/55 Broadway, 29th Floor, New York, N.Y. 10006-3728.

On July 1, 2004 the Excess Line Association of New York, as recommended by the Department based on increased stamping fee income, reduced its stamping fee by 25% to 0.3% to maintain its fund balance in line with its needs.

22. Consumers Guide to Automobile Insurance

On October 1, 2004, the Department published two editions of the 2004 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.

23. Circular Letters

Circular Letters Issued in 2004:

Circular Letter No. 2 was issued on March 24, 2004 to all licensed property and casualty insurers. The circular letter informed insurers that the Terrorism Risk Insurance Act of 2002 requires the Treasury Department to provide Congress with an assessment of the effectiveness of the Terrorism Risk Insurance Program, the likely capacity of the property and casualty insurance industry to offer terrorism risk insurance after the program sunsets on December 31, 2005 and the availability and affordability of such insurance for various policyholders including railroads, trucking and public transit. The circular letter informed insurers that the Insurance Department fully expects insurers to take all necessary steps to reply to the Treasury Department's data collection schedule.

Circular Letter No. 3 was issued on April 30, 2004 to all authorized property/casualty insurers, rate service organizations and insurer producer organizations. The circular letter informed the industry of the termination of Article 54 of the Insurance Law effective on or after April 30, 2004, except that policies issued or other obligations incurred by the New York Property Insurance Underwriting Association (the Association) shall not be impaired by the expiration of the article and the Association shall continue for the purpose of servicing such policies and performing such obligations. The circular letter also informed the industry of the steps the Association is taking because of the sunset of this provision.

Circular Letter No. 8 was issued October 5, 2004 to all authorized motor vehicle automobile self-insurers and insurers authorized to write motor vehicle insurance in New York State and the Motor Vehicle Accident Indemnification Corporation. The circular letter informed providers of no-fault benefits that the Department has promulgated the 28th Amendment to Regulation 83 effective October 6, 2004 which established a fee schedule for durable medical equipment that providers of no-fault benefits are required to follow in reimbursing applicants for these items and formally codifies an opinion that the Department's Office of General Counsel has previously expressed concerning payments for health services under the New York no-fault law.

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

Certain complaints and inquiries are processed independently of the Consumer Services Bureau. A total of 2,736 such complaints and inquiries were received by the Market Regulatory Section of the Property Bureau in 2004. This total consisted of 1,730 involving personal automobile insurance; 42 involving commercial automobile insurance; 98 involving homeowners insurance; 127 involving other liability insurance; 27 involving commercial multiple peril insurance; 31 involving medical malpractice insurance; 26 involving title insurance; and 655 involving other types of insurance (fire and allied lines, surety, inland marine, workers' compensation, etc.). In addition, the Market Regulatory Section processed 350 Freedom of Information (FOIL) requests on policy form and rate information.

25. Casualty Actuarial

The Casualty Actuarial Unit 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 $14 billion of New York premium volume in 2004.

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

The average change for insurers receiving rate changes in 2004 was approximately -2.7%. For these insurers, liability rates increased 0.15% on average while physical damage rates, primarily collision and theft coverages, decreased -9.1% on average. The insurers receiving rate changes in 2004 represent 62% of the total market for private passenger automobile insurance. The overall impact on the rate level for the entire market (including those auto insurers with no approved rate changes in 2004) was an average decrease of -1.7%.

Insurers' private passenger automobile insurance 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 2004, 63 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.

Table 41
PRIVATE PASSENGER AUTOMOBILE RATE FILINGS REVIEWED IN 2004[1]

Date of Approval	Renewal Effective Date	Insurance Company or Insurance Group	Market Share[2] (%)	Overall Change Requested (%)	Liability Change Taken (%)	Physical Damage Change Taken (%)	Overall Change Taken (%)
1/13/04	2/1/04	Farmers New Century Insurance Co	0.63	9.90	10.50	8.70	9.90
1/26/04	1/28/04	AIG National Insurance Co	0.00	0.00	0.00	0.00	0.00
2/6/04	4/1/04	Eveready Insurance Co	0.25	10.80	22.20	-5.10	10.80
2/6/04	5/15/04	Mercury Casualty Company	0.05	7.00	9.00	1.40	7.00
2/6/04	3/1/04	OneBeacon Insurance Group: OBEIC; OBMIC; NACoA; PICoI; HICoNY; PGICoNY	1.29	7.20	14.20	-3.60	7.20
2/10/04	4/1/04	Farm Family Casualty Ins Co	0.27	9.80	13.80	0.00	8.10
2/10/04	5/1/04	Kansas City Fire & Marine; Encompass Indemnity	0.00	6.50	10.60	0.00	6.50
2/10/04	5/6/04	Unitrin Direct Insurance Co	0.01	4.40	-0.60	15.90	4.40
2/12/04	5/21/04	Property & Casualty Ins Co of Hartford	0.17	11.90	19.90	-6.50	11.90
2/13/04	4/15/04	Selective Ins Co of New York	0.08	15.00	16.40	0.00	10.00
2/13/04	4/4/04	Amex Assurance Co	0.24	6.80	19.20	-14.60	6.80
2/17/04	5/2/04	Atlanta Casualty Companies: ACIC; ASIC	0.05	26.30	12.30	1.50	10.10
2/19/04	4/3/04	Liberty Insurance Group: LMFIC; LIC; TFLIC	3.10	8.40	11.10	-6.20	5.00
3/1/04	6/2/04	Holyoke Mutual Ins Co in Salem	0.00	6.70	7.30	4.80	6.70
3/1/04	3/16/04	Hartford: Sentinel Ins Co, Ltd.	0.00	0.00	0.00	0.00	0.00
3/5/04	5/15/04	AIG: New Hampshire Ins Co	0.09	12.00	10.80	0.00	9.90
3/22/04	7/1/04	State Farm Mutual Ins Co	9.99	-0.70	-0.70	-0.70	-0.70
3/26/04	6/9/04	Dairyland Insurance Co	0.07	9.20	11.90	-6.90	9.20
4/16/04	6/14/04	Met P&C and Met Casualty Ins Co	1.32	7.00	7.70	-0.80	4.90
4/20/04	5/28/04	Pennsylvania General Ins Co	0.00	0.00	0.00	0.00	0.00
4/22/04	6/22/04	Victoria Ins Group: VF&C; VSI; VNI; TII	0.04	21.10	14.90	0.40	12.00
4/22/04	6/11/04	Argonaut Ins Co	0.02	10.90	16.90	0.00	10.90
4/23/04	7/5/04	Hartford Ins Group: HFIC; HCIC; HUIC; TCFIC; HA&IC	0.76	5.50	10.10	-3.30	5.50
4/23/04	6/15/04	Nationwide: NICoA; NGIC	0.00	0.00	0.00	0.00	0.00
4/27/04	6/14/04	Windsor Ins Co and Regal Ins Co	0.35	14.00	18.50	-9.10	9.30
4/29/04	7/15/04	Erie Insurance Group: EIC; EICoNY	0.57	5.00	8.30	-7.80	2.50
5/12/04	6/15/04	Michigan Millers Mutual Ins Co	0.05	13.80	14.00	13.60	13.80
6/4/04	8/15/04	State Farm Fire & Casualty Ins Co	1.37	-4.70	-5.10	-3.70	-4.70
6/4/04	8/15/04	State Farm Mutual Ins Co	*	-9.10	-9.60	-8.60	-9.10
6/4/04	9/17/04	Chubb Ins Group: FIC;VIC; CIIC; PIC; GNIC	1.03	-0.50	16.80	-15.20	-0.50
6/23/04	9/13/04	Progressive : PNEIC; PNIC; PNWIC	5.96	-3.60	-3.50	-3.80	-3.60
6/24/04	6/24/04	Cincinnati Ins Co	0.00	-2.90	6.40	-11.80	-2.90
7/7/04	10/1/04	AIPSO	12.78	0.90	-2.00	-2.00	-2.00
7/9/04	10/6/04	Main Street America Group: NGMIC; MSAAC	0.58	9.00	10.20	6.90	9.00
7/16/04	7/16/04	Esurance Ins Co	0.00	0.90	-7.50	-19.80	-10.00
7/16/04	9/27/04	Safeco: SICoA; SNIC; FNICoA; GICoA	0.03	14.10	15.00	0.50	8.40
7/16/04	10/6/04	Progressive Halcyon Ins Co	0.00	-1.80	-4.40	4.20	-1.80
7/19/04	7/23/04	Travelers:TindC;TIC;SFIC;TCCoCT;COFIC;PIC; AICoHCT;TICoA;TP&CIC	4.00	7.20	13.00	-13.40	4.50
7/19/04	8/23/04	Allmerica Financial: HIC; MBIC; CICoA	0.73	4.00	7.50	-8.50	3.00
7/19/04	8/31/04	AIG: New Hampshire Indemnity Co	0.05	5.30	7.10	-0.10	5.30
7/21/04	10/1/04	Infinity: IIC; ISIC	0.12	11.40	7.70	1.50	6.00
8/3/04	8/3/04	Atlantic Mutual Ins Companies: AMIC; CIC	0.21	5.00	7.30	2.00	5.00
8/10/04	9/15/04	Atlantic States Ins Co	0.03	14.40	16.00	0.00	9.00
8/13/04	10/15/04	Kemper: UAHIC; UPIC; AMMIC; APIC	0.90	13.20	15.70	-10.70	6.10

Table 41
PRIVATE PASSENGER AUTOMOBILE RATE FILINGS REVIEWED IN 2004[1]
(continued)

Date of Approval	Renewal Effective Date	Insurance Company or Insurance Group	Market Share[2] (%)	Overall Change Requested (%)	Liability Change Taken (%)	Physical Damage Change Taken (%)	Overall Change Taken (%)
8/18/04	10/14/04	Prudential: PPCIC; PCIC; PGIC	1.33	14.50	18.20	7.20	14.50
8/25/04	8/30/04	Travelers: TPCCoA; TICoC	1.08	0.00	0.50	-0.90	0.00
9/14/04	11/20/04	Met Group Property & Casualty Ins Co	0.86	0.00	0.00	0.00	0.00
9/15/04	10/15/04	Nationwide Mutual Fire	0.00	0.00	0.00	0.00	0.00
9/16/04	9/20/04	Travelers: Farmington Casualty Co	0.22	-3.00	-2.80	-4.40	-3.00
9/23/04	12/20/04	GEICO Casualty Company	0.26	2.90	12.40	-26.60	2.90
9/24/04	11/1/04	Kemper: UDP&CIC; KIIC	0.05	14.90	20.70	3.50	14.90
9/30/04	12/13/04	GEICO Indemnity Company	2.05	3.60	7.90	-21.80	0.00
11/2/04	11/15/04	Commercial Mutual Insurance Co (phys.dam. writer)	0.00	-3.30		-3.30	-3.30
11/10/04	5/15/05	Unitrin Direct Insurance Co	*	7.70	9.30	4.60	7.70
12/14/04	2/15/05	GEICO & GEICO General	9.02	-6.00	-4.10	-9.30	-6.00
12/14/04	1/3/05	GEICO & GEICO General	*	-1.00	-1.00	-1.00	-1.00
12/14/04	2/15/05	GEICO Indemnity Ins Co	*	-6.00	-4.60	-11.30	-6.00
12/14/04	2/15/05	GEICO Casualty Ins Co	*	-6.00	-4.60	-11.80	-6.00
12/15/04	12/15/04	Hartford: Sentinel Ins Co, Ltd.	*	-1.00	-1.00	-1.00	-1.00
12/22/04	4/1/05	Met P&C and Met Casualty Ins Co	*	-4.50	-6.10	-1.70	-4.50
12/22/04	4/1/05	Met Group Property & Casualty Ins Co	*	-9.00	-6.00	-14.70	-9.00
12/22/04	4/1/05	Met: Economy Premier Assurance Co	0.40	-9.00	-3.80	-20.00	-9.00
12/28/04	3/27/05	Progressive : PNEIC; PNIC; PNWIC	*	-4.80	-3.90	-7.10	-4.80

2004 Rate Change Summary	**Filings**
• Number of insurer rate filings:	63
• Average liability change for insurers receiving rate changes:	0.15%
• Percentage of total liability industry premium affected:	64.05%
• Impact on the entire market of the overall average liability rate change:	0.10%
• Average physical damage change for insurers receiving rate changes:	-9.10%
• Percentage of total physical damage industry premium affected:	59.10%
• Impact on the entire market of the overall average physical damage change:	-5.38%
• Average combined liability and physical damage change for insurers receiving rate changes:	-2.67%
• Percentage of total industry premium affected:	62.46%
• Impact on the entire market of the overall average liability and physical damage rate change:	-1.67%

[1] All rate filings (and classification changes) are subject to prior approval.
[2] These market shares are based on 2002 Annual Statement premiums.
* Subsequent filing by this insurer in same year.

b. New York Automobile Insurance Plan (NYAIP) Experience in 2002 and 2003

i. Earned Car Years

An important indicator of the size of the Assigned Risk Plan (a.k.a., New York Automobile Insurance 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 equals one earned car year.) The number of private passenger automobiles (not including commercial autos) insured through the Plan increased 4.9% for liability and 1.6% for collision from 2002 to 2003. Table 42 shows a ten-year history for voluntary and assigned liability and assigned collision earned car years. This marks the third year in a row that Assigned Risk liability and collision earned car years increased from the previous year.

Table 42
Liability and Collision Earned Car Years in the Voluntary and Assigned Risk Market
1994 – 2003

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
1994	6,487,828		1,276,617		7,764,445		64,053	
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
2002	8,463,417	3.9	472,092	37.4	8,935,509	5.2	47,234	71.2
2003	8,313,121	-1.8	495,243	4.9	8,808,365	-1.4	47,981	1.6

ii. Risks by Surcharge Category

In 2003, there were 495,243 private passenger earned car years for liability and 47,981 for collision coverage insured through the Assigned Risk Plan. Table 43 shows the distribution of New York private passenger liability and collision assigned risks by surcharge category for 2001, 2002 and 2003.

Table 43
DISTRIBUTION OF PRIVATE PASSENGER AUTOMOBILE ASSIGNED RISKS
LIABILITY AND COLLISION COVERAGES
by Discount or Surcharge Category, 2001 – 2003

Discount or Surcharge Category	Liability			Collision		
	2001 (%)	2002 (%)	2003 (%)	2001 (%)	2002 (%)	2003 (%)
Total, all categories	100.0	100.0	100.0	100.0	100.0	100.0
Total Unsurcharged	57.3	56.9	58.1	52.4	52.5	55.1
3 Years Claim Free (1 or less with Plan) (Manual Rates)	44.7	42.7	40.5	44.5	40.9	36.9
Experience Discount						
4 Years (One or more with Plan) – 18% Credit	5.3	8.8	9.9	3.7	8.2	11.1
5 Years (Two or more with Plan) – 25% Credit	3.3	2.3	4.5	2.0	1.5	4.7
6 Years or more (Three or more w/Plan) – 30% Credit	4.0	3.1	3.2	2.2	1.9	2.4
Total Surcharged	42.7	43.1	41.9	47.6	47.5	44.9
Inexperienced Operator Surcharge	20.5	20.3	20.0	16.7	16.2	16.0
Experience Surcharge						
15%	12.7	13.1	12.7	17.3	18.1	17.0
25%	0.3	0.3	0.2	0.3	0.2	0.2
35%	3.6	3.6	3.4	5.6	5.7	5.0
50%	1.8	1.8	1.8	2.2	2.0	1.8
75%	1.3	1.4	1.3	1.9	1.9	1.8
100%-200%	2.5	2.6	2.6	3.6	3.3	3.2

iii. Risks by Rating Territory

The proportions of all private passenger liability risks that are assigned risks, listed by rating territory for 2002 and 2003, are shown in Table 44. During 2003, 5.6% of all New York State private passenger automobiles were assigned risks as opposed to 5.3% in 2002. The number of voluntary risks decreased 150,295 while the number of assigned risks increased by 23,151. The proportion of assigned risks was 10% or higher in 6 of the 70 rating territories in 2002 and was 10% or higher in 7 of the 70 in 2003. The highest 2003 ratio was 47.0% in the Bronx Territory and the lowest was 0.1% in the Corning Territory. Between 2002 and 2003 the number of assigned risks increased in some rating territories and decreased in other rating territories. The congested urban areas of New York City produced some of 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 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		2002			2003			# Change In A/R	% Change In A/R	#Change in Market	% Chng. in Mrkt.
		Assigned	Voluntary	Total	Assigned	Voluntary	Total				
01	Bronx Territory	28,041	32,033	60,074	26,105	29,481	55,587	-1,936	-6.9	-4,488	-7.5
03	Bronx Suburban Territory	28,371	173,702	202,073	29,285	160,939	190,225	914	3.2	-11,849	-5.9
05	Staten Island	14,717	226,672	241,389	16,162	214,076	230,238	1,445	9.8	-11,151	-4.6
07	Buffalo	7,226	112,065	119,291	8,695	111,527	120,222	1,469	20.3	931	0.8
08	Buffalo Semi-Suburban	4,512	192,609	197,121	5,287	190,247	195,534	775	17.2	-1,587	-0.8
09	Schenectady County	1,689	101,868	103,557	1,915	102,138	104,054	227	13.4	497	0.5
11	Rochester	14,120	402,076	416,196	15,655	400,007	415,662	1,534	10.9	-535	-0.1
12	Syracuse	5,034	219,764	224,798	5,578	216,578	222,156	544	10.8	-2,641	-1.2
13	Albany	3,240	162,728	165,968	3,111	162,645	165,755	-130	-4.0	-213	-0.1
14	Niagara Falls	1,972	69,221	71,193	2,526	68,552	71,079	554	28.1	-114	-0.2
15	Utica	588	62,839	63,427	671	62,666	63,337	83	14.1	-90	-0.1
16	Saratoga Springs Suburban	255	47,903	48,158	243	48,807	49,050	-12	-4.8	891	1.9
17	Kings County	31,507	342,642	374,149	27,960	318,735	346,695	-3,547	-11.3	-27,454	-7.3
18	Manhattan	26,939	139,551	166,490	25,222	135,025	160,247	-1,717	-6.4	-6,243	-3.8
19	Queens	11,799	49,990	61,789	10,982	48,075	59,057	-818	-6.9	-2,732	-4.4
20	Hempstead	27,865	450,141	478,006	31,092	443,772	474,864	3,227	11.6	-3,142	-0.7
21	North Hempstead	7,455	156,630	164,085	8,267	150,080	158,346	812	10.9	-5,739	-3.5
22	Oyster Bay	9,837	238,775	248,612	10,869	233,103	243,971	1,032	10.5	-4,641	-1.9
24	Rome	432	22,318	22,750	449	22,851	23,300	17	3.9	550	2.4
25	Auburn	191	25,064	25,255	224	24,641	24,865	33	17.1	-390	-1.5
27	Elmira	89	51,130	51,219	72	50,835	50,906	-17	-19.5	-313	-0.6
28	Binghamton	2,835	117,274	120,109	3,118	114,577	117,695	283	10.0	-2,415	-2.0
29	Gloversville	204	27,574	27,779	267	27,384	27,651	63	30.6	-128	-0.5
30	Saratoga Springs	130	22,678	22,808	126	23,587	23,714	-3	-2.4	906	4.0
31	Chautauqua County	844	85,109	85,953	976	84,701	85,677	132	15.7	-276	-0.3
32	Newburgh	1,901	67,197	69,098	2,473	67,542	70,015	572	30.1	917	1.3
33	Poughkeepsie	3,033	101,431	104,465	2,897	102,852	105,748	-137	-4.5	1,284	1.2
34	Troy	1,700	59,181	60,881	1,679	59,540	61,219	-21	-1.2	338	0.6
35	Amsterdam	181	21,569	21,751	182	22,118	22,300	1	0.4	549	2.5
36	Glens Falls	1,021	43,059	44,080	1,037	44,113	45,149	15	1.5	1,069	2.4
37	Oswego	1,152	32,980	34,132	1,216	33,728	34,943	63	5.5	811	2.4
38	Syracuse Suburban	278	59,177	59,455	300	60,131	60,431	22	7.9	976	1.6
39	Rochester Suburban	214	42,604	42,818	234	40,527	40,761	21	9.7	-2,057	-4.8
40	Corning	45	27,557	27,602	38	28,220	28,258	-8	-16.9	656	2.4
41	Erie County (Balance)	802	80,034	80,835	837	83,801	84,639	36	4.5	3,804	4.7
42	Buffalo Suburban	3,581	154,752	158,333	3,934	152,268	156,202	353	9.9	-2,131	-1.3
43	Niagara Falls Suburban	544	33,435	33,979	661	33,680	34,340	117	21.5	362	1.1
44	Broome County (Balance)	97	16,915	17,012	103	19,200	19,303	6	6.7	2,291	13.5

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

Territory		2002 Assigned	2002 Voluntary	2002 Total	2003 Assigned	2003 Voluntary	2003 Total	# Change In A/R	% Change In A/R	#Change in Market	% Chng. in Mrkt.
46	Putnam County	2,452	74,273	76,725	2,492	74,587	77,080	40	1.6	354	0.5
47	Orleans County	427	26,054	26,481	404	26,040	26,445	-23	-5.4	-37	-0.1
48	Monroe County (Balance)	206	19,527	19,733	199	20,295	20,494	-6	-3.1	762	3.9
49	Niagara County (Balance)	245	33,056	33,301	259	33,347	33,606	14	5.8	305	0.9
51	Ontario County, etc.	3,338	194,140	197,478	3,553	195,911	199,464	215	6.4	1,986	1.0
52	Fort Plain, Herkimer	594	38,390	38,984	629	37,895	38,524	35	5.9	-461	-1.2
54	Cortland County, etc.	4,175	194,065	198,239	4,110	195,499	199,609	-65	-1.6	1,370	0.7
55	Queens Suburban	60,376	541,010	601,385	56,109	504,359	560,468	-4,266	-7.1	-40,917	-6.8
56	Saratoga County (Balance)	243	28,267	28,510	244	30,284	30,528	1	0.3	2,018	7.1
58	Dutchess County (Balance)	2,549	93,598	96,147	2,468	93,958	96,426	-81	-3.2	279	0.3
59	Columbia County, etc.	1,437	80,398	81,835	1,357	81,444	82,800	-80	-5.6	966	1.2
60	Genesee County	429	39,139	39,568	515	39,077	39,592	85	19.8	24	0.1
61	Delaware County, etc.	3,086	134,302	137,388	3,110	134,456	137,566	24	0.8	178	0.1
62	Highland, Kingston	3,146	81,767	84,913	3,346	82,410	85,756	200	6.4	843	1.0
64	Middletown	6,471	149,355	155,826	7,337	150,449	157,786	867	13.4	1,960	1.3
65	Ossining	8,144	183,673	191,817	9,001	180,942	189,942	857	10.5	-1,874	-1.0
67	Clinton County, etc.	11,819	350,691	362,510	12,371	338,104	350,475	552	4.7	-12,035	-3.3
68	Rockland County	5,826	184,099	189,925	7,114	182,069	189,184	1,288	22.1	-741	-0.4
71	Saratoga County South	166	44,637	44,803	161	43,349	43,510	-5	-3.3	-1,294	-2.9
72	Albany County (Balance)	83	12,424	12,508	71	12,925	12,996	-12	-14.6	489	3.9
73	Rensselaer County (Balance)	569	38,916	39,485	581	38,923	39,504	12	2.2	19	0.0
74	Jefferson County	989	65,699	66,689	939	65,653	66,592	-51	-5.1	-97	-0.1
75	Suffolk County West	35,319	508,052	543,372	41,055	498,904	539,959	5,736	16.2	-3,412	-0.6
76	Suffolk County East	39,530	429,744	469,274	47,553	426,354	473,906	8,022	20.3	4,632	1.0
81	Monticello-Liberty	212	12,549	12,761	224	13,102	13,326	12	5.5	564	4.4
82	Sullivan County Central	494	13,871	14,366	456	14,245	14,701	-38	-7.7	335	2.3
83	Sullivan County (Balance)	523	23,446	23,969	557	22,971	23,528	34	6.4	-441	-1.8
84	Allegany County, etc.	4,063	183,949	188,012	4,464	183,192	187,656	401	9.9	-356	-0.2
86	Oneida	432	41,632	42,064	409	40,887	41,296	-23	-5.4	-769	-1.8
94	Mount Vernon and Yonkers	12,983	103,524	116,506	14,423	99,735	114,157	1,440	11.1	-2,349	-2.0
95	White Plains	3,250	45,179	48,429	3,924	44,299	48,223	674	20.7	-206	-0.4
97	New York City Suburban	14,072	221,743	235,815	15,361	214,710	230,072	1,290	9.2	-5,743	-2.4
	Entire State	**472,092**	**8,463,417**	**8,935,509**	**495,243**	**8,313,121**	**8,808,365**	**23,151**	**4.9**	**-127,144**	**-1.4**

a. Derived from data provided by the Automobile Insurance Plan Services Office. Subject to rounding.

Table 45: Percentage of Private Passenger Automobiles Insured Through the Automobile Insurance Plan, by Territory, 1997-2003

Territory		1997		1998		1999		2000		2001		2002		2003	
		(%)	Rank	(%)	Rank	(%)	Rank	(%)	Rank	(%)	Rank	(%)	Rank	(%)	Rank
01	Bronx Territory	65.3	1	52.4	1	34.3	1	30.9	1	40.1	1	46.7	1	47.0	1
19	Queens	46.1	2	39.7	2	26.0	2	15.8	2	17.7	2	19.1	2	18.6	2
18	Manhattan	30.1	3	23.5	3	14.7	3	10.8	3	14.5	3	16.2	3	15.7	3
03	Bronx Suburban Territory	27.6	4	21.8	5	13.2	4	9.4	4	12.2	4	14.0	4	15.4	4
94	Mount Vernon and Yonkers	16.5	7	12.3	7	7.2	7	5.2	7	8.7	6	11.1	5	12.6	5
76	Suffolk County East	11.2	8	7.9	9	4.4	9	3.0	8	5.7	8	8.4	7	10.0	6
55	Queens Suburban	24.2	6	19.9	6	11.9	6	6.9	6	9.0	5	10.0	6	10.0	7
95	White Plains	10.7	10	5.8	13	2.9	14	2.2	13	4.9	9	6.7	9	8.1	8
17	Kings County	25.8	5	22.3	4	13.1	5	6.9	5	8.3	7	8.4	8	8.1	9
75	Suffolk County West	10.8	9	7.6	10	4.3	10	2.5	10	4.5	11	6.5	10	7.6	10
07	Buffalo	6.7	21	3.4	24	1.2	31	1.0	24	4.5	12	6.1	12	7.2	11
05	Staten Island	10.0	12	8.0	8	4.6	8	2.7	9	4.8	10	6.1	11	7.0	12
97	New York City Suburban	7.9	14	5.8	14	3.2	12	2.5	11	4.3	13	6.0	13	6.7	13
20	Hempstead	10.3	11	7.5	11	4.1	11	2.3	12	4.1	14	5.8	14	6.5	14
21	North Hempstead	7.6	16	5.4	15	3.1	13	1.9	14	3.2	15	4.5	15	5.2	15
65	Ossining	5.2	25	3.7	22	2.2	19	1.6	17	3.0	16	4.2	16	4.7	16
64	Middletown	6.9	18	4.3	17	2.3	18	1.7	16	2.9	17	4.2	17	4.7	17
22	Oyster Bay	6.8	19	4.7	16	2.8	15	1.9	15	2.9	18	4.0	18	4.5	18
62	Highland, Kingston	6.2	22	3.5	23	1.8	21	1.3	20	2.7	19	3.7	19	3.9	19
11	Rochester	3.3	40	1.8	41	0.6	46	0.6	38	2.5	21	3.4	21	3.8	20
68	Rockland County	4.7	30	2.7	32	1.2	30	0.8	31	2.0	25	3.1	25	3.8	21
14	Niagara Falls	3.3	41	1.6	44	0.6	43	0.4	44	1.6	29	2.8	28	3.6	22
32	Newburgh	4.8	29	2.7	30	1.1	32	0.7	33	1.6	30	2.8	29	3.5	23
67	Clinton County, etc.	4.5	32	2.7	31	1.4	26	1.0	23	2.0	26	3.3	23	3.5	24
37	Oswego	7.2	17	4.2	19	1.7	23	0.9	26	2.1	23	3.4	22	3.5	25
46	Putnam County	5.5	23	3.9	21	2.3	17	1.5	19	2.3	22	3.2	24	3.2	26
82	Sullivan County Central	9.9	13	5.9	12	2.8	16	1.5	18	2.6	20	3.4	20	3.1	27
34	Troy	5.2	26	3.0	27	1.3	28	0.8	27	1.8	28	2.8	27	2.7	28
33	Poughkeepsie	5.4	24	3.3	25	1.6	24	1.0	25	2.1	24	2.9	26	2.7	29
08	Buffalo Semi-Suburban	2.7	47	1.5	45	0.7	41	0.6	37	1.5	35	2.3	33	2.7	30
28	Binghamton	3.6	37	1.9	40	0.9	39	0.6	35	1.4	36	2.4	31	2.6	31
58	Dutchess County (Balance)	5.1	27	3.2	26	1.6	25	1.1	21	2.0	27	2.7	30	2.6	32
42	Buffalo Suburban	2.7	49	1.7	42	0.9	36	0.6	34	1.5	34	2.3	34	2.5	33
12	Syracuse	3.2	42	1.4	49	0.5	53	0.4	48	1.4	37	2.2	36	2.5	34
84	Allegany County, etc.	3.4	39	1.9	38	0.9	38	0.6	36	1.3	38	2.2	38	2.4	35
83	Sullivan County (Balance)	6.8	20	4.2	18	2.1	20	1.1	22	1.6	31	2.2	37	2.4	36
36	Glens Falls	4.6	31	2.8	28	1.0	34	0.5	40	1.3	41	2.3	32	2.3	37

Table 45: Percentage of Private Passenger Automobiles Insured Through the Automobile Insurance Plan, by Territory, 1997-2003

Territory		1997		1998		1999		2000		2001		2002		2003	
		(%)	Rank	(%)	Rank	(%)	Rank	(%)	Rank	(%)	Rank	(%)	Rank	(%)	Rank
61	Delaware County, etc.	4.2	34	2.5	33	1.2	29	0.8	28	1.5	32	2.2	35	2.3	38
54	Cortland County, etc.	3.5	38	2.1	37	1.1	33	0.8	30	1.5	33	2.1	39	2.1	39
24	Rome	2.6	53	1.2	53	0.5	52	0.4	46	1.3	39	1.9	41	1.9	40
43	Niagara Falls Suburban	2.7	48	1.3	51	0.4	58	0.2	55	0.8	50	1.6	47	1.9	41
13	Albany	3.8	36	2.1	35	1.0	35	0.5	39	1.2	42	2.0	40	1.9	42
09	Schenectady County	3.0	45	1.7	43	0.6	44	0.3	50	0.9	49	1.6	45	1.8	43
51	Ontario County, etc.	3.2	43	1.9	39	0.8	40	0.5	42	1.1	44	1.7	43	1.8	44
81	Monticello-Liberty	7.7	15	4.0	20	1.7	22	0.8	29	1.3	40	1.7	44	1.7	45
59	Columbia County, etc.	4.2	33	2.7	29	1.3	27	0.7	32	1.2	43	1.8	42	1.6	46
52	Fort Plain, Herkimer	2.9	46	1.4	50	0.5	50	0.5	43	1.0	45	1.5	48	1.6	47
47	Orleans County	2.6	51	1.3	52	0.5	49	0.3	52	0.9	47	1.6	46	1.5	48
73	Rensselaer County (Balance)	2.4	55	1.5	46	0.6	45	0.4	45	0.9	48	1.4	50	1.5	49
74	Jefferson County	3.9	35	2.1	36	0.9	37	0.5	41	1.0	46	1.5	49	1.4	50
60	Genesee County	1.9	59	0.8	60	0.4	55	0.3	51	0.6	55	1.1	51	1.3	51
31	Chautauqua County	3.1	44	1.4	47	0.6	47	0.3	54	0.6	54	1.0	55	1.1	52
15	Utica	1.6	63	0.7	65	0.2	64	0.2	59	0.5	59	0.9	56	1.1	53
86	Oneida	2.6	52	1.1	55	0.5	51	0.4	47	0.7	53	1.0	53	1.0	54
41	Erie County (Balance)	2.6	50	1.4	48	0.6	48	0.3	53	0.7	51	1.0	54	1.0	55
48	Monroe County (Balance)	1.7	61	0.7	63	0.2	68	0.1	63	0.7	52	1.0	52	1.0	56
29	Gloversville	4.9	28	2.1	34	0.7	42	0.3	49	0.6	56	0.7	61	1.0	57
25	Auburn	2.5	54	1.1	54	0.3	60	0.2	60	0.5	58	0.8	59	0.9	58
35	Amsterdam	2.0	58	1.0	57	0.4	56	0.2	56	0.3	65	0.8	58	0.8	59
56	Saratoga County (Balance)	2.1	57	0.9	58	0.3	61	0.1	62	0.5	57	0.9	57	0.8	60
49	Niagara County (Balance)	1.4	65	0.6	66	0.2	63	0.1	66	0.4	61	0.7	60	0.8	61
39	Rochester Suburban	1.3	66	0.5	68	0.2	65	0.1	67	0.4	62	0.5	66	0.6	62
72	Albany County (Balance)	1.8	60	0.9	59	0.3	59	0.2	57	0.4	63	0.7	62	0.5	63
44	Broome County (Balance)	1.7	62	0.8	62	0.4	57	0.2	58	0.4	60	0.6	63	0.5	64
30	Saratoga Springs	2.3	56	1.1	56	0.5	54	0.2	61	0.4	64	0.6	64	0.5	65
38	Syracuse Suburban	1.3	67	0.7	64	0.3	62	0.1	64	0.3	68	0.5	67	0.5	66
16	Saratoga Springs Suburban	1.6	64	0.8	61	0.2	66	0.1	68	0.3	66	0.5	65	0.5	67
71	Saratoga County South	1.2	68	0.6	67	0.2	67	0.1	65	0.3	67	0.4	68	0.4	68
27	Elmira	0.6	70	0.3	69	0.1	69	0.1	70	0.2	69	0.2	69	0.1	69
40	Corning	0.7	69	0.2	70	0.1	70	0.1	69	0.2	70	0.2	70	0.1	70
	Entire State	**9.6**		**6.8**		**3.9**		**2.5**		**4.0**		**5.3**		**5.6**	

c. Workers' Compensation Insurance

On May 15, 2004, the New York Compensation Insurance Rating Board (NYCIRB) filed, on behalf of its members and subscribers, a 29.3% increase in workers' compensation rates. This change, along with a 0.7% change in the New York Assessment Fee, would have produced an increase in cost to policyholders of 30.2%. The filing was disapproved by the Superintendent of Insurance in the Department's Opinion and Decision of July 15, 2004. The change in the New York Assessment Fee, alone, went into effect on October 1, 2004.

The NYCIRB filed on August 4, 2004 for an increase in rates of 9.5%. As of the end of 2004, this filing had not been acted upon.

In 2004 there was a small increase in premium level, only the third since 1995. Premium changes during the past nine 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%
2003	2.9%
2004	0.7%

*Net change includes rate level and assessment charge changes.

Note that the premium level effective October 1, 2004 is 26.4% lower than that in effect in 1995.

Table 46
WORKERS' COMPENSATION DIVIDEND CLASSIFICATION PLAN APPROVED
2004

Plan Types:
A = Flat
B = Sliding Scale/ Loss Ratio

COMPANY NAME	PLAN TYPE	APPROVAL DATE
Guard Insurance	A,B	1/21/04

Table 47
WORKERS' COMPENSATION RATE HISTORY
New York Compensation Insurance Rating Board*
New York State, 1980-2004

Effect. Date	Policy Year	Calendar Year	Law Amendments & Medical & Hospital Agreements: Indemnity	Law Amendments & Medical & Hospital Agreements: Medical	Wage & L/R Trend Factors	Expenses	Effect on Rate Level	Assessments: WCB	Assessments: SDF&RCF	Filed	Approved	Cumulative 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%	-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%
10/03	11.8%	11.1%	0.0%		1.000	-0.1%	0.0%		1.2%	12.6%	1.2%	34.3%
12/03	14.5%	3.7%	0.0%		0.934	-0.1%	0.0%			1.7%	1.7%	36.5%
10/04	27.6%	33.2%	0.0%		1.018	-1.9%	29.3%		0.7%	30.2%	0.7%	37.5%

[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.
* Rate changes apply to all workers' compensation insurers; approved deviations from these filed rates appear in the subsequent table.
Note: Columns (1) – (11) reflect the Rating Board's *filed rate request*; the final two columns reflect the *rate changes approved by the Department*.

Table 48: WORKERS' COMPENSATION — RATE DEVIATIONS (Approved as of February 1, 2005)*

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

Table 48: WORKERS' COMPENSATION — RATE DEVIATIONS (Approved as of February 1, 2005)

(continued)

Company Name	Effective Date	Downward Deviation	Company Name	Effective Date	Downward Deviation
National Fire Ins Co of Hartford	03/01/04	0.0	Royal Indemnity Co	03/01/03	15.0
Netherlands Ins Co	04/01/97	15.0	Safeguard Ins Co	05/01/95	10.0
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	02/01/04	0.0	Sentry Select Ins Co (formerly John Deere)	08/01/97	10.0
North River Ins Co	01/01/02	10.0	Star Ins Co	06/01/03	0.0
Northern Assurance Co of America	05/01/03	0.0	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
OneBeacon Amer Ins Co (formerly 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	Trans Pacific Ins Co	09/01/02	10.0
Pacific Indemnity Co	01/13/83	15.0	Transcontinental Ins Co	03/01/04	10.0
Paramount Ins Co	10/03/83	15.0	Travelers Casualty & Surety Co of Illinois	08/12/85	15.0
Patriot General Ins Co	02/25/02	10.0	Travelers Indemnity Co of America	01/16/91	15.0
Peerless Ins Co	05/01/96	7.5	Travelers Indemnity Co of Connecticut	08/01/98	10.0
Penn Millers Ins Co	03/01/01	10.0	Truck Insurance Exchange	12/01/03	0.0
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 (formerly CGU Ins Co of NY)	09/01/01	10.0	Utica National Assurance Co	02/01/04	5.0
Preferred Professional Ins Co	08/31/01	10.0	Valley Forge Ins Co	03/01/01	10.0
Professional Liability Ins Co of America	04/09/01	10.0	Wausau Business Ins Co	06/10/96	15.0
Providence Washington Ins Co	04/03/01	10.0	Wausau Underwriters Ins Co	01/01/03	2.5
Republic-Franklin Ins Co	01/01/88	10.0			

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

* Insurers are not permitted to deviate from NYS Compensation Insurance Rating Board approved rates without permission from the Superintendent of the NYS Insurance Department.

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, the Security Fund Task Force, consisting of members from different Bureaus in the Insurance Department, 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.

No contributions were required between 1973 and 1988. In 1988, following the Superintendent's determination that the fund's net value as of 12/31/87 had fallen below $150 million, contributions resumed and 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. This remained the case 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 ©(1), three additional contributions were due after this determination. In 2000, 2001, 2002 and 2003, the Superintendent determined that the PCISF net values had once again fallen below $150 million and quarterly contributions were required. In 2004, the Superintendent determined that contributions were due.

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, 1988-2004*

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
2003	23.5
2004	28.1

* During 1993, settlement was reached with respect to *Alliance of American Insurers et al. v. Chu et al*. The 1993 through 2004 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 policy forms, initial premium rates and rate adjustment filings made by any insurer licensed to write such insurance, including not-for-profit insurers, HMOs, commercial insurance companies licensed to do accident and health insurance business, fraternal benefit societies and municipal cooperative health benefit plans.

The Bureau had regulatory authority over all aspects of the fiscal solvency and market conduct of 90 insurers, HMOs, and other managed care organizations as of December 31, 2004. These comprise 22 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, 23 Article 44 Public Health Law HMOs, 10 Article 47 Insurance Law municipal cooperative health benefits plans, 11 managed long term care plans and 9 continuing care retirement communities certified pursuant to Article 46 of the Public Health Law.

Two acquisition-of-control applications were submitted, in 2003, for two Article 42 insurers. One application was approved and one is still under review as of 12/31/2004. In 2004, the Bureau received and approved an application from the United Health Group to acquire Oxford Health Plans, an HMO, and Oxford Health Insurance Company, an accident and health insurer.

One HMO commenced winding down its operations in 2003 and another HMO commenced the wind-down process in 2004; both are expected to be liquidated in the near future. Additionally, the Bureau is closely monitoring the financial condition of two distressed HMOs and one Article 42 company.

Article 47 of the Insurance Law, enacted in 1994, permits the formation of municipal cooperative health benefit plans. Ten plans are currently licensed and one application is pending.

2. Accident and Health Insurers

Twenty-two companies were licensed to transact only accident and health insurance at year-end 2003. The Bureau regulates the fiscal solvency and market conduct of one life insurer and the financial data of this life insurer is included in the following table:

Table 50
SELECTED ANNUAL STATEMENT DATA
Accident and Health Insurers*
2001-2003
(dollar amounts in millions)

	2003	2002	2001
Number of Insurers	23	22	22
Net premiums written	$9,616.5	$9,517.3	$5,162.8
Admitted assets	10,308.6	9,324.7	7,465.9
Policy and contract claims	1,643.4	1,521.8	1,150.3
Other liabilities	4,539.3	4,048.4	3,227.3
Capital	30.5	30.4	28.4
Surplus	4,095.4	3,724.1	3,059.9
Ratio of premiums written to capital and surplus	2.3	2.5	1.7

*Data includes one life insurer.
Source: New York State Insurance Department

It should be noted that the large increases in 2002 net premiums written, assets and liabilities with no change in number of insurers were mainly due to the conversion of Empire Blue Cross Blue Shield (an Article 43 health service corporation) into a for-profit Article 42 Accident & Health insurer which then merged with its Article 42 Accident & Health subsidiary.

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© 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. The 2004 filings were as follows:

Type of Company	Filings
HMOs	98
Article 43 Corporations	29

b. Article 43 and Article 44 Corporations

The following tables show aggregate figures on assets, liabilities, surplus funds, premium income and membership for years 2001-2003:

Table 51
HEALTH SERVICE CORPORATIONS*
Selected Data, New York State
2001-2003
(dollar amounts in millions)

	2003	2002	2001
Number of Companies	10	10	11
Admitted Assets	$4,062.2	$3,552.9	$4,852.8
Liabilities	2.362.5	$2,398.3	3,345.4
Surplus Funds	1,699.8	1,154.6	1,506.6
Net Premium Income:			
Hospital	6,468.5	$5,879.3	$7,816.6
Medical/Dental	4,353.0	3,614.9	4,698.0
Number of Contracts & Riders in Force:			
Hospital	1.5**	1.5**	2.7**
Medical/Dental	1.5**	1.5**	1.9**

a. 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
2001-2003
(dollar amounts in millions)

	2003	2002	2001
Number of Companies	3	3	3
Admitted Assets	$33.3	$31.6	$26.8
Liabilities	15.6	17.7	15.1
Surplus Funds	17.7	13.9	11.7
Net Premium Income	26.7	28.0	24.7
Number of Contracts in Force	1,257	971	847

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
2001-2003
(dollar amounts in millions)

	2003	2002	2001
Number of Companies	3	3	4
Net Premium Income	$5,862.5	$5,458.7	$6,048.6
Number of Participants	2.0**	2.1**	2.5**

* 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
2001-2003
(dollar amounts in millions)

	2003	2002	2001
Number of Companies	21	21	23
Admitted Assets	$3,947.5	$3,643.6	$3,199.9
Liabilities	2,167.6	2,203.2	2,032.9
Surplus Funds	1,776.8	1,440.4	1,167.0
Net Premium Income	11,533.3	10,265.3	9,486.3
Number of Participants	3.6*	3.8*	3.6*

*in millions
Source: New York State Insurance Department

4. Examinations Conducted by the Health Bureau

During the year 2004, the field unit of the Health Bureau conducted 35 examinations of regulated entities. The 2004 examinations, by regulated entity and type, are presented below:

		Regularly Scheduled	
	Total	**Initiated in 2004**	**Prior to 2004**
By Regulated Entity			
HMO	11	6	5
HMDI	6	3	3
Commercial	15	7	8
Muni-Coop	1	1	0
CCRC	2	2	0
Total	**35**	**19**	**16**
By Type			
Financial	9	0	9
Market Conduct	10	8	2
Combined	16	11	5
Other:			
Capital Increase*	0	0	0
On Organization**	0	0	0
Total	**35**	**19**	**16**

***** 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 2004, the Health Bureau made final dispositions on 1,234 accident and health policy form submissions (see Table 55A). A submission consists of one or more policy forms and, in some cases, related supporting actuarial material. These submissions were comprised of a wide range of accident and health insurance products from many different types of insurers and are offered in the individual, small group and large group markets. These 1,234 submissions include 229 deemer and speed to market submissions (see Table 55B). Deemer submissions are submissions made under the expedited approval procedure set forth in Section 3201(b)(6) of New York Insurance Law. Speed-to-market submissions are submissions made under the optional expedited prior approval using a certification process (Circular Letter No. 4 (2003)).

Table 55A
ACCIDENT & HEALTH
Disposition of Policy Form Submissions
2004

	HMO	Group Accident & Health	Individual Accident & Health	Article 43	Municipal Cooperative Health Benefit Plan	Total
Approved	158	243	79	202	2	684
Not Accepted / Circular Letter 14 (1997)*	4	69	19	8	0	100
Lack of Company Action	4	38	19	0	1	62
Duplicate	1	2	1	2	0	6
Filed for Reference	2	25	18	0	0	45
Prefiled	2	12	0	23	0	37
Withdrawn	3	11	1	16	0	31
Filed for Out-of-State Use	0	196	34	0	0	230
Other	6	9	1	23	0	39
Total	**180**	**605**	**172**	**274**	**3**	**1,234**

*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.

Table 55B
ACCIDENT & HEALTH
Speed to Market and Deemer Submissions
2004

	HMO	Group Accident & Health	Individual Accident & Health	Article 43	Municipal Cooperative Health Benefit Plan	Total
Speed to Market Submissions	71	16	6	134	0	227
Deemer Submissions	1	0	1	0	0	2

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 1,579 rate filings and disposed of 1,432 rate filings during 2004. 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 (primarily for commercial insurers), commission filings, experience filings, and rate manual revisions. Several of the Accident and Health Rate Filings were received, reviewed, and approved using the Electronic Rate and Form Filing (SERFF) System for the first time in 2004. In addition, the Accident and Health Rating Section developed rate filing Guidelines and Checklists for most of the individual Accident and Health products in 2004.

In addition to review and approval of premium rates in 2004, the Accident and Health Rating Section determined, analyzed, and provided premium estimates for potential changes to the long term care insurance Partnership product designs, reviewed and approved premium rates for private pay enrollees permitted under the managed long term care Medicaid programs, and analyzed and determined estimated rate impacts of various proposed legislative changes to the mandated benefits included in the Accident and Health products.

7. Standardized Individual Direct Pay Checklists – Speed to Market Initiative

In furtherance of the Department's Speed to Market initiative, as well as in preparation for acceptance of SERFF submissions, the Health Bureau drafted and posted to the Department's Web site checklists for the standardized individual direct pay HMO contract and the standardized individual direct pay POS contract.

8. Inquiries and Complaints

In response to formal written inquiries and complaints, the Bureau provided written answers to 119 consumer inquiries, 32 legislative inquiries and complaints, 118 Governor's Office inquiries and 218 FOIL requests concerning accident and health insurance and related issues in 2004. In addition to formal responses to written complaints and inquiries, the Health Bureau monitors a dedicated mailbox on the Department's Web site. In 2004, the Health Bureau received and responded to over 700 Health Mailbox inquiries from consumers, providers, health plans, attorneys, consumer advocate groups and other state agencies. Some of the most common types of inquiries the Bureau received this year included consumer complaints against their health plan, inquiries relating to health savings accounts, health insurance option inquiries, coordination of benefit issues, questions relating to COBRA requirements, mandated benefit inquiries, and complaints regarding increased premium rates.

In addition to written inquiries, Bureau staff also responds to telephone inquiries and complaints. In 2004, Bureau staff responded to nearly 9,000 telephone inquiries.

9. 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 2004, ten new reports of insurers and utilization review agents were reviewed for compliance with Article 49 and placed on file with the Department and eight existing reports were updated and renewed.

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

New York's external appeal program continues to provide New Yorkers with the right to obtain a review by independent medical experts when their health plan denies health care services as not medically necessary, experimental or investigational, or because the services were provided in a clinical trial. Since the program's inception on July 1, 1999, there have been over 9,500 external appeal requests.

In order to be eligible for an external appeal, an insured, an insured's designee, or in certain cases, an insured's health care provider, must submit an external appeal request to the Insurance Department within 45 days of receipt of a final adverse determination from the first level of internal appeal with a health plan or upon waiver of the internal appeal process. The Insurance Department is responsible for reviewing external appeal requests for eligibility and completeness and for 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. Insurance Department staff is available to handle expedited appeals submitted during business hours and after the close of business. Two Insurance Department staff members are on call each weekend to handle expedited appeals.

External appeal agents are certified by the Insurance Department and the Health Department for two-year periods and must meet certain certification standards. External appeal agents must have comprehensive panels of clinical peers available to review appeals and clinical peer reviewers must be appropriately licensed and trained in New York external appeal standards. Currently, the three certified external appeal agents that review external appeals in New York are Island Peer Review Organization (IPRO), Medical Care Management Corporation (MCMC) and Hayes Plus, all of which will be applying for recertification in 2005.

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. In 2004, the Department received and responded to 4,770 hotline calls.

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 2004, the Insurance Department received 2,321 external appeal requests, which represented a 29% increase from the previous year. In addition in 2004, 274 external appeal requests were closed because health plans voluntarily reversed the denial during the external appeal process, 677 external appeal requests were determined to be ineligible for external appeal and 1,364 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 45% of health plan denials were overturned in whole or in part by external appeal agents and 55% 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
January 1, 2004 — December 31, 2004

Type of Denial	Total	Overturned	Overturned in Part	Upheld
Medical Necessity	1,227	444	106	677
Experimental/Investigational	130	66	0	64
Clinical Trial	7	3	0	4
Total	**1,364**	**513**	**106**	**745**

Table 56B
EXTERNAL APPEAL DETERMINATIONS BY AGENT
January 1, 2004 — December 31, 2004

Agent	Total	Overturned	Overturned in Part	Upheld
HAYES	467	176	20	271
IPRO	348	128	35	185
MCMC	549	209	51	289
Total	**1,364**	**513**	**106**	**745**

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

11. 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 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. The Insurance Department's Health Bureau has been working extensively on the modification and restructuring of the original pooling mechanisms and 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, adopted May 22, 2002.

The Health Bureau prepared and distributed instructions for filing under the revised pooling mechanisms 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.

In November 2004, the Superintendent reconvened the Technical Advisory Committee to provide advice to the Department on certain issues relating to the market stabilization pools. Specifically, the Technical Advisory Committee was asked to make recommendations as to whether companies should be permitted to make revisions to submissions, whether companies should be permitted to revise submissions to include additional NDC codes, whether the 5th Amendment to Regulation 146 which extends the 5% cap through year 2005 should be promulgated, and whether financially troubled insurers or insurers with substantial contributions to the pools should be granted an extension of time to pay monies owed to the pools to avoid financial hardship. The Committee considered these issues and recommended that resubmissions not be permitted, the 5% cap be extended and that the Department use its discretion with respect to financially troubled insurers.

12. 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 three and a half-year period commencing January 1, 2000 and ending July 1, 2003 to direct payment market reforms. Funding was renewed in 2003, extending it to July 1, 2005. The funding is level at $40 million per year for those years ($20 million for the half year of 2005). The Governor's current budget proposes renewal of funding, at the level of $40 million dollars annually.

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. Beginning in the first year of the program, the Department hired a stop loss fund administrator to oversee this process. The Department has developed a quarterly reporting process to 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 2004, the Department directed the administrator to conduct the necessary audit procedures with respect to 2003 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 2003 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	$20,000,000	$44,624,495	44.8%
Out-of Plan (POS) Direct Payment	$19,500,000	$37,268,070	53.7%

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.

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

The Health Care Reform Act of 2000 (HCRA) required 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 nearly 3 million uninsured residents. In 2003, funding for Healthy NY was extended until July 1, 2005 as part of HCRA III. The funding is $89.4 million for 2003, $49.2 million for 2004 and $44 million for the first half of 2005. The governor's budget proposes additionally funding for the Healthy NY program in Calendar Year 2005.

The Healthy NY program is a unique and ambitious approach to addressing the 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 2004 included:

a. Program Oversight

The Insurance Department is solely responsible for the oversight of the Healthy NY program. Throughout Calendar Year 2004, 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. The Department engaged in public awareness campaigns, as well as industry outreach, education, 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 Issues and 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 continues to oversee and educate its Healthy NY consumer hotline that was established to address consumer questions and to provide support to the Consumer Services Bureau when Healthy NY issues arise.

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 and booklet. 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. These guides as well as applications were revised this year to describe the program changes that occurred in July.

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. The availability of the file and use rate increase mechanism has presented challenges in this regard.

e. Stop Loss Fund

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. 2004 was the fourth 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 2003 are due by April 1, 2004.

Claims requests must be reviewed, audited and adjusted. That process was recently completed for Calendar Year 2003 claims. 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 recently requested disbursements to the HMOs for 2003 claims in the amount of $5,316,492 for the claims of small employers and $7,929,924 for the claims of individual enrollees.

The Department is also 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.

f. 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.

g. Annual Study of the Healthy NY Program

The Department is responsible for an annual study of the Healthy NY program which includes 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 fourth annual study was finalized in December 2004.

h. Coordination with Other Public Programs.

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

I. 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. 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 continues to receive an ever-increasing number of 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.

j. 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.

14. Federal Tax Credit Initiative

The federal Trade Adjustment Act of 2002 made a 65% health insurance tax credit available to certain eligible citizens. Those eligible for the tax credit include: (1) those who are receiving trade adjustment benefits because they have lost their jobs due to changes in international trade; and (2) retirees whose pensions had been taken over by the Pension Benefit Guarantee Corporation. This credit is estimated to be available to approximately 11,000 New Yorkers or an estimated 22,000 covered lives (including dependents). The tax credit includes some unique features including a pre-payment feature whereby an eligible individual can request to receive the benefit of the tax credit in advance in order to pay health insurance premiums as they become due. In the event prepayment is requested, the federal government makes payment directly to the insured's health insurance plan.

Because of limitations in the federal law, this tax credit could only be applied to limited forms of coverage without State action to develop State-qualified health insurance coverage. The Bureau made changes to the Healthy NY regulation in order to qualify Healthy NY coverage for the credit. The Bureau also worked with insurers to make a health insurance package with benefits mirroring the Healthy NY product available to those who did not meet Healthy NY's eligibility criteria. The content of these packages was negotiated with the federal government and these products were selected as qualifying health insurance products. The New York Legislature also made changes to New York's standardized direct payment products in order to qualify them for the federal tax credit.

The Bureau continues to assist consumers with accessing the tax credit in conjunction with the New York State health insurance market.

15. COBRA Subsidy Demonstration Project

The Health Bureau has been statutorily charged with implementing the New York State health insurance continuation assistance demonstration project. The statute creates two distinct pilot programs: one designed to assist entertainment industry workers, and the other designed to assist displaced workers meeting certain requirements as defined by federal law. The programs have distinct eligibility rules, funding, distribution channels, and require separate infrastructures. The programs are designed to subsidize the Consolidated Omnibus Budget Reconciliation Act (COBRA) premiums for the populations defined in the statute. The initial funding, $4.75 million, has been devoted to the implementation of the COBRA programs.

The Health Bureau has worked diligently in 2004 to implement this program, and began accepting applications on January 1, 2005 for the entertainment industry employees. By mid-May, more than 400 entertainment industry employees had applied for premium assistance. .

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16. Governor's Health Care Reform Task Force

In 2003, the Governor appointed a Health Care Reform Working Group to assess New York's Health Care infrastructure. The task force is largely focused on Medicaid reforms that would assist the State in managing the ever-increasing Medicaid expenditures. Medicaid is New York's second largest budget item (following only public education) and future expenditures are expected to increase rapidly without significant reforms. In 2003 and 2004, the Bureau provided this task force with expertise and assistance, particularly with respect to approaches to encouraging the purchase of long term care insurance coverage.

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 on-site examinations of the financial condition of a community. To this end, the Department initiated two examinations of CCRCs in 2004 and developed revisions to the Department's annual statement for financial filings.

There are now nine CCRCs in New York, each one with a Certificate of Authority issued by the CCRC Council. In 2004, the Department received a Certificate of Authority application for a prospective CCRC to be located in Nassau County and in New Paltz. This application is currently under review.

18. Long Term Care Insurance

a. Tax Qualified Long Term Care Insurance Marketed on an Indemnity Basis as Permitted by the Internal Revenue Code (IRC) due to the Federal Health Insurance Portability and Accountability Act of 1996 (HIPAA)

Although the industry continues to sell tax qualified long term care insurance products which limit benefit payouts to long term care expenses actually incurred for qualified long term care services, the insurance industry began to encourage the sale of the indemnity option for tax qualified long term care insurance available under pertinent provisions of the IRC. In sum, benefits under this tax qualified long term care insurance indemnity option are paid without regard to the type and amount of qualified long term care expenses incurred. If benefit payments under this indemnity option exceed expenses for qualified long term care services received, or if the benefits paid under this indemnity option exceed certain per diem limits prescribed in federal law, these excess benefit amounts may be taxed rather than receive favorable federal and New York State tax treatment under current federal and New York State laws.

A tax qualified long term care insurance policy prominently states that it is intended to comply with federal law so that favorable federal income tax treatment (and accompanying favorable New York State income tax treatment) can be given to the coverage. Therefore, the design of this indemnity option presented certain concerns to the Department when certain possible claim scenarios could result in a sizeable tax bill for an insured contrary to how the tax qualified long term care insurance product is labeled and marketed.

The Health Bureau is currently considering appropriate guidelines and approval conditions for such indemnity long term care insurance products. The guidelines and conditions under consideration

would provide disclosure for an insured purchasing such indemnity products and are based upon statutory authority granted to the Insurance Department by Sections 1117(g)(1) and (g)(2) (B) of the Insurance Law.

b. Long Term Care Insurance, the Partnership Program and Medicaid Reform

During 2003 and 2004, the Health Bureau worked in conjunction with the Governor's Office and the Health Department to examine ways of expanding and improving long term care insurance options in the marketplace. This process was conducted under the auspices of the Health Care Reform Working Group appointed by Governor Pataki which is dealing with Medicaid reform.

The Health Bureau worked on issues such as modifying the New York State Partnership for Long Term Care insurance product design (in conjunction with the Health Department). The Department has now drafted and promulgated a regulation designed to make more affordable benefit options and a range of incentives available through the NYS Partnership for Long Term Care program. The Health Bureau has been engaged in educating the industry and working with the Department of Health towards the development of insurer participation agreements. Insurers were required to submit subscriber contracts for the Department's review and approval no later than March 31, 2005.

c. Long Term Care Study

The enacted 2004 Budget Bill directed the Insurance Department, in consultation with the State Office for the Aging and the Department of Health, to study and develop investment product options designed to assist policyholders with adequately preparing for the need for Long Term Care (LTC) services. The study comes out of recommendations from the Governor's Task Force on Health Care Reform which largely focused on escalating costs impacting the Medicaid program (the Bureau lent technical assistance to the Governor's Task Force on Health Care Reform from September 2003 to July 2004). The study, which must include recommendations as to how the State might further assist citizens to prepare for the costs of LTC services, must be completed no later than August 20, 2005. To date, the Bureau has met with the Department of Health, the State Office for the Aging and representatives from the long term care insurance industry. The Bureau has also prepared and distributed a comprehensive survey to collect data about the marketplace. The study must include, but not be limited to, the following:

- Evaluation of products that combine LTC and Disability insurance into an integrated product to reduce the costs of each type of insurance;

- Analysis of products that offer a "living benefit" in a life insurance policy, that could then be used to pay for LTC, including LTC insurance premiums;

- Analysis of products that allow an insured to access life insurance death benefits to pay for premiums on a LTC insurance policy;

- Analysis of products that would allow tax credits and/or deductions for LTC insurance purchases for persons other than the insured;

- Strategies to reduce the potential for a lapse of insurance coverage due to an insured's inability to pay the premium, such as providing ascending tax benefits;

- Analysis of current LTC insurance offerings in NYS, their affordability and the adequacy of policy benefits, with an emphasis on the efficacy of such benefits in assisting individuals to remain in their own homes;

- Evaluation of the effect of pre-existing medical conditions on the availability and affordability of LTC benefits; and

- Evaluation of the adequacy of the process by which disputes related to policy benefits are resolved, including identification of any necessary consumer protections.

19. Medicare Supplement Insurance Regulations

The federal Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA), included a number of changes to the standardized Medicare supplement insurance plans. The Act charged the NAIC with the task of updating the standards for Medicare supplement insurance. This was done through adoption of a revised Model Regulation to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act on September 8, 2004. The states are required to adopt the revised standards by September 8, 2005.

The revised standards include the addition of two new standardized plans K and L. These plans introduce a cost-sharing feature which distributes costs between the plan and the insured. The plans also have out-of-pocket expenditure maximums. The Medicare supplement insurance standards also required revision to remove reference to outpatient prescription drug coverage from the three plans that include such coverage. The Health Bureau has been working to review Regulation 62 to include the changes required by the MMA.

20. Medicare Managed Care

Nationally, 16 Medicare Managed Care plans either opted to leave the program or to reduce their service areas. This affected approximately 41,000 enrollees nationwide. New York has not been affected by nonrenewals. None of the plans operating in New York terminated or reduced service areas in 2004. The Health Bureau received a number of requests for letters of good standing from plans that applied to become Medicare Advantage plans. The federal Centers for Medicare and Medicaid Services (CMS) increased the funding rates available for plans in 2004. Plans used these increased funding rates to decrease copays and deductibles and to increase benefits. This resulted in a year-to-year increase in Medicare Advantage plan enrollment in 2004.

21. Health Savings Accounts (HSAs)

In response to the provisions of the Medicare Prescription Drug, Improvement and Modernization Act of 2003, which authorized the establishment of HSAs for those individuals with qualifying high deductible health plan (HDHP) coverage, the Bureau has proposed amendments to Regulation 62 and to Regulation 171 to permit HMOs to offer HDHPs in the standardized individual direct pay and Healthy NY markets and also issued a Circular Letter notifying commercial insurers and Article 43 corporations of the permissibility of HDHPs in the group and individual markets and encouraging them to submit HDHPs for review and approval by the Bureau. The Bureau will be involved in seeing the proposed regulations through the adoption process, including holding a public hearing if required.

Additionally, Bureau attorneys and actuaries have reviewed and approved policy forms and premium rate filings submitted by health plans wishing to offer HDHPs in the group marketplace.

22. 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.

The Health Bureau has developed and posted to the New York State Insurance Department Web site both product outlines and product checklists for specified disease coverage. Those product outlines and product checklists posted to the Web site included recurring specified disease coverage and nonrecurring (lump sum) specified disease coverage. These materials are available to the insurance industry to enhance their preparation of form and rate filings with a view toward obtaining fast, yet accurate, Insurance Department approvals.

23. Child Health Plus

During 2004, the Department continued its role of reviewing and approving subscriber contracts and premium rates for the Child Health Plus 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. During 2004, the Department revised and approved 17 Child Health Plus rate adjustment submissions.

24. Eating Disorder Legislation

Effective June 21, 2004, the Insurance Law was amended to include coverage for the treatment of eating disorders when such treatment is received at a state identified comprehensive care center for eating disorders. The law did not create a new mandate, but did require coverage at a designated center when coverage for such treatment was already provided under the contract. Although the Department of Health was tasked with identifying the centers, the Insurance Department participated in bi-weekly meetings to implement the legislation. The Health Bureau held a panel discussion with insurers to address issues of concern to the health plans. The Bureau also participated in panel discussions with consumers suffering from eating disorders, and another panel discussion of providers. The panel discussions were held to obtain input on the establishment of the centers.

25. Contraceptive Lawsuit

A lawsuit was filed against the Superintendent as a result of the passage of contraception legislation, which mandated contraceptive coverage in health insurance contracts issued, renewed, altered or modified after January 1, 2003 that included prescription drug coverage. A group of plaintiffs comprised of several different religiously affiliated organizations, most affiliated with the Roman Catholic Church, joined together seeking the court to issue an order restraining the Superintendent from enforcing the requirement that contraceptive coverage be added to health insurance contracts containing prescription drug coverage. (*Catholic Charities of the Diocese of Albany v. Serio, No. 8229-02 (N.Y. Sup. Ct. Nov. 25, 2003).)* The Health Bureau worked closely with the Office of General Counsel, the Attorney General, and the Solicitor General, in drafting reply briefs and in answering questions regarding compliance and enforcement of the statute. The New York State Supreme Court ruled in favor of the Superintendent. The case was appealed to the Appellate Division Third Department and oral arguments were held in February 2005. The Third Department has not yet issued a decision.

26. Amendment to Regulation 62 – Infertility Treatment Services Mandate

The 32nd Amendment to Regulation 62 became effective on October 27, 2004. Chapter 82, Laws of 2002 enhanced Sections 3221(k)(6) and 4303(s) of the Insurance Law and directed the Superintendent, in consultation with the Commissioner of Health, to promulgate regulations that

stipulate the guidelines and standards that will be used in carrying out the mandates of the legislation. The amendment directs insurers to use standards and guidelines no less favorable than those established and adopted by the American Society for Reproductive Medicine in relation to the determination of infertility, the identification of experimental procedures and treatments not covered for the diagnosis and treatment of infertility, the identification of the required training, experience and other standards for health care providers for the provision of procedures and treatments for the diagnosis and treatment of infertility and the determination of appropriate medical candidates by the treating physician.

27. 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. A particular provision of Regulation 164 did sunset on August 21, 2004, after which "grandfathered" Financial Risk Transfer Agreements between insurers and health care providers had to be submitted to the Superintendent for review. During 2004, the Bureau received 86 applications for review. Of these, 48 have been approved, 22 are pending and 16 were either withdrawn, suspended or have been determined not to be subject to the strict financial responsibility demonstration requirements of the Regulation.

28. Federal Legislation

The Health Bureau also monitors federal legislation that could have a potential impact on health insurance in New York. Listed below are two bills the Bureau has been monitoring.

Lifetime Savings Accounts: On March 31, 2004, federal legislation was introduced in both the House and the Senate (H.R. 4078 and S. 2263) that would create new, tax-free investment accounts called Lifetime Savings Accounts. These Lifetime Savings Accounts would allow people to contribute up to $5,000 annually and withdraw money at any time penalty free. Contributions to these Lifetime Savings Accounts would not be tax-deductible, however, investment earnings would accumulate tax-free and withdrawals would not be taxed. In addition, withdrawals could be used for anything, not just education, medical or retirement expenses. There would be no required distributions from Lifetime Savings Accounts during the account owner's lifetime. This new legislation would allow people to save for the future, including possible long term care expenses with no penalty for withdrawal and with tax-free investment savings.

Association Health Plans: House Bill 4281 "Small Business Health Fairness Act of 2004" was reintroduced on the House floor as H.R. 525, the "Small Business Health Fairness Act of 2005" on February 2, 2005. This bill would amend Title I of ERISA to allow small businesses to band together through association health plans (AHPs) to purchase health insurance coverage that is exempt from state laws and regulations. The bill requires the Secretary of Labor to consult with states about the regulation of AHPs located in their state. The bill further provides that states may regulate self-insured multiple employer welfare arrangements providing medical care that do not elect to meet the certification requirements for AHPs. Proponents of the bill believe that it could lower the number of uninsured in the United States. Opponents have expressed concern that Association Health Plans could be marketed only to companies with healthier employees, which could lead to adverse selection and premium rate increases in the fully insured state-regulated insurance marketplace.

29. U.S. Supreme Court Review of ERISA Preemption and Impact of Supreme Court Decision

On June 21, 2004, in *Aetna Health, Inc. v Davila (02-1845),* the Supreme Court held that state law liability causes of action against a health plan for failure to authorize health care treatment fall within ERISA 502(a)(1)(B), and are therefore completely preempted by ERISA 502 and removable to federal court. In *Aetna Health Inc. et al. v. Davila,* the insured suffered complications after his HMO denied coverage of medication because the insured had not tried other less expensive generic drugs. In a similar case, *CIGNA Healthcare of Texas, Inc. et al. v. Calad*, the insured suffered a relapse when continued hospital coverage was denied by her HMO. Both insureds sued their HMOs in state court under the Texas Health Care Liability Act, a patient protection law, alleging that the HMOs failed to use ordinary care in making their medical necessity decisions. The HMOs removed the cases to federal district court arguing that the claims were preempted by ERISA. The insureds moved to remand the cases back to Texas state court. However, the federal district court denied the remand motions in both cases concluding that the insureds were challenging plan benefit determinations and that relief was available exclusively under ERISA so that the cases must be heard in federal court.

Neither insured was willing to amend their pleadings to bring an ERISA claim and as a result, the federal district court dismissed each insured's complaint for failure to state a cause of action. When the insureds appealed, the Fifth Circuit Court of Appeals concluded that § 502(a)(1)(B) of ERISA did not completely preempt the Texas state law claims because the insureds were not suing their plan administrators, nor were they challenging the interpretation of the plan. As for ERISA §502(a)(2) preemption, the Fifth Circuit Court of Appeals held that mixed eligibility and treatment decisions are not fiduciary in nature and, therefore, §502(a) of ERISA does not completely preempt the insureds' claims under Texas state law. As a result, the Fifth Circuit Court of Appeals concluded that the insureds' claims did not arise under federal law, as is required for federal jurisdiction, and remanded the matters to the federal district court for further remand to state court.

Then, in 2003, the United States Supreme Court granted certiorari in *Aetna Health Inc. et al. v. Davila* and in *CIGNA Healthcare of Texas, Inc*. In a decision issued on June 21, 2004, the Supreme Court held that the respondent's state tort causes of action fall within ERISA 502(a)(1)(B), which provides for a civil action brought by a participant or beneficiary to recover benefits, enforce rights under terms of plan, or clarify rights to future benefits, and are therefore completely preempted by ERISA 502 and removable to federal court.

As for New York in particular, a certiorari petition for a similar case, *Vytra Healthcare et. al. v. Cicio,* was granted and the United States Supreme Court remanded the case back to the United States Second Circuit Court of Appeals for reconsideration in view of *Davila* and *Calad*. In *Cicio*, the insured's health plan denied coverage of a stem cell transplant and the United States Court of Appeals for the Second Circuit originally determined that the case was not preempted by ERISA §502 or §514 so that the insured could bring a claim against Vytra Healthcare in state court. On September 23, 2004, the United States Court of Appeals for the Second Circuit vacated their previous decision and affirmed the judgment of the district court, finding that the insured's state law claims were preempted by ERISA in light of the Supreme Court's decision in *Aetna Health Inc. v. Davila.*

These cases have attracted widespread interest because they not only impact Texas insureds, but insureds in any other state who may want to sue their health plans. Essentially, the Supreme Court has concluded that federal law precludes patients and their families from suing health plans for damages in state courts.

D. CONSUMER SERVICES BUREAU

Introduction

In 2004, the Consumer Services Bureau closed over 50,000 cases. The Bureau responded to a wide cross section of consumer problems, from hurricane disasters in Florida to snowmobile trail liability coverage availability in the Adirondacks. No matter how complex or unusual the problem, the Consumer Services Bureau was there to provide help and assistance to New Yorkers.

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 **54,249** cases in 2004. Of these, 42,546 involved complaints against insurance companies regarding loss settlements or policy provisions, of which 37.6% (**16,002**) were automobile complaints, 50.5% (**21,496**) were accident and health complaints, 8.7% (**3,706**) were non-auto property and liability complaints and 3.2% (**1,342**) were life and annuity complaints. An additional **1,966** cases were closed when the complainants failed to furnish additional information deemed necessary in order to proceed with the case. Another **5,920** cases involved complaints against agents, brokers and adjusters. Written inquiries accounted for **1,848** cases and referrals accounted for **1,969** cases (see Chart G). Included in the total are 16 cases related to the World Trade Center Disaster. In total, the Bureau *received* 56,823 cases during 2004.

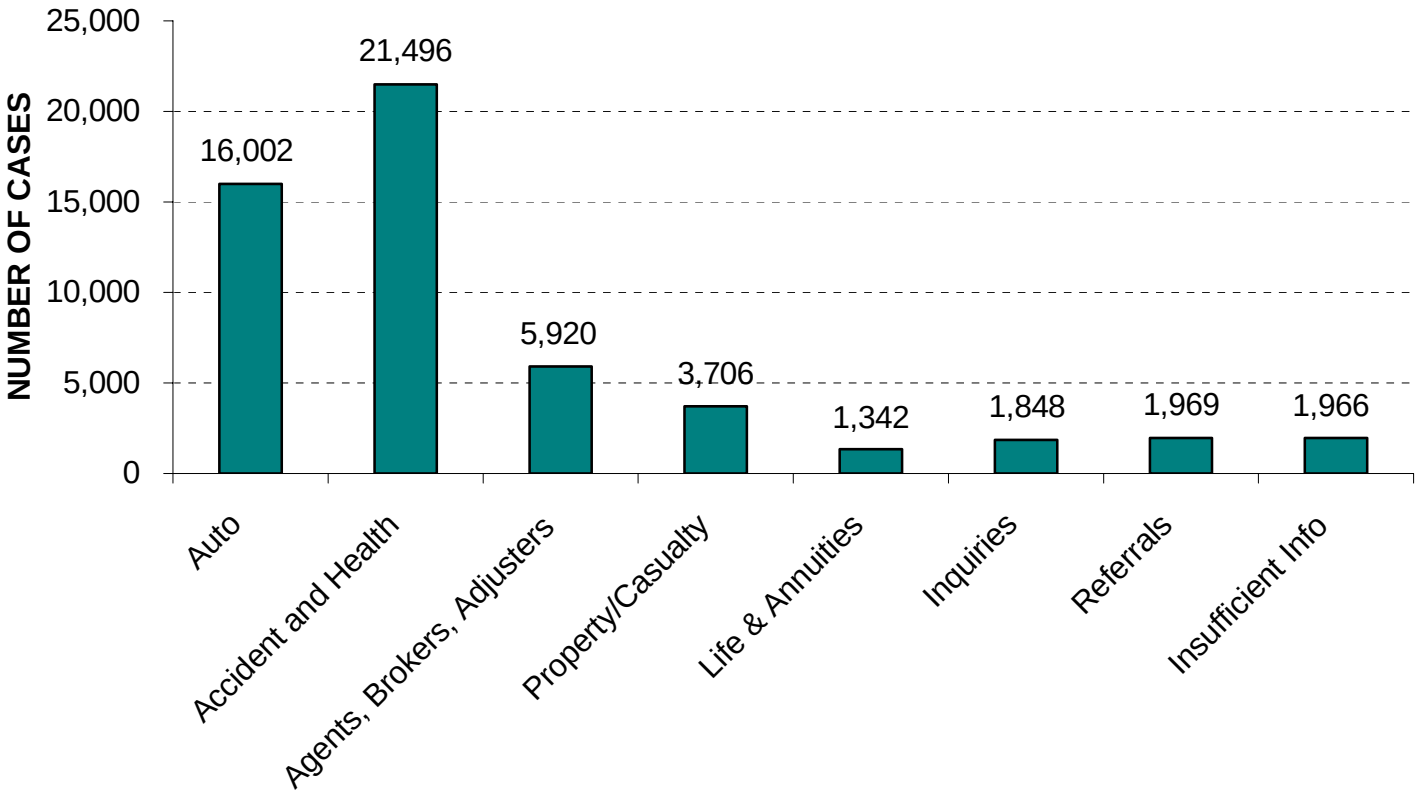
The Bureau responded to approximately 185,000 calls through the Albany and New York City information lines. The Bureau's telephone system is an “attendant system” which provides the caller with the option of selecting from a menu of topics, or speaking directly to an agency services representative. The 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 are 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. This system has proven helpful in determining the geographical area and severity of disasters occurring in New York State. The data allow for the more efficient use of state resources in response to disasters. The Bureau also maintains as part of its toll-free line access to a multi-lingual telephone service. This interpretive service, provided by AT&T Language Line Services, can translate 140 languages.

In addition, the Bureau maintains 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 once their long term care policy benefits are exhausted without having to divest themselves of their assets. The Partnership thus encourages self-sufficiency by guaranteeing asset protection for policyholders and saving the State’s Medicaid funds.

In 2004, the Consumer Services Bureau received just under 5,000 calls on the Partnership hotline, up 23% from the previous year. Looking ahead to 2005, the Partnership will be introducing several new products that provide more options to consumers. The Bureau anticipates that this change will result in an increased number of questions to the hotline.

The Bureau also maintains a dedicated disaster toll-free hotline. When natural or man-made disasters strike, affected parties may call this toll-free line to obtain information concerning their specific insurance coverages. In 2004, the Bureau responded to questions related to the World Trade Center disaster, damages incurred during several tropical depressions and various other summer and winter storms.

CHART G
Total Complaints & Investigations Closed
Consumer Services Bureau, 2004



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 statute also requires claims to be denied or additional information requested within 30 days of receipt.

The Consumer Services Bureau continued to allocate significant resources to the investigation and resolution of complaints involving claims subject to the prompt payment statute. In addition, the Bureau sought to not only ensure that doctors, hospitals and insureds received the prompt payment of claims submitted to health plans but also to ensure compliance by health insurers and HMOs with all other provisions of this statute.

The Consumer Services Bureau continued its enforcement action against health insurers and HMOs that violated the prompt payment statute. In 2004, $455,400 in prompt pay fines was levied against 24 health insurers and HMOs. These fines were calculated using the new methodology developed by the Department and the industry in 2003. The new methodology considers 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 provides a more accurate picture of the overall performance of the insurer or HMO.

In addition, Bureau staff participated in outreach sessions for large provider groups in order to educate them on their rights under the prompt payment statute and other laws that affect the payment of health care claims. The focus of these sessions was to provide information to assist the providers whose patients may be faced with the need to navigate through the insurers' and HMOs' various processes.

The Bureau also completed the implementation of an upgrade to the imaging system used to process complaints. This upgrade enables prompt pay complaints to be handled more expeditiously by allowing providers to file prompt pay complaints via the Department's Web site. The upgrade also allows insurers and HMOs to respond electronically to Department complaints via the Internet, thus providing additional timesaving. Responses received online are triaged by the imaging system using established business rules to determine if the response requires examiner review. If the response meets certain criteria, the file will close automatically and generate a closing letter without the need for review by an examiner. This has resulted in a significant reduction in the time required to review and close complaints.

3. External Review

The External Review program, which became effective July 1, 1999, continues to provide consumers with the right to obtain a review conducted by medical professionals who are not affiliated with their health plan. This review is available when health plans deny services as not medically necessary or because the plan considers them to be experimental or investigational.

During 2004, Consumer Services Bureau personnel responded to 4,770 phone calls on the dedicated external appeal toll-free line. Consumer Service Bureau examiners, along with attorneys from the Health Bureau, jointly perform the intake, screening and assignment of external appeal applications. In 2004, the Department received 2,325 applications, the most in any year since the program's inception and an increase of 29% over 2003.

The Bureau continues to leverage technology to streamline the intake and screening process the Department utilizes for the external review process. The Consumer Services Bureau continues to work with the Administration, Systems and Health Bureaus to ensure that staff responsible to perform the intake, screening and assignment of applications has the technology and access to equipment to respond to requests for expedited external appeals 24 hours per day, seven days per week.

The Consumer Services and Health Bureaus continue to work with the health insurance industry and the Department of Health to set parameters within which plans may deny certain procedures as cosmetic. This would allow consumers to access the external review process more quickly for those procedures that are almost always considered cosmetic.

4. The Healthcare Roundtable

The Healthcare Roundtable was established in 2003 in an attempt to convene representatives of health insurers, health care providers, and other interested parties to debate health care issues. Members of the Roundtable are representatives from the Insurance and Health Departments, the Medical Society of the State of New York, the Health Plan Association, the Conference of Blue Cross Blue Shield Plans, the Greater New York Hospital Association, the Healthcare Association of New York State and various health care providers.

In 2003, members of the Roundtable agreed on language defining a clean claim resulting in the promulgation of Regulation 178 as an emergency measure. During 2004, the Regulation was amended to add hospital claims, and finalized through the State Administrative Procedures Act (SAPA) process.

During 2004, the Roundtable met in Rochester in an attempt to help resolve some of the health insurance issues faced by the University of Rochester, one of the largest employers in the region. Rochester has long enjoyed the reputation as a model for the health care industry while other cities were experiencing health insurance crises. When the University and Excellus Health Plans, the region's largest insurer, disagreed on disclosure of the community rates, the University decided to self-insure, hiring a company from outside of the area to provide administrative services. The Roundtable was instrumental in fostering discussion among academia, insurers and employers in the region on community rating, disclosure of loss data, self-insurance, and various ways in which to streamline the delivery of health care service by using technology.

The Roundtable continues to discuss many issues that affect health care providers and health insurers alike. During 2004, there were extensive discussions on: (1) excessive billing by health care providers in emergency room situations, (2) limiting the timeframe for retroactive refund requests to providers by health insurers, (3) retroactive termination of insureds after services are rendered and claims paid are retracted, and (4) coordination of benefits when there is other primary coverage. While the Bureau has made progress in many of these areas, there is still substantial work remaining to reach agreement on several of these issues.

An offshoot of the Roundtable is the discussion, spearheaded by the Consumer Services Bureau, among the Medical Society of the State of New York, the Health Plan Association, the Conference of Blue Cross Blue Shield Plans and the Department of Health on the use of extrapolation during provider audits. The Consumer Services Bureau convened this discussion since the issues affect health care providers in specific ways.

During 2004, Consumer Services Bureau held several meetings with this group and can report that progress is being made on several fronts. There is agreement among the plans to provide more education and disclosure prior to the audit, conduct timely audit reviews, describe the methodology used in the audit, provide an informal appeal process, and consider underpayments. The Bureau continues to discuss limiting the audit period, an issue that is very important to the Medical Society.

5. Investigations

The Consumer Services Bureau, Investigations Unit, continues to investigate unlicensed health insurance plans. These plans place the public at risk because they often do not meet the financial requirements prescribed by the New York State Insurance Law, including minimum levels of reserves available to meet the claims of plan members. While these plans are frequently able to offer unsuspecting consumers lower premiums than licensed insurers, they often stop paying claims and leave members without the coverage they believed was in place.

Two significant cases involved a group dental plan and an apparent bogus union group health plan. The first, Preferred Dental Plan, an illegal and unlicensed insurer was the focus of a joint investigation with the Frauds Bureau that resulted in convictions of the principals of the plan as well as its shutdown. The action, prosecuted by the Albany County District Attorney, included a successful Racketeer Influenced and Corrupt Organizations (RICO) action that led to restitution for the New York members of the plan. The second case involved the bogus union. The case involved a Poughkeepsie broker who is being cited for submitting approximately 200 applications for health insurance to a licensed health insurer, which he intentionally falsified for the purposes of obtaining a group rate which was substantially less than the individual rate otherwise available. He also collected fees in excess of $150,000, which he did not remit to the insurer and cannot account for. He also created a fictitious union to perpetuate the group health insurance after it was cancelled by the licensed insurer and collected union dues that are unaccounted for. The Bureau is working with the Frauds Bureau and the U.S. Attorney's office on this matter and have issued a citation for the revocation of this broker's licenses.

The Bureau began an investigation into replacement practices of two life insurance companies' financial analysts in relation to the National Association of Securities Dealers (NASD) investigations in early 2004. The financial analysts allegedly violated Regulation 60 by not allowing the two-step process established for the regulation of replacements. Over 400 financial analysts from the two life insurers are being investigated.

The Bureau drafted a circular letter with regard to agents and brokers offering National Flood Insurance Plan policies. The Bureau had received information that indicated there was a need to remind and advise agents and brokers that anyone can purchase flood insurance, even those outside of a flood hazard zone.

a. Notable Revocations/Citations:

Connie Bitetzakis – This licensee and her husband, Michael Tramontano, took in premiums, issued auto insurance ID cards, but failed to remit the premium or place the coverage. They were both arrested and Ms. Bitelzakis' license was revoked.

Anthony Valente – The Department issued a summary suspension notice to Anthony Valente, a Latham resident who is accused of 17 felony counts of swindling two insurance companies out of approximately $60,000. Mr. Valente signed a stipulation for the revocation of his license.

Christine McAvoy – Failed to remit premiums and altered policy information. The licensee was arrested and the Department has issued a citation for revocation of her license.

Katherine Jennings/One Stop Taxi – The agent received over 70 premium refund checks that should have been forwarded to her clients. She held the checks for over a year before returning them. Because of the time lag, she has been unable to locate many of the clients due a refund.

b. Service Contract Provider Fines

This past year, the Bureau fined several companies for acting as a service contract provider without being properly registered: American Guardian Warranty, $10,000; Guardian Warranty, $20,000; Home Sure of America, $10,000; and Warranty Acceptance Corp., $5000. Service contract providers offer repairs, replacement or maintenance**,** or indemnification for the repair, replacement or maintenance, of property due to a defect in materials or workmanship or wear and tear. The products covered include automobiles and electronics equipment, among others. Manufacturers who issue original product warranties upon the sale of its products are exempt from the service contract provider registration requirement.

The Bureau continues to investigate other service contract providers to resolve violations of insurance law for failing to meet financial solvency requirements, failure to timely renew registrations and for operating without a registration. Should a service contract provider fail to comply, the Bureau will move to suspend or revoke its authority to conduct business in the State or seek orders to cease and desist operations in New York State.

Other investigations involve the subject area of accidental damage protection products, whereby manufacturers and distributors of computers and automobile tires offer protection for additional cost that creates an insurance policy without the manufacturer holding an insurance company license. The Bureau in conjunction with the office of General Counsel is moving to resolve these issues in a way that will qualify these offerings as service contracts, thus affording the residents in this State the proper protections required by the law.

6. Special Investigation: American Progressive Health and Life Insurance Company of NY

The Consumer Services Bureau led an investigation into the marketing practices of the company and its many agents selling Medicare supplement policies to seniors, from a complaint reported by the State Office for the Aging (SOFA). The Bureau's investigation included collaboration not only with SOFA, but also with the Life and Health Bureaus since the Life Bureau was conducting an on-site market conduct examination and the Health Bureau approves the policy forms and marketing materials for Medicare supplement insurance.

The investigation is comprehensive and has resulted thus far in the following recommendations:

The company must:

- provide more extensive training to its agents in the sale of Medicare supplement insurance and include education on the regulations applicable when selling Medicare Supplement Insurance;
- develop a comparison form so that agents can provide fair comparisons during replacement sales presentations;
- develop audit procedures to review applications submitted by agents to ensure there is no duplicate coverage and that agents are in compliance with the regulations; and
- change its advertising so that sales leads adequately disclose an agent would call on prospective insureds.

As a result of this investigation, the company has established a better relationship with Office of the Aging representatives throughout the State, which should help American Progressive better market its new Medicare Fee-for-Service product. The Consumer Services Bureau continues to work with the Health and Life Bureaus on this special investigation.

7. Other Bureau Activities

a. Complaints on the Internet

In October 2001, the Consumer Services Bureau initiated a new online complaint process allowing consumers to file complaints 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 2004, the Bureau received 9,909 online complaints, of which 2,137 were participating provider health insurance complaints.

In 2003, the Bureau implemented an upgrade to the imaging system used to process complaints. This upgrade enables prompt pay and no-fault insurance complaints to be handled more expeditiously by allowing doctors and other providers to file prompt pay and no-fault complaints via the Department's Web site on behalf of insured patients. This upgrade also allows insurers and HMOs to respond to these complaints via the Internet, creating greater efficiencies. In 2004, over 6,100 online complaint responses were received from 27 insurers, HMOs and their affiliates. This allowed the imaging system to automatically close 904 participating provider complaints.

b. State & County Fairs, Conferences & Festivals

Bureau examiners staffed the Department's information booth at the State Fair in Syracuse from August 25 through September 6, 2004. Examiners also staffed an information booth at the Erie County Fair from August 11 through August 22, 2004. At these booths, examiners answered consumer questions, took complaints and distributed the Department's various consumer guides and booklets.

Over 75,000 publications and mementos were distributed to the public at these fairs. In 2003, computer compact disks were developed that provided the same information contained in most of the Department's publications, at a significantly reduced cost to the Department.

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, State Emergency Management Office Disaster Preparedness Commission Fall Conference and the Internal Revenue Service's Small Business Information Forum.

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. (Auto insurers are required to inform the Department of Motor Vehicles of drivers whose coverage has lapsed.) Insurers not filing timely reports to the Department of Motor Vehicles have been fined. The Bureau continues to investigate these complaints on an expedited basis.

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 have 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.

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 in New York State during 2004. 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.

In preparation for the August 2004 Republican National Convention held in New York City, Bureau members were assigned to staff the New York City Office of Emergency Management's Emergency Operations Center as well as the State Office of Emergency Management's Emergency Coordination Center.

The Disaster Response Plan was partially activated in September in response to Hurricanes Frances and Ivan. The ten largest writers of commercial and personal property insurance were contacted to assess their preparations for responding to the expected losses in New York State. Fortunately, due to the track of the storms, New York losses were minimal and the Disaster Response Plan was deactivated. Those citizens affected by the storm and who filed complaints with the Bureau received expedited handling and resolution of their complaints. Bureau examiners staffed several Disaster Recovery Centers in the affected areas to assist consumers in filing their claims and answering questions concerning their property coverages.

Due to the number of hurricanes striking the state of Florida in August and September and the enormous amount of damage Florida residents incurred, the Consumer Services Bureau assisted the Florida Insurance Department by providing insurance examiners to staff various disaster recovery centers in Florida. A total of eight examiners worked for two weeks at the centers in central and eastern

Florida. They worked twelve-hour shifts, seven days a week assisting several hundred residents in contacting their insurers and filing their property damage claims.

e. Miscellaneous

The Healthy NY Program became effective 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. Bureau staff continued to attend outreaches where Healthy NY information is provided.

The Consumer Services Bureau continued during 2004 to participate in special outreach programs designed to assist New Yorkers losing their jobs due to plant closings or bankruptcy of a major employer. Bureau staff assisted displaced workers in finding new health insurance. Through contacts with the New York State Department of Labor, the Consumer Services Bureau becomes aware of major employers leaving the State for various reasons. Consumer Services Bureau staff traveled to those locations and assisted the displaced workers and retirees in identifying health insurance options available including Healthy NY, the new New York State COBRA subsidy program for displaced workers, the HCTC Healthy NY option, conversion options, and other resources that might be able to assist workers in replacing health insurance coverage.

The Bureau continues to conduct informational sessions to assist senior citizens and groups concerned with Medicare supplement and long term care insurance.. With the new Medicare Modernization Act which now allows seniors a prescription drug discount card, there is much confusion on the options available to seniors to meet their health insurance needs. Bureau staff participated in education and training sessions including updating training materials for the Health Insurance Information Counseling and Assistance Program (HIICAP) Consortium. The Consortium comprises representatives from various state and federal agencies invited by the State Office for the Aging to provide technical assistance and training for HIICAP volunteers statewide.

The Department is required to publish an Annual Consumer Guide to Health Insurers, which ranks insurers and HMOs complaints upheld by the Consumer Services Bureau, and contains a separate ranking based on upheld prompt pay complaints. Bureau staff met with the Public Affairs, Health and Administration bureaus to ensure that resources are available to publish the Guide before the deadline imposed by legislation. Bureau staff also met with the Department of Health, Office of Managed Care, to gather quality assurance measures published by that office which is also required to be included in the Guide. Bureau staff also worked on creating the ranking and reviewing all of the data contained in the Guide for accuracy.

In Calendar Year 2004, the Bureau responded to 229 requests from consumers under the Freedom of Information Law for copies of documents contained in the Bureau's complaint and investigation files. These requests ranged from as small as one document to thousands of documents in hundreds of files.

f. Snowmobile Crisis

For the third consecutive year, the Consumer Services Bureau was called upon to assist the State's snowmobile clubs with their trail liability insurance policy. This insurance is vital for the operation of the New York State snowmobile trail system and the maintenance of a recreational activity that is estimated to contribute over $500 million annually to New York's economy.

In 2004, the NYS Office of Parks, Recreation and Historic Preservation placed the state-wide trail liability policy out for bid. This resulted in several insurance companies issuing premium quotes for the coverages requested. The selected policy provided greater coverage for less premium than the policy issued in 2003. The Consumer Services Bureau, working with the Department's Property Bureau, again

provided the NYS Office of Parks, Recreation and Historic Preservation with several analyses of the various proposals for coverage.

The Consumer Services Bureau has also been working with other recreational groups in need of liability insurance. In 2004, the Bureau assisted the NYS Office of Parks, Recreation and Historic Preservation in educating the insurance industry about the activities of all terrain vehicle, equestrian and hiker groups so that the industry would be more willing to provide affordable coverage to those groups. The Bureau remains committed to assisting these groups in 2005.

g. Amherst Soil Settling

Many homeowners in the Town of Amherst, New York have experienced structural damages to their homes due to soil subsidence/settling. For some of these homeowners, the earth movement has been severe enough to cause foundations to crack and/or sink. Generally, such damages are not covered under homeowners policies. In May 2004, Bureau representatives met with officials from the Town of Amherst to discuss possible solutions to their residents' insurance problems. The Bureau provided information to the town and other local leaders about insurance-based alternatives outside of the traditional insurance marketplace that may address future problems. The Department remains committed to helping all interested parties to explore and develop any type of alternative arrangements to resolve this matter.

In addition, representatives of the Bureau attended meetings of the Town of Amherst's Financial Aid Subcommittee – Soil and Foundation Task Force throughout 2004, and will continue to attend, if requested, in 2005.

Table 57
CONSUMER SERVICES BUREAU COMPLAINTS AGAINST INSURANCE COMPANIES
INVOLVING LOSS SETTLEMENTS OR POLICY PROVISIONS
Closed in 2004

Line of Business	Total Processed	Upheld	Adjusted in Consumers Favor	Not Upheld	Prompt Pay Violation	Other Action Taken
Total	**42,546**	**3,844**	**6,194**	**14,313**	**3,281**	**14,914**
Life & Annuities, Total	1,342	92	238	788	N/A	224
Individual Life	1,002	68	173	609	N/A	152
Individual Annuity	142	15	27	72	N/A	28
Group Life & Annuity	180	7	33	97	N/A	43
Viatical Settlements	2	0	0	1	N/A	1
Credit Life	16	2	5	9	N/A	0
Accident & Health, Total	21,496	768	3,191	6,654	3,281	7,602
Individual Accident & Health	233	33	41	118	21	20
Group Accident & Health	3,522	204	856	1,513	694	255
Article IX-C Corps	1,649	127	285	888	239	110
HMO	6,806	287	1,402	2,856	1,587	674
Medicare	1,531	1	4	15	2	1,509
Medigap	135	10	42	71	8	4
Long Term Care	68	6	13	28	2	19
Self-Insured Health Plan	3,797	1	3	9	0	3,784
Travel, Health	68	1	11	33	0	23
Health Alliance	0	0	0	0	0	0
Medicaid	2,269	41	372	874	705	277
Municipal Co-ops	11	2	4	2	0	3
Credit Disability/DBL Income	322	32	75	132	0	83
Healthy NY	129	14	32	67	9	7
Federal/Out-of-State Contracts	828	1	2	4	0	821
Child Health Plus	128	8	49	44	14	13
Auto, Total	16,002	2,555	2,235	5,401	N/A	5,811
Auto, Liability (B.I.)	2,374	299	465	1,312	N/A	298
Auto, Liability (P.D.)	3,019	215	630	836	N/A	1,338
Auto, Physical Damage	1,610	159	267	707	N/A	477
No-Fault	8,999	1,882	873	2,546	N/A	3,698
Other Property & Liability, Total	3,706	429	530	1,470	N/A	1,277
Liability Other Than Auto	325	20	39	107	N/A	159
Professional Malpractice	21	5	1	7	N/A	8
Fire & Extended Coverage	67	2	16	35	N/A	14
Homeowners	1,563	122	200	777	N/A	464
Inland/Ocean Marine	45	4	8	15	N/A	18
Workers' Compensation	1,041	220	172	262	N/A	387
Commercial Multiple Peril	435	38	51	175	N/A	171
Burglary & Theft/Fidelity Surety	41	3	11	11	N/A	16
Flood	10	1	0	4	N/A	5
Title	78	4	20	36	N/A	18
GAP and Service Contracts	6	0	0	5	N/A	1
Other	74	10	12	36	N/A	16

Table 58
CONSUMER SERVICES BUREAU INVESTIGATIONS AGAINST AGENTS AND BROKERS
NOT INVOLVING LOSS SETTLEMENTS OR POLICY PROVISIONS
Closed in 2004

Subject of Cases or Investigations	Total Processed	Fines and Revocations	Other Actions	Not Upheld
Total	**5,920**	**485**	**4,702**	**733**
Application for License	4,012	109	3,901	2
Issuing Bad Checks	193	127	29	37
Misrepresentation of Coverage	145	17	46	82
Excess Comp Without Contract	16	1	5	10
Twisting	31	1	16	14
Violation of NYAIP/NYPIUA Rules	162	99	28	35
Return Premium-Producer	71	4	21	46
Other Violations of Insurance Law	122	25	37	60
Violations of Other Laws	17	3	7	7
Termination for Cause	48	10	34	4
Misleading Sales, Life and Medigap	33	4	17	12
Advertisements	22	1	6	15
Miscellaneous	267	23	81	163
Misappropriation of Funds	174	34	56	84
Service Contracts	132	5	111	16
Aiding Unauthorized Insurers	1	0	0	1
Inquiries	194	0	194	0
Other Investigations Received from Companies	36	3	12	21
Other	244	19	101	124

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E. INSURANCE FRAUDS BUREAU

1. General Overview

The Frauds Bureau was established by an act of the Legislature in 1981 as a law enforcement agency within the New York State Insurance Department. The Bureau's primary mission is the detection, investigation and prevention of insurance fraud and the referral for prosecution of those who commit insurance fraud. The Bureau has headquarters in Manhattan, with offices in Albany, Brooklyn, Buffalo, Mineola, Oneonta, Rochester and Syracuse.

Early in 2004 the Bureau established a number of priorities. Among the highest was tackling no-fault fraud across the State. With a mandate and support from the Governor, Superintendent Serio pledged to attack the high cost of auto insurance in New York. During the past three years, the Bureau has developed and expanded its collaboration with the police and district attorneys in fighting fraud on the local level and the Department implemented Regulations 68 and 83 to cut costs. In addition, three years ago, Governor Pataki appointed the Attorney General as the Special Prosecutor for auto insurance fraud.

2. Aggressive Fraud Fighting and Regulatory Changes Produce Lower Auto Rates

These efforts have been successful by any measure. Insurers have experienced dramatic declines in losses across the board. In November, the Department contacted the 13 companies that write nearly two-thirds of New York's private passenger auto insurance policies, as well as the 20 next largest writers, to discuss lowering rates. The industry had experienced eight straight quarters of reductions in the overall loss ratio in the private passenger auto market. Loss ratios in New York had declined from 0.86 at year-end 2002 to 0.61 as of 6/30/04. The loss ratio is the amount of every premium dollar that must be set aside to pay claims and related expenses. In what was termed an "anti-fraud dividend," several of New York's largest writers of auto insurance announced in recent months that they are reducing insurance rates. These events attracted significant media attention, with a number of articles appearing in various New York newspapers, national industry publications, and other media outlets.

3. 2004 Highlights

- The Department's determination to root out no-fault and other auto-related fraud with aggressive fraud-fighting efforts has led to a dramatic decline in insurer losses across the board in New York State. Several major insurers lowered auto insurance rates.

- The Frauds Bureau chalked up 815 arrests during 2004, the highest number of arrests since the Bureau was created. Arrests have shown a year-to-year increase for more than a decade, rising by more than 480% since 1995.

- The Attorney General filed an indictment in August charging enterprise corruption in an insurance fraud case. An investigation by the Frauds Bureau and the AG's Office led to the indictment of six individuals and five corporations for their roles in a sophisticated no-fault fraud scheme.

- A three-year investigation by the Frauds Bureau, the NYPD and the Brooklyn DA's Office led to the arrest in November of 24 individuals, including three suspects with ties to the Gambino and Bonanno crime families, for their participation in an auto "give-up" scheme.

- In November, the Bureau received the Fire Investigation Team of the Year Award from the New York State Fire Investigators Association in recognition of the Bureau's overall work and commitment to arson investigation throughout the State.

- In September, Associate Investigator John McDonald and Senior Investigators Gerard Callahan and Hugh Brickley received Certificates of Appreciation from the NYPD's Auto Crime Division in particular recognition of their efforts to bring about the arrest of a body shop owner and three insurance company adjusters for enhancing auto damages.

- Associate Investigator August D'Aureli presented testimony before the New York State Senate Standing Committee on Insurance on February 9, 2004. His testimony focused on no-fault fraud as an organized, complex and increasingly violent crime.

- The New York City Police Department has once again invited the Frauds Bureau to provide training to recruits at the Police Academy. The training is designed to help police officers, who are often first responders to auto accidents and other emergency situations, to recognize insurance fraud.

- The Bureau has assigned an Investigative Analyst to the High Intensity Drug Trafficking Area (HIDTA), a major off-site intelligence center staffed by various law enforcement agencies.

- "Operation Crash Course," a three-year investigation conducted by the Frauds Bureau, the Queens DA's Office, the NYPD, the State Police and the DMV resulted in the arrest of 80 individuals and two medical clinics for their participation in widespread no-fault scams that ripped off dozens of insurance companies.

4. Team Building

Team building continued to be high on the Bureau's agenda. Multi-agency activities during the past year included working with law enforcement agencies on the federal, state and local levels that now routinely seek Frauds Bureau assistance in the development and investigation of their cases.

a. Multi-Agency Investigations

The Frauds Bureau continued to join forces to conduct joint investigations. The Bureau's collaboration with the Attorney General's Office brought arrests in a number of cases. The Arson Unit has worked closely with the Auto Fraud Unit of the FDNY Citywide Fire Marshal's Office and the NYPD's Arson Explosion Squad, as well as the FBI and the Bureau of Alcohol, Tobacco, Firearms and Explosives. The Unit also acts as a liaison with the New York State Office of Fire Prevention and Control, as well as arson units and fire departments in other states. Greater emphasis was placed on auto fires, as evidenced by the 311% increase in the number of auto fire investigations opened from 2003 to 2004.

In addition, the Bureau has teamed up with the NYPD's Fraudulent Accident Investigation Squad and their Auto Crime Division on many no-fault and other auto-related fraud investigations and with the Workers' Compensation Fraud Inspector General's Office and the State Insurance Fund on workers' compensation fraud. The Bureau has also worked hand-in-hand with the FBI, the U.S. Attorney's Office, the U.S. Postal Inspector's Office, the State Police and local police departments and sheriff's offices across the State.

The Bureau's strong partnership with these agencies and ongoing collaborative efforts will continue into 2005 and beyond.

b. Task Force/Working Group Participation

Frauds Bureau staff actively participate in numerous task forces and working groups designed to foster cooperation and communication among agencies across the State that share similar goals. Membership provides the opportunity for information sharing, networking and honing investigative skills.

5. The Staff

The Frauds Bureau staff consists of 34 investigators organized into six specialized units – Arson; General; Medical; Organized/No-Fault/Auto; Upstate; and Workers' Compensation – each of which is headed by an Associate Investigator. General oversight of the investigative staff is the responsibility of a Chief Investigator with the assistance of a Principal Investigator.

The Bureau also has a Statewide Auto Unit Coordinator who tracks and monitors patterns and trends in auto insurance fraud and coordinates fraud-fighting efforts throughout the State. He provides technical assistance to district attorneys who have received grants from the Department of Criminal Justice Services to establish auto fraud units. He also acts as a liaison with other states on auto-related fraud issues. In addition, he was recently appointed the Frauds Bureau's Quality Control Officer and is now responsible for the quality of files, recordkeeping and case-management statewide.

A staff of three insurance examiners works under the supervision of a Principal Examiner. The Bureau's Deputy Director/Counsel reports to the Director; the Assistant Director of Research reports to the Director and the Deputy Director; and the Training Officer reports to the Chief Investigator. In addition, four support staff members report to the Secretary to the Director.

New investigators participate in an Entry-Level Training Program developed and administered by the Bureau's Training Officer to address the needs of new investigative staff. All investigators also participate in an In-Service Training Program. Both programs comply with the standards and curriculum established for professional police officers by the Bureau of Municipal Police of the New York State Department of Criminal Justice Services. The Bureau's investigative staff is comprised of experienced professionals who often exceed the high standards set by DCJS.

The Bureau's Training Officer, John Marcone, is a Certified Firearms Instructor and oversees the recertification program for firearms proficiency for upstate and downstate investigators. Yearly recertification is required by the Department of Criminal Justice Services. However, Frauds Bureau investigators are required to recertify semi-annually, demonstrating the importance the Bureau attaches to the responsibilities involved in the proper use of firearms.

Investigator Marcone and other members of the investigative staff provide training and continuing education seminars for local police and fire units, prosecutors, insurers and others. Training was conducted for a number of police departments around the State in 2004, including 1,650 members of the NYPD. The Bureau has been invited by the NYPD to continue providing this training in the coming year. Since police officers are often the first responders to auto accidents and other emergency situations, their ability to recognize insurance fraud can be critical to an investigation.

At a three-day seminar at the Academy of Fire Science held in November 2004, Senior Investigator Gary Sullivan presented a case study in conjunction with the Genesee County Sheriff's Office. The case involved a woman and her boyfriend who pled guilty to arson for setting fire to her half of a duplex home while five occupants slept in the other half. The case was investigated by the Frauds Bureau, the Genesee County DA's Office and the Genesee County Sheriff's Office. The couple is currently serving time in prison for arson. No one was harmed in the fire.

In addition, Frauds Bureau staff regularly attends career development seminars and training programs to hone their proficiency in investigative procedures, computer skills and management techniques to ensure that they stay current with emerging developments in fraud fighting.

6. Investigations

The Frauds Bureau received 27,279 reports of suspected insurance fraud in 2004. Of those, 26,408 were received from licensees required by §405(a) of the New York Insurance Law to submit such reports to the Department, and 871 were received from other sources such as consumers and anonymous tips. A total of 1,181 new cases were opened for investigation during the year. At the same time, investigations continued in cases opened in prior years.

During 2004, the Bureau referred 291 cases to prosecutorial agencies for criminal prosecution and another 38 for civil settlement or referral to the Department's Office of General Counsel for civil proceedings.

7. Arrests

The Frauds Bureau participated in investigations that led to the arrest of 815 individuals for insurance fraud and related crimes during 2004, surpassing the 811 arrests posted during the prior year. The number of arrests chalked up in 2004 sets a new record for the Bureau and represents an increase of 62% since 2000.

Frauds Bureau activities resulted in stiff fines against 110 individuals who were sentenced to more than $9.6 million in court-ordered restitution during 2004. In 36 cases, individuals made voluntary restitution totaling over $1 million. In yet another 29 instances, insurers were able to achieve savings of more than $16.8 million in connection with fraudulent claims under investigation by the Frauds Bureau.

The Governor and the Legislature have supported the Bureau's efforts to partner with the industry, prosecutors and law enforcement agencies at all levels of government to combat insurance fraud across the State. This support has contributed to the Bureau's accomplishments during the past year.

8. Civil Enforcement

Under the provisions of §403 of the New York Insurance Law enacted by the Governor and 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, §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. It also permits the Frauds Bureau to impose monetary penalties on individuals not licensed by the Department.

9. 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, 154 Plans were on file. A Frauds Bureau examiner accompanies members of the Health Bureau on financial examinations and members of the Property Bureau on market conduct examinations. The Frauds Bureau examiner reviews the company's Fraud Prevention Plan in order to determine whether its SIU is in compliance with the provisions of Regulation 95. The examiner also provides guidance to SIU staff on how best to implement their Plans.

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, a coalition of nearly 100 insurers that write property, life, health and disability insurance. The National Health Care Anti-Fraud Association and a number of individual insurers also conduct programs to heighten awareness and reduce public tolerance of insurance fraud. Thus, these anti-fraud messages reach millions of New Yorkers. The success of the public awareness program can be measured in part by the number of calls to the Bureau's fraud hotline. Such calls averaged 50 a week during 2004.

10. SIU Annual Reports Updated

The Bureau has updated the Annual Report that SIUs are required to submit to the Frauds Bureau each year. The updated Report clarifies the type of data that is required and will enable examiners to more effectively determine compliance with the New York Insurance Law and Department regulations. The new form was available by January 15, 2005.

11. Major Cases

Major multi-agency investigations lead to a significant number of arrests in any given year and 2004 was no exception. For example, one investigation conducted by the Frauds Bureau, the Queens DA's Office, the NYPD, the State Police and the DMV alone resulted in the arrest of 80 individuals and two medical clinics in September. However, not to be overlooked are the numerous arrests that resulted from the day-to-day investigations conducted by Frauds Bureau investigators. Several of the cases that contributed to the record-breaking number of arrests in 2004 are summarized below:

a. Operation Sideswipe

A two-year undercover investigation, dubbed "Operation Sideswipe," and conducted jointly by the Frauds Bureau, the NYPD's Auto Crime Division and the Queens DA's Rackets and Organized Crime Bureau led to indictments charging 33 individuals with participating in a no-fault fraud ring that defrauded insurers of more than $236,000. Those arrested included lawyers, doctors and other state-licensed medical professionals, as well as "runners" and "jump-ins." They were accused of staging accidents, submitting false property-damage, medical and bodily-injury claims, providing baseless treatments and ordering costly and unwarranted diagnostic tests.

b. Workers' Compensation Sweep

An investigation by the Frauds Bureau, the Queens DA's Office, the State Insurance Fund and the Workers' Compensation Fraud Inspector General's Office resulted in the arrest of 12 Queens residents in an arrest sweep that took place over two days. The suspects were charged with defrauding the workers' compensation system of more than $172,000 during a four-year period from 1999 to 2003 by either submitting fraudulent applications for insurance coverage or claiming they had been injured and unable to work when in fact they were gainfully employed. Among those arrested were a public school custodian, a livery cab driver, the president of an apparel company and a medical office assistant.

c. Two No-Fault Fraud Rings

An investigation by the Frauds Bureau, the Attorney General's Office and the New York City Department of Investigations led to the indictment of 12 individuals charged with operating two separate auto insurance fraud rings in Brooklyn and Queens. They were accused of submitting more than $350,000 in fraudulent personal-injury claims to insurance carriers. The charges against the two fraud rings were contained in four separate indictments brought by a Brooklyn grand jury. The defendants allegedly engaged in schemes in which they staged accidents and received months of medical

treatment for their “injuries.” Defendants were paid for participating in the accidents and many received thousands of dollars in injury settlements paid out by insurers. Three indictments charged six defendants, including two New York City Correction Officers, with engaging in a fraud ring that staged accidents in 1999 and 2000. They allegedly submitted more that $214,000 in bills to various insurers, of which about $163,000 was paid. The fourth indictment charged the remaining six defendants with billing five insurers for a total of $140,000 for unnecessary medical treatment. More than $42,000 of that total was paid out to medical providers during the period in question.

d. Her Highness

An investigation by the Frauds Bureau and the Manhattan DA’s Office resulted in the arrest of a Manhattan woman—who claimed to be a Saudi princess—for attempting to collect the proceeds from an insurance scam. The investigation revealed that on October 16, 2003, the defendant obtained insurance from Chubb Insurance Company for jewelry valued at $492,000 that she claimed was inherited from her mother. The insured items included diamond bracelets, rings, and stud earrings from such high-end jewelers as Bulgari, Cellini, Van Cleef & Arpels, and Erica Courtney. She submitted various bills of sale and appraisal forms to Chubb to prove the worth of the jewelry. The defendant initially received “in vault” insurance, which provided coverage only when the items were kept in her safe deposit box. However, on October 27, 2003, the defendant obtained “out of vault” insurance which provided her with coverage when she removed the jewelry from the vault for restricted periods of time. On that same day, she allegedly removed 23 pieces of jewelry from the vault, left the bank and claimed she was mugged by an unknown assailant. She reported the incident to the NYPD and filed a claim with Chubb stating that $262,000 worth of jewelry had been stolen. The subsequent investigation uncovered evidence that one of the appraisal forms was forged and that one month prior to obtaining the insurance policy, she actually sold 12 of the 23 items she claimed had been stolen. After Chubb received the claim, they made follow-up inquiries and notified the Frauds Bureau of their findings. The investigation was subsequently referred to the Manhattan DA’s Office for prosecution.

e. Enterprise Corruption

An investigation by the Frauds Bureau and the Attorney General’s Office led to the indictment of six people and five corporations for their participation in a sophisticated criminal enterprise. Two personal injury lawyers and their law firms, an insurance broker and a licensed acupuncturist were among those charged. According to the indictment, two brothers “steered” those involved in accidents to medical facilities and lawyers that were part of the scheme. The brothers allegedly paid off tow-truck drivers, auto repair shop managers and insurance brokers for the names and telephone numbers of people who had recently been in minor auto accidents. The victims were then persuaded to fabricate or exaggerate injuries, submit fraudulent no-fault claims, and retain the defendant attorneys for personal injury lawsuits. Patients received countless unnecessary medical treatments, including acupuncture, physical therapy, massage therapy, chiropractic treatment, psychological counseling and extensive diagnostic testing. The brothers were also charged with secretly owning the acupuncture practice of one of the defendants, in violation of State law that requires a professional health practice to be owned by a licensed practitioner. This case is an offshoot of a June 2003 multi-agency investigation conducted by the Frauds Bureau, the Attorney General’s Office, the New York City Health and Hospitals Corporation Inspector General’s Office and the New York City Department of Investigation. Four of those named in the recent indictment had been arrested in 2003 and charged with conspiracy to commit insurance fraud.

f. Operation Crash Course

A three-year undercover operation conducted by the Frauds Bureau, the Queens DA’s Organized Crime Accident Investigation Squad, the State Police and the Department of Motor Vehicles resulted in the arrest of 67 individuals and corporations – including chiropractors, acupuncturists and physical and massage therapists, as well as two medical clinics and their employees – for their participation in a

major no-fault fraud ring. Since the initial sweep, 13 additional arrests have been made in this case, bringing the total to 80 thus far, with more arrests expected. According to the charges, the investigation uncovered evidence that the defendants engaged in various schemes to defraud more than $1 million from dozens of insurers between September 2001 and January 2004. The ring allegedly paid runners up to $3,000 for each person they recruited to pose as an injured accident victim. Shadow patients (individuals who signed in for numerous dates of treatment each time they visited the clinic) were paid up to $750 for unnecessary treatment, such as various diagnostic tests, or services never provided at all. Insurers were billed for these "services" and the clinics created phony paperwork to hide the fraud, such as sign-in sheets, progress notes and therapy records.

12. No-Fault Fraud

No-fault fraud accounted for just over half of the 27,279 total reports of suspected fraud received by the Bureau in 2004. The Bureau conducted a number of investigations into the operation of medical mills in both the upstate and downstate areas. These investigations led to the takedown of several major no-fault fraud rings and the indictment of close to 200 individuals and corporations. As many as 80 arrests resulted from one investigation alone, including chiropractors, acupuncturists, massage therapists and two medical clinics in Queens and their employees. In addition, two medical mills discovered in Western New York – one in Buffalo and the other in Rochester – were not only connected to each other but to New York City suspects as well. Search warrants were executed and numerous arrests were made. The suspects in this case were found to be involved not only in no-fault fraud but a variety of other crimes, including drug trafficking and homicide.

Associate Investigator August D'Aureli, supervisor of the Bureau's No-Fault Unit, presented testimony before the New York State Standing Committee on Insurance on February 9, 2004. The Committee, which was studying the incidence of no-fault insurance fraud in New York State, wanted to hear from someone "in the trenches." Mr. D'Aureli informed the Committee members that no-fault fraud is an organized, complex and increasingly violent crime. He walked them through a large-scale, long-term investigation, known as "Operation Gateway to Fraud," that targeted every element in a no-fault scam. He covered the development of the initial informant, the execution of eavesdropping/search warrants, and the conclusion of the case which resulted in forfeiture and civil restitution.

13. Partnership in Progress

A strong working relationship with local prosecutors remains one of the Bureau's top priorities. In 2002, the Frauds Bureau initiated a program to assign investigators to prosecutors' offices to work hand-in-hand with their investigative staffs. These cooperative efforts provide an opportunity for members of a prosecutor's investigative team to learn the complexities of insurance fraud investigations.

During 2004, the Bureau added the Bronx, Staten Island and Monroe to the list of counties in which Bureau investigators have been assigned to the District Attorneys' Offices. All told, the Bureau currently has Frauds Bureau investigators in 11 prosecutors' offices across the State. One investigator is assigned to the Suffolk County DA's Office full time. In addition, the Bureau has one investigator in the Nassau County DA's Office two days a week; two investigators one day a week in Queens; and one investigator three days a week in Rockland where he also works with investigators in the Putnam and Dutchess County DAs' Offices. The Bureau has also placed one investigator in the Albany County DA's Office two to three days a week, one investigator two to three days a week in Westchester, one investigator one day a week in the Bronx, one investigator in the Staten Island DA's Office two days a week, and an investigator part time in the Monroe County DA's Office. The program has become increasingly popular, especially in light of the grant money available from the Department of Criminal Justice Services (DCJS) for prosecutors to establish auto insurance fraud units. The Bureau expects the program will continue to expand with the availability of DCJS grants.

14. Frauds Bureau Presence at HIDTA

The Frauds Bureau has assigned an Investigative Analyst to the High Intensity Drug Trafficking Area (HIDTA) located within the New York City Regional Intelligence Center. The Analyst is a certified New York State Peace Officer who possesses the security clearance the position demands. She conducts sensitive research of restricted databases unique to the Insurance Department and coordinates the dissemination of information among various law enforcement agencies, including the FBI, the NYPD, the Drug Enforcement Administration, the Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Customs, the U.S. Postal Service and U.S. Immigration. She has assisted the High Intensity Financial Crimes Area (HIFCA) investigators, as well as the Westchester County DA's Office in compiling and coordinating investigatory evidence and intelligence data.

15. Paper Reduction

The Bureau has initiated a program that will significantly reduce the number of paper files maintained in the Bureau and allow more efficient use of staff time. Under the prior system, reports of suspected insurance fraud received electronically were printed, the data were entered into the Bureau's database and the reports for which a case was not opened were filed for future reference. These referenced files total an estimated 20,000 reports a year. Under the new system, once the data have been entered into the database where it is securely maintained, hard copy is discarded. Moreover, with the assistance of the Systems Bureau, the system can now print an entire file with one mouse click, rather than the time-consuming, screen-by screen printing method previously employed.

16. Staff Recognition Awards

Associate Investigator John McDonald and Senior Investigators Gerard Callahan and Hugh Brickley of the Auto Unit received Certificates of Appreciation on September 15 from the New York City Police Department's Auto Crime Division "in grateful recognition and sincere appreciation of your untiring and selfless efforts" in combating insurance fraud. The Certificates recognized in particular the efforts of the Auto Unit in conjunction with the NYPD that led to the arrest of a body shop owner and three insurance company adjusters for their roles in a scheme of systematically enhancing auto damages.

The Frauds Bureau received the Fire Investigation Team of the Year Award from the New York State Fire Investigators Association. The Association comprises about 1,000 members of local, state and federal law enforcement agencies, as well as all levels of municipal fire departments, private investigators and insurance company Special Investigations Units. The Bureau was nominated for the Award by the Bureau of Alcohol, Tobacco, Firearms (AFT) and selected by the Awards Committee. The Award was not given for one case, but rather for the Bureau's overall efforts and commitment to arson investigations throughout the State. Superintendent of Insurance Serio accepted the Award at the Association's annual banquet on November 4, 2004.

17. World Trade Center Fraud Update

Since the attack on the World Trade Center on September 11, the Frauds Bureau has given prompt attention to all reports of suspected fraud related to that disaster. As of year–end 2004, 81 World Trade Center-related reports of suspected fraud had been opened for investigation. More than half the reports involved life insurance fraud (21) and workers' compensation fraud (22). The remaining reports included 8 that were auto-related and 30 categorized as miscellaneous. A number of arrests have been made and the Department continues to vigorously pursue these cases for criminal prosecution.

In March 2004, Beatrice Kaufman was sentenced to 52 weekends in jail for cheating an insurance company, the Federal Emergency Management Agency (FEMA) and two charities by falsely claiming

that her home and business were damaged in the September 11 attack. In addition, her plea bargain required her to admit that she received the money through false pretenses, to make restitution to Chubb Insurance Company from which she received more than $58,700, and to the charities. She received $8,000 each from FEMA and the American Red Cross, and $10,000 from Safe Horizon. (Safe Horizon provides assistance to those impacted physically, economically or psychologically by 9/11.) Her arrest in November 2002 was the result of the efforts of the Frauds Bureau, FEMA, Chubb and the Manhattan DA's Office which prosecuted the case.

In addition, Broome County resident Merle Hover was sentenced to three years' probation and ordered to pay Combined Life Insurance Company $1,500 to cover court costs resulting from his prosecution on charges of attempting to defraud Combined Life of $20,000. Hover filed a death-benefit claim stating that his daughter had died in the WTC attack. However, during an investigation by the Frauds Bureau, with the assistance of the Broome County Sheriff's Office and the Broome County DA's Office, his ex-wife informed the investigators that their daughter was alive and living outside New York State. She was unaware of his scheme until contacted by investigators.

18. Disaster Preparedness and Response

In conjunction with the Executive Bureau, the Frauds Bureau has established procedures for Bureau investigators to take a more direct role in the event of a building evacuation or other emergency situation, including providing a presence in the Executive Bureau, establishing contact with upstate Frauds Bureau Offices, and accounting for Department staff. The Bureau has also established a liaison with the Department's Disaster Preparedness and Response Bureau to ensure that we are kept aware of any changes in procedure or the establishment of new protocols.

19. Directions for 2005

a. Web-Based Fraud Reporting

The Frauds Bureau made significant progress during 2004 in achieving a goal high on its list of priorities – Web-based fraud reporting. Effective April 30, 2005, insurers can no longer connect to the Frauds Bureau via the AT&T dial-up system that had been used to report fraud electronically since 2000. The Bureau has developed a Web-based system through which insurers can report suspected fraud online. The long-term goal is to revamp the entire system to a Web-based design so that fraud reporting via the Web site will be only one of its functions. Under this new system, virtually all of the Bureau's principal tasks would be Web-based, including case management, statistics tracking, and report filing.

b. Workers' Compensation Fraud Seminars

The Frauds Bureau, in conjunction with the New York Insurance Association, the Workers' Compensation Fraud Inspector General's Office and the State Insurance Fund, will schedule a series of seminars in 2005 designed to educate the business community about application fraud, premium fraud and other problems associated with workers' compensation insurance. The seminars will be presented to Chambers of Commerce and similar groups.

c. Insurer Self-Audits

The self-audit system for insurers is being revamped and updated as the Bureau has partnered with other bureaus within the Department to assess compliance with statutes and regulations.

d. Upstate Seminars

In September, the Bureau initiated a series of seminars for insurers in the upstate region. The seminars present an overview of the Frauds Bureau and the skills Bureau investigators bring to every investigation. Three sessions were held in late September in Batavia, Syracuse and Albany for member companies of the New York Insurance Association. This initiative will continue and be expanded in the coming year.

20. Legislation

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

- Providing the Superintendent of Insurance with the authority to establish standards for the public awareness programs that insurers are required to develop under the provisions of Regulation 95;

- 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;

- Making it a crime to present materially false statements on an insurance application for personal lines insurance;

- Making it a felony for third parties, known as runners, to recruit patients and clients for health care providers and attorneys in insurance fraud schemes;

- Establishing a TIPS program;

- Amending the Penal Law, by adding a description of a fraudulent no-fault insurance act; decreasing the monetary threshold for the commission of insurance fraud in various degrees; and providing three separate degrees of “aggravated insurance fraud”;

- Requiring a periodic certification of continued eligibility by recipients of workers’ compensation or disability benefits;

- Creating a class E felony for insurance activity for which a license is normally required 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 insurance activity by any individual;

- Subjecting unlicensed insurance 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 upon conviction of the licensee for felony larceny or felony insurance fraud;

- Requiring that life insurance policy applications include a positive identification of the insured;

- Increasing civil penalties for knowing possession, transfer or use of fraudulent insurance documents;

- Prohibiting the participation in the insurance business of individuals who have been convicted of felonies involving dishonesty, breach of trust or other violations of Article 176 of the Penal Law unless such persons first obtain the written consent of the Superintendent of Insurance;

- Amending §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 of the Insurance Law without the prior written approval of the Superintendent;

- Increasing penalties in the Vehicle and Traffic Law to reduce the number of uninsured or unlicensed motorists driving in New York State;

- Requiring no-fault and workers' compensation insurers to provide explanations of benefits in response to claims filed for health care services under those programs;

- Modifying the reporting date for the Frauds Bureau Annual Report (pursuant to §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 §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 of Insurance to submit to the Governor and the Legislature by January 15 each year a comprehensive summary and assessment of the operations of the Frauds Bureau. The 2004 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.

In 2004, the Bureau secured approximately $46 million of Early Access Funds from six estates on behalf of the Workers' Compensation Security Fund, approximately $3.1 million from three estates on behalf of the Public Motor Vehicle (PMV) Security Fund, and approximately $63 million from nine estates on behalf of the Property/Casualty Security Fund.

During the year, 11 proceedings were concluded. The Bureau closed two conservation proceedings for Municipal General Insurance, Ltd. and National Colonial Insurance Company, seven domestic proceedings for Dominion Insurance Co. of America, Great Western Marine Insurance Co., HUM Healthcare Systems, Inc., Long Island Insurance Co., Nem Re-Insurance Corp., New York Professional Liability Insurance Co. and North Medical Community Health Plan, and two ancillary proceedings for Mission National Insurance Co. and Western Employers Insurance Co.

In 2004 three receivership proceedings were established. A conservation proceeding was established for Folksam International Insurance Co., a rehabilitation proceeding was established for Interboro Mutual Insurance Co., and an ancillary proceeding was established for Security Indemnity Insurance Co.

In addition to paying out over $208 million in policy obligations, $211.6 million was paid in the form of dividends to security and guaranty funds, reinsurers, and other general creditors.

Note: *See Section VIIIA(5) of this Report for the 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 900 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 encompass 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), Technical Services Unit (TSU) and the Operations & Production Unit (OPU) are responsible for the Department's technical infrastructure. Collectively these units are responsible for data communications, database administration, network installation and maintenance, servers, Local Area Networks, Wide Area Networks, Virtual Private Network (VPNs) and microcomputer equipment. Staff performs network monitoring, backup and recovery services, antivirus protection, and install and maintain all third-party software.

The Systems Bureau 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, Domino mail and applications servers, Sybase servers, fax servers and imaging/document management servers. Other application servers include, but are not limited to, batch-processing servers, Web applications servers, antivirus management servers, test and development servers, etc. TSU supports four Microsoft networks, all connected via a WAN: Albany, New York City, Buffalo, and Mineola. The smaller satellite offices (Brooklyn, Rochester, Oneonta and Syracuse) are also connected via the Department's Virtual Private Network.

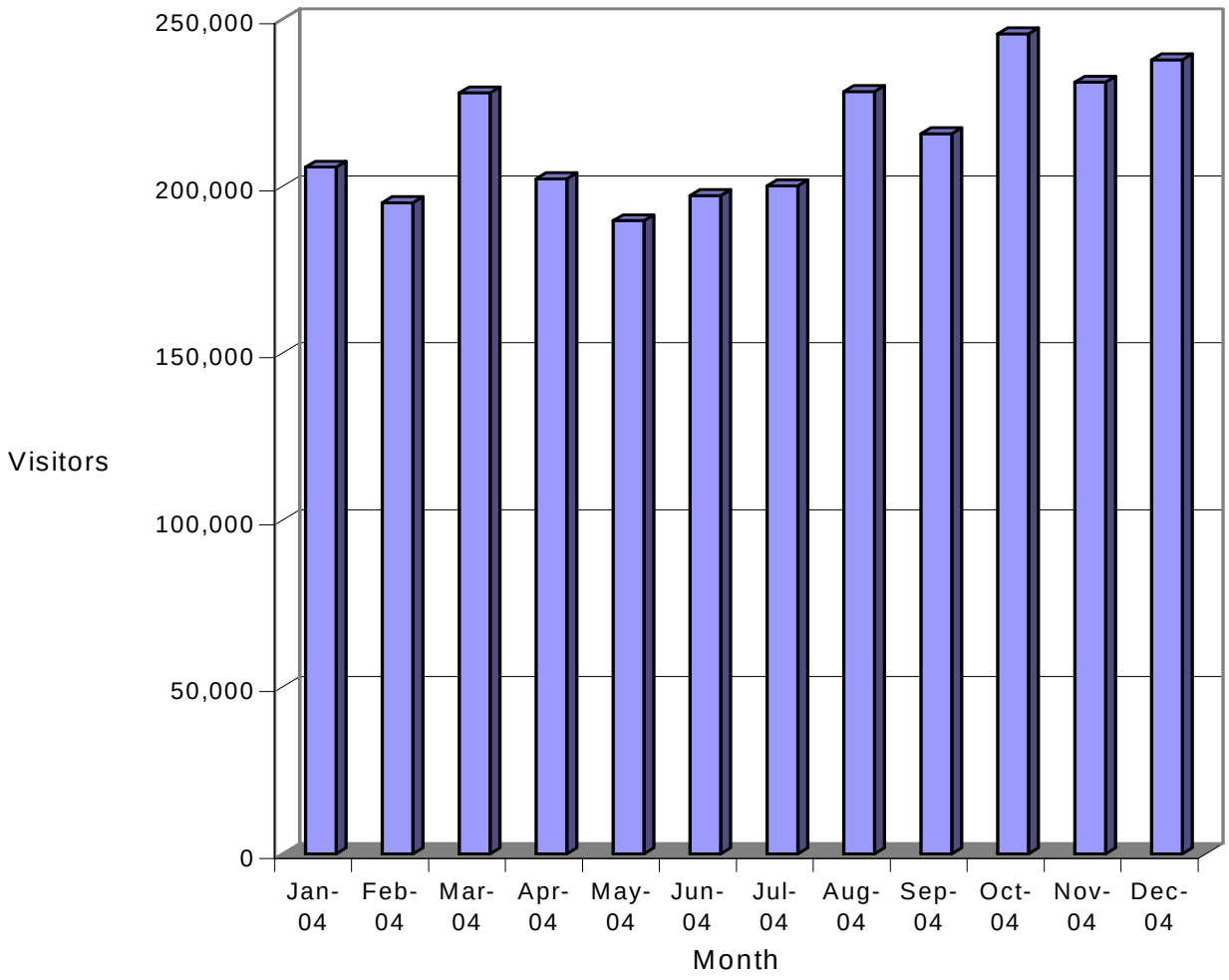
The Operations and Production Unit (OPU) is responsible for production and for the Computer Operations, and Help Center functions. The Help Center is the first line of support in assisting the client

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 moves, 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 continued to play a vital role in communicating and providing services to diverse constituencies – Consumers, Agents & Brokers and Insurers - during 2004. Much of the Department's activities and interaction with the public are reflected on the pages of this site. During 2004, there were 2,577,287 visits to the Department's home page, an almost 21% increase over the previous year. The number of these visits, by month, is displayed in the following chart H.



The Department takes pride in the site's depth of content, relevancy, and speed with which it is kept current. Over the course of the year, the following major new items were incorporated into the Department's Web site:

- A completely redesigned Healthy NY Web site that includes improved navigation and accessibility for the disabled.
- A new "Insurance Help for the Seriously Ill and Their Caregivers" Web site, also developed with many accessibility features.
- A Senior Citizen Section that provides up-to-date relevant insurance related content - including the Medicare Prescription Drug Discount Card and the Transitional Assistance Program - targeted toward this growing segment of the population.
- Continued search enhancements to the Interactive Company Directory, providing real-time access to information about the Department's regulated entities.
- A "Get Smart About Insurance Week" Section.
- The 2004 Interactive New York Consumer Guide to HMOs.
- Comprehensive information about the NYS Health Insurance Continuation Assistance Demonstration (COBRA Subsidy) Program.
- The complete set of 2004 Annual Statement and New York Supplement Filing Instructions and Forms.
- Comprehensive information about no-fault Insurance and Regulation 68.

A great deal of other content was added during the course of this very busy year. A brief listing includes: 71 New York Information Network (NYIN) Alerts; a variety of insurance frauds information and statistics; proposed regulations, emergency and final adoptions; Office of General Counsel selected opinions; circular letters; news releases; Department speeches; numerous publications and reports; company examination reports; product outlines and checklists; DMV company codes and up-to-date health insurance and Medicare Supplement rates.

2. Intranet

The Department's Intranet continues to be a strategic internal communication facility that contains a wide range of content relevant to Department staff. Major items added during 2004 include:

- The 2004 Examiner Resource Center, allowing regulatory staff to view current electronic Supplement Annual and Quarterly submissions.
- A Department Events Section containing photos from Department functions.
- A Disaster Section containing disaster preparedness and response information for internal staff.

In addition, a great deal of additional content was added and updated during the course of this year. A brief list includes: up-to-date examination schedules; updated database entries reflecting the Department's Record Retention Program; Department staff accomplishments; Office Building Procedures; the General Administration Manual; minutes from Systems Bureau liaison meetings; several PowerPoint presentations and various internal employee forms.

3. Annual Statement Filings

The year 2004 was significant as the Department continued to expand the 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. There was a 10% increase in the number of companies filing their New York

Supplements over the Internet. In addition over 93% of the licensed New York companies were available to staff in the NAIC I-SITE application by the fourth business day after they were due on March 5. In 2002 the number of required hard copy versions of Annual Statement filings was reduced from two to one. The one hard copy eliminated was replaced by the electronic filing. During 2003 the Department eliminated the hard copy paper requirements for Management Discussion and SVO forms for all foreign companies. The Adobe Acrobat PDF filing available on the NAIC Web site is the sole source of this information for the Department. For 2004, in an effort to expedite data availability, the Schedule G PDF filing was separated from the main body of the submission. Due to the confidentiality of the data, this schedule must be reviewed for correctness before it can be released. This action has allowed the Bureau to post the Supplement PDF files to the Intranet for Department use on March 5, the earliest date ever.

4. Imaging/Workflow: CIIMS

The Consumers Imaging and Information Management System (CIIMS) has been in production since November 1998. A Web Complaint function added in October 2001 allows individuals to submit complaints online. Functionality to receive complaints from participating providers was added in May 2003. In 2004 use of the online complaint applications continued to increase. An enhancement to allow companies to respond to the provider complaints online went into limited production in May 2003. During 2004 this capability was expanded to additional companies and 199 new company representatives were registered. Currently 260 company representatives from 29 companies or company groups are registered and using the online response system.

During 2004 numerous changes were made to processing routines to make the system more efficient. Systems continues to work with the Consumer Services Bureau to improve the original design of the system, to increase functionality and make the system more efficient and productive.

The Health Bureau continues to employ imaging to assist in the processing of rate and form filings. The imaging function was initiated in 2000 and starting in 2004, the Bureau began bringing all pertinent documents online, including those prior to 2000. Additionally, the letter generation capability was substantially enhanced to populate common templates with data and was deployed to the actuarial staff as the basis of review and processing.

The Life Bureau continues to utilize imaging for the rate and form filing process and further hardened the data base structure during the past year. This not only improves the performance of the application and the reliability of the data, but also better positions distributed use by the Albany and New York City offices.

The Property Bureau has imaged two years of their archived rate and form filings and beginning with third quarter 2004 now images current filings. A search utility that allows direct access to Freedom of Information Law (FOIL) documents by the public is being piloted. Initial implementation is at the New York City office and allows documents to be transferred to CD. Future plans will allow access to these public documents via the Internet.

5. Domino Portfolio Workflow Applications

Domino Workflow Applications continue to be an ever-growing area of competence for the Department. Applications developed in Lotus Notes/Domino have replaced existing legacy and manual Department processes. Lotus Notes/Domino continues to be a strategic software platform to develop workflow applications for electronic solutions for the Department.

The following is a sample of the portfolio of Domino applications either released into production or production applications that continue to be supported and enhanced:

- The External Appeals Tracking System is a paperless workflow that records activity on an External Appeals request from the point of receipt by the Department, through its various health plan and external appeal agent contacts, to its final determination.
- The FOIL Tracking System records the activity of a FOIL request from its receipt by the Office of General Counsel, through the assigned bureaus for request resolution.
- The Legislative Tracking System 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 provides the Department an electronic means to process requests for procurement from staff from initial request, to approval, to receipt, to payment.
- Counsel's Assignment Tracking System follows the workflow process of opinions issued by the Office of General Counsel.
- The Litigation Tracking System enables the Office of General Counsel to track the ongoing case activity on their court and non-court cases.
- The Capital Markets Tracking System includes an electronic workflow for all assignments handled by the Capital Markets Bureau.
- The Property Filing Tracking System provides an electronic tracking application for the approval process of filings received by the Property Bureau.
- Systems Requests Document Management System replaced the manual, paper/snail-mail workflow when Department clients commission services from the Systems Bureau.

6. E-Commerce

Licensing Services staff continued to work with the Systems Bureau to build upon existing functionality within the Licensing Information Online Network (LION). Throughout the year, the Department expanded online capabilities to better meet the needs of producers, insurance companies, and Continuing Education providers. During 2004, the Department's online license applications were updated to comply with the NAIC Producer Licensing Model Act. In addition to producers renewing or obtaining their licenses online, licensees can now relicense themselves within two years of their license expiration. An online application was introduced that gave insurance brokers the ability to renew both their broker and excess line licenses through one application process. A scheduling component was added to the Continuing Education Web Application that gave approved providers the ability to schedule continuing education courses online. An Agent Search Web Application was introduced in 2004 that allows the public to search for Department approved continuing education courses using numerous selection criteria.

The success of the Department's Licensing initiatives is evidenced by the increased usage of the online functionality from 2003 to 2004. New York online original applications have increased to 7,290 from 5,866 in 2003. Both online company appointments and terminations have increased from 2003. Ninety-nine percent of all property casualty and broker license renewals were done online; this was an increase from the previous renewal cycle of 60% and 65%, respectively. The credit card payment option brought $2,542,525 into the Department electronically; the percentage of credit card use has increased from 70% in 2003 to 80% in 2004. The number of nonresident licensing applications processed through the NAIC's National Insurance Producer Registry for nonresident brokers and agents more than doubled from 3,519 in 2003 to 7,613 in 2004.

The year 2004 saw the implementation of the Department's first Electronic Funds Transfer initiative. Systems Bureau and Taxes & Accounts staff in collaboration with Key Bank distributed the Fire Tax 2% assessment monies through an electronic funds transfer to 485 fire districts in New York State. These represented approximately 21% of the total number of fire districts in the State and received 24% of the total tax monies distributed.

7. Sybase Enterprise Portal

There was an the expansion of Central File in 2004, 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 authorized to view.

Among the enhancements to Central File in 2004 were:

- Release of Office of General Counsel (OGC) Opinion Public Search. Includes a link to the instructions on the OGC opinion search page. One version created points to "Public Opinions" only for non-OGC staff members. Access to the full set of Opinions is maintained for OGC users utilizing Portal security. Features include "highlighting" within the document retrieved.
- A weekly report was added for SERFF for the Property Bureau
- An Insurance Company Search Replaced Interactive Company Directory
- Inclusion of Directors and Officers reports
- Four Health Bureau Speed-to-Market reports added

Central File 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 include Microsoft Access, Excel and Word files along with Adobe PDF files and application data residing in Sybase databases. Central File and the Enterprise Portal continue to provide the framework for Java based application development both internally and for Web-based applications. The Bureau's focus in 2005 will be placing outward facing applications under the security umbrella of EP.

8. Infrastructure

Systems continues to enhance, expand 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. The Systems Bureau works with the New York State Office of Cyber Security and Critical Infrastructure Coordination to continually enhance security and benefit from the experience and expertise of other agencies.

H. OFFICE OF GENERAL COUNSEL

The Office of General Counsel's (OGC) principal responsibilities include providing the Superintendent, the Deputies and Bureau Chiefs, and the public with legal opinions and advice on the interpretation of the Insurance Law and how such laws affect the insurance industry; drafting and reviewing legislation, regulations and circular letters; enforcement, including prosecuting and conducting all of the Department's administrative hearings, disciplinary matters, imposition of civil fraud penalties and issuance of stipulations in connection with consumer complaints, market conduct and financial condition examinations; coordination of all enforcement investigations and Attorney General investigations of insurance matters; supervision of all litigation brought by and filed against the Department; supervision of all demutualizations, corporate transactions and conversions; legal review of all RFPs and state contracts; review of applications for insurer incorporation and licensing and related corporate activities; and managing the Freedom of Information Law requests of the Department.

1. Legal Opinions

OGC provides legal opinions to insurers, trade associations, producers, consumers and city, state and federal agencies regarding interpretations of the Insurance Law. These opinions provide guidance to the industry as to the Department's policies. These opinions are also provided to the Superintendent, the Deputies and Bureau Chiefs when a legal issue arises out of the regulatory activities of the Department. Approximately 500 opinions were issued in 2004. All nonprivileged opinions are posted to the Department's Web site (www.ins.state.ny.us) when issued. In April 2004, the OGC public opinion database was made available to the entire Department through an electronic search engine. This extensive electronic database includes over 12,000 publicly issued opinions of OGC dating from the 1930s to the present, and is updated weekly as new opinions are issued.

2. Enforcement Matters

The Office of General Counsel continues to handle all the Department's enforcement matters, including all administrative hearings, disciplinary matters and imposition of penalties and issuance of stipulations in connection with consumer complaints, licensees and market conduct and financial condition examinations. In 2004, the Department entered into over 200 stipulations imposing penalties on insurance companies or producers. In addition, approximately 100 producer licensing, assigned risk, and rate hearings were held. OGC also manages all outside litigation brought against the Department and subpoenas. During 2004, approximately 20 new litigation cases were brought against the Department and the Department affirmatively sued several unlicensed health insurers and an unauthorized entity that was providing insurance coverage for clean-up of oil tank spills. Currently, there are approximately 50 cases that OGC actively supervises, including the lawsuits concerning the Empire conversion, the MetLife demutualization, the External Appeal Law, and issues involving the Public Motor Vehicle Liability Security Fund. The Department also filed an amicus brief in the NYS Court of Appeals concerning whether a fraudulently incorporated medical professional corporation is entitled to reimbursement under the no-fault law and an amicus brief in the Southern District of New York regarding the World Trade Center insurance dispute.

OGC also supervises and coordinates the Department's enforcement investigations and its joint investigations with the Attorney General's office. OGC is directing the Department's investigation of inappropriate compensation to producers in the property & casualty, life and health insurance industries in coordination with the Attorney General's Office. In addition, this past year, OGC supervised the Department's participation in the multi-state market conduct exam of UnumProvident and the resulting settlement.

Please Note: *Additional OGC-related information can be found in the 2004 Annual Report as follows: Regulations Promulgated & Repealed (pp. 153-156); Emergency & Consensus Regulations Promulgated (pp. 156-161); Circular Letters Issued (pp. 162-163); Major Litigation (pp. 164-166).*

I. CAPITAL MARKETS BUREAU

1. General Overview

The Capital Markets Bureau, established five years ago, continued to expand its investment and risk management oversight activities in 2004. 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. In addition, the Bureau is increasingly involved in the supervision of public retirement systems. Last year, the Bureau met its objectives by:

- furnishing examination support;
- applying financial analytics to investment portfolios of insurers;
- identifying investment/capital concerns and recommending follow-up actions;
- conducting training for the Department's staff in capital markets and investment portfolio dynamics as they pertain to insurers;
- evaluating corporate governance and risk management practices of select insurers;
- participating in special projects associated with major emerging industry and legislative issues;
- responding to requests by the Life Bureau, Property Bureau , Health Bureau, Office of General Counsel, and Executive Bureau for diverse analytical support;
- interfacing with external entities, including other regulatory bodies, investment firms, risk management consultants, third-party asset managers, and rating agencies;
- leading and participating in various NAIC Working Groups and Task Forces; and
- reviewing new and amended Derivative Use Plans of insurers, and monitoring derivative activity.

The Bureau employed its broadened financial analysis framework designed to assess the investment performance of life and property/casualty insurers. The methodology, highlighting key investment ratios and credit quality ratings, primarily utilized financial information from the NAIC 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 these companies were arranged to gain additional insight into the make-up of their portfolios, and investment rationales and approaches. Moreover, the integration of quarterly data into the reviews distributed to the Bureaus allowed for more comprehensive analysis.

The Bureau also continued to work in conjunction with the Life Bureau to establish and employ appropriate procedures and methodologies for evaluating the diverse investments held by the sizable public retirement systems in New York State. Ongoing development and further enhancement of key measures and review standards related to risk-based capital, risk management and organizational governance practices, and asset-liability management will take place in 2005.

In addition, last year, the Capital Markets Bureau materially increased its participation in on-site examinations, delivered in-house training programs, routinely disseminated news and information that served to enhance examiner understanding of the financial markets, and completed various Bureau-specific special projects. The Bureau's risk management specialists, during 2004, held teleconferences with select third-party asset managers responsible for investing in fixed income securities and managing derivatives for insurers. These exchanges provided additional data and details governing these managers' oversight, compliance practices and interface with client-insurers as well as generated more information on the establishment of and adherence to investment guidelines. Meetings and

teleconferences with rating agencies and investment banks continued to be conducted in order to solicit and exchange information relative to the capital markets activities of insurance companies.

The Capital Markets Bureau maintained its active involvement in the work of the National Association of Insurance Commissioners (NAIC). It presided over key groups responsible for the development of a risk-focused solvency process and the restructuring of the NAIC's Securities Valuation Office (SVO).

2. 2004 Highlights

a. Capital Markets Bureau Reviews

The Bureau performed capital markets reviews on insurance companies selected 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 Bureau utilized a template for transferring certain annual and quarterly investment data from applicable NAIC investment schedules for further analysis in conjunction with the Annual Statement and periodic reviews, and pre-exam and fourth quarter meetings.

The reviews culminated in reports submitted to the bureaus. These reports featured the application of Bloomberg analytics to generate value-at-risk, duration, beta, and other equity and fixed income portfolio risk measurements, and when available or necessary, incorporated analysis of quarterly data. Additionally, migration in average credit quality of bond portfolios was highlighted. If applicable, the reports also included profiles on derivative usage. Depending on the outcome of the analysis, the risk management specialists recommended further action to the financial examination staff.

The Bureau utilized various databases that it developed to facilitate sector and special situation analysis for assessing the degree of impact on insurers' capital adequacy of the volatility of the equity market and the range of credit conditions associated with the fixed income sector. This monitoring exercise served to address the prevailing risk management and capital market concerns in a changing economic and industry environment. In 2004, in addition to keeping abreast of improving quality of certain fixed income investments and the rebound in the equity market, the Bureau oversaw the 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 periodically met with companies specializing in developing sophisticated risk measurement systems.

Table 59
ANALYTICAL EVALUATIONS AND REPORTS
2004

Type of Insurer	Priority 1 Desk Audits	Pre-Exam Reports	Targeted Evaluations	4th Quarter Meetings
Health	8	2	-	9
Life	30	23	30	19
Property	16	39	31	22

The Bureau continued to review 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 conferred with the Property and Life Bureaus on companies whose DUPs initially did not meet the established regulatory standards so that appropriate modifications by these companies could be made. Also, when a company made changes in the type, management or oversight of its derivative activity, the Bureau reviewed its DUP amendment submission.

Primarily, in conjunction with ongoing exams, the Bureau appraised the annual CPA reports on derivative usage and adherence to regulations submitted by the companies. The risk management specialists combined with examiners from the applicable Bureaus followed up with these companies on any significant lack of compliance with their filed DUPs and the associative statutes, and on laxity of internal controls.

In 2004, risk management specialists examined 7 new DUPs. The proposed derivative usage largely reflected a range of swaps and options across various asset classes. Additionally, the Bureau evaluated 9 amended DUPs.

Table 60
DERIVATIVE USE PLAN (DUP) REVIEWS
2004

TYPE OF REVIEW	LIFE	PROPERTY
New DUPs	5	2
Amended DUPs	6	3

b. Examination Participation

Last year, the Capital Markets Bureau was active in utilizing its formulated risk-focused examination procedures related to capital markets oversight. It more than doubled its on-site exam participation by taking part in fifteen examinations. This incremental exam participation was largely on a targeted basis, focusing on specific areas of financial risk either detected by the Bureau in its review of the investment profile of insurers or identified by the examiner-in-charge of the engagement.

In certain instances, particular attention was given to the oversight and usage of derivatives, asset allocation and quality, asset turnover, investments differing from the typical sector profile, and the composition of Schedule BA assets, often comprising hedge and private equity funds. As the complexity of certain investment portfolios has intensified, risk identification, assessment and management by insurers have become increasingly significant functions. Accordingly, more attention was given to select insurers' risk management practices, including modeling, risk measurement and remedial actions to address various risks. In addition, further scrutiny was directed toward the effectiveness of hedging programs for variable annuity products that incorporate minimum guarantees.

In order to refine the preparation process for near-term exams, the Bureau scheduled along with Department examination staff on-site company meetings with the insurer's senior management and external auditor at the commencement of an exam. This exercise served to facilitate understanding of management's strategic goals, to familiarize the Department with the auditor's evaluative approach, and to permit leveraging off the work performed by the CPA firm, minimizing duplication of assessment efforts and resulting in a more risk-focused regulatory exam.

With the emerging news of private pension funds and public sector retirement systems facing increasingly underfunded liabilities, the Department directed the Life Bureau, with the assistance of the

Capital Markets Bureau, to create a pension unit to target more resources to examining the financial condition and risk management approaches of New York State and City public retirement systems. In 2005, the Capital Markets Bureau will continue to help solidify the Department's role in supervising public retirement systems by formulating risk-based solvency standards and enhancing other pertinent measures. Additionally, ongoing refinement will take place in implementing risk identification and risk management reviews and in overseeing governance and compliance practices. Last year, in conjunction with the Life Bureau, the Capital Markets Bureau participated in the scheduled examinations of two public systems and one private pension fund.

Table 61
EXAMINATION PARTICIPATION
2004

BUREAU	EXAMINATIONS
Health	2
Life*	8
Property	5

* Includes examinations of two public retirement systems And one private pension fund.

c. Training Initiatives

The Capital Markets Bureau conducted training principally for the Department's examination, legal and actuarial staff. The training comprised courses in investment portfolio management, particularly associated with fixed income instruments and, in general, capital markets dynamics. Bureau staff and an outside vendor provided these courses to accommodate the growing requirements of senior staff as well as examiner-trainees in expanding their familiarity with such topics.

The Bureau continued to promote the participation of the financial analytical staff of the Department in teleconferences, investor briefings, and meetings held by the various rating agencies. Moreover, it maintained its relationships with the leading insurance equity analysts, ensuring critical access to their industry and company research.

d. Special Projects

The Bureau was involved in a number of special projects stemming from a variety of events, including the changes in the capital markets environment and key legislative initiatives. Its staff conducted research on a wide range of technical topics, developing capital markets concerns, and transactions, and provided recommendations, when applicable. Issues reviewed included:

- rating agencies' perspectives on the pricing and compensation practices of insurance brokers;
- an alternative funding proposal for Lloyd's reinsurance trust;
- the continuing impact of the equity market and low interest rate environment on prospects for annuity products and implications for hedging program effectiveness;
- procedures for the Health Bureau to assess compliance with requirements of the Sarbanes-Oxley Act;
- securitization of insurance-linked assets;
- a risk matrix detailing asset/liability risks and insurers' capital markets operations, in collaboration with Life Bureau's actuaries;

- structured transactions, including principal protected notes and their treatment when considered impaired;
- select alternative investments, such as hedge and private equity funds;
- enhanced disclosure of BA assets by insurers;
- certain derivative transactions, including those associated with offshore portfolios; and
- more accurate filing of the fair value of securities by insurers with the NAIC's Securities Valuation Office.

e. Other Activities

Through the Capital Markets Bureau, New York State represented state insurance regulators via the National Association of Insurance Commissioners on the Joint Forum's Working Group on Risk Assessment and Capital. The Joint Forum was formed in 1996 by the Basel Committee on Banking Supervision, the International Organization of Securities Commissions, and the International Association of Insurance Supervisors to address common issues among banking, securities and insurance regulators. The working group studied credit risk transfer (CRT), primarily credit default swaps (CDS) and collateralized debt obligations (CDOs), among financial services sectors. It included representatives from the Federal Reserve, Office of the Comptroller of the Currency, Securities & Exchange Commission, Bank for International Settlements, and regulatory authorities of several foreign countries, including the United Kingdom, Germany, France and Japan. A survey and interviews of selected U.S. insurers' involvement in CRT markets were conducted, and data on all U.S. insurers' CDS and CDO activity were collected and analyzed using the resources of the SVO and Capital Markets Bureau.

In addition, the Capital Markets Bureau contributed to the formulation of legislative and regulatory proposals. These included (1) issues related to increasing the number of licensed captive insurers; (2) amendments to Article 69 regarding financial guaranty insurance; (3) amendments to the Credit for Reinsurance Regulation to address collateral funding by non-U.S. reinsurers; and (4) development of custodial asset regulation.

The staff also gave capital markets presentations at diverse venues. These venues included: the NAIC's International Insurance Issues Conference for U.S. and overseas regulators, the NAIC Annual Symposium on State Insurance Regulation, the Society of Insurance Financial Management Annual Meeting, the Society of Financial Examiners Career Development Seminar, the North American Securities Valuation Association's Annual Meeting, the Reinsurance Law Seminar, the World Captive Forum, the American Council of Life Insurers Investment Conference, a Life Insurance Council of New York Regulatory Seminar, a Morgan Stanley Insurance Luncheon, and an energy conference at which the boundaries between energy and weather derivatives and insurance were addressed.

The Bureau continued to participate in various Working Groups/Task Forces of the NAIC on behalf of the Department. In 2004, a Bureau representative served as chair of the Valuation of Securities Task Force (VOSTF) and the Insurance Securitization Working Group, and as co-chair of the Risk Assessment Working Group. In addition, Bureau representatives participated as contributing members in various other NAIC groups.

Last year, New York State as chair of the VOSTF, was charged with implementing initiatives adopted in 2003 to bolster the efficiency and effectiveness of the NAIC's Securities Valuation Office. As part of that undertaking, a reorganization of the Office was effected in 2004. Additional attention to enhancing the value of the SVO to the insurance regulatory community through research and direct assistance to state insurance departments on diverse capital markets issues will continue to be a priority in 2005. Moreover, refinements in the filing of investments with the SVO and the new rating appeal process are in effect. The efficacy of these modified processes is being assessed.

During 2004, as co-chair of the Risk Assessment Working Group, New York was instrumental in enhancing the utilization of risk assessment by insurance companies. In June, the Working Group adopted the “Risk-Focused Surveillance Framework” (the "Framework"), a document that entails a roadmap charting a more effective process to monitor and evaluate the solvency of insurers on an ongoing basis. More specifically, the Framework consists of a structured methodology designed to examine, analyze and verify the financial condition as reported by insurance companies on statutory financial statements and to allow for the use of this methodology to establish a forward-looking view on the financial risk profile of insurers. The Framework, which can be incorporated in the priority system utilized by state regulators, is expected to steer regulators to the areas of greatest risk to the financial solvency of an insurer. In addition, the Working Group is devising a prioritization system, known as CARRMEL, which is based upon bank regulators’ use of CAMEL scores. CARRMEL is an early warning system that identifies potential problem insurers. It comprises seven factors using the following designations: “C” – capital adequacy, “A” – asset quality, “R” – reserves, “R” – reinsurance, “M” – management quality, “E” – earnings ability, and “L” – liquidity. During 2005, the Working Group is targeted to complete the incorporation of the Framework into the NAIC Examiners Handbook. Coupled with this integration will be the finalization of the tools/processes set forth in the Framework, such as an “Insurer Profile” that presents a regulatory synopsis of an insurer, and a “Supervisory Plan” that documents the regulator’s strategy relative to the future oversight of the insurer.

Last year, the Capital Markets Bureau represented New York as chair of the Insurance Securitization Working Group. This Working Group is charged with developing regulatory guidance for reviewing securitization plans that are filed with state insurance regulators. A draft of that guidance is being reviewed by an actuarial group at the NAIC. In addition, accounting guidance for index-based, insurance-linked derivatives is being formulated with the Statutory Accounting Principles Working Group.

J. DISASTER PREPAREDNESS AND RESPONSE BUREAU

1. General Overview

The Disaster Preparedness and Response Bureau (DPR) commenced operations on March 1, 2004. The principal function of the Bureau is to assist the Insurance Department and the New York insurance industry to prepare for, mitigate, respond to, and recover from existing and future natural and man-made disasters including modern day terrorism. The Department is the first insurance department in the nation to create such a bureau, dedicated solely to disaster preparedness.

During its first year of operation, the Bureau was engaged in a number of initiatives, as outlined below, to assist the Department in meeting its objectives.

2. Circular Letter 7 (2004)

The Bureau was instrumental in authoring Circular Letter No. 7 (2004) dated August 6, 2004. This Circular Letter requires all authorized life insurers, property/casualty insurers, cooperative property/casualty insurers, financial guaranty insurers, mortgage guaranty insurers, title insurers, reciprocal insurers, captive insurers, accident and health insurers, and Article 43 corporations; registered risk retention groups and employee welfare funds; licensed Public Health Law Article 44 health maintenance organizations and integrated delivery systems, municipal cooperative health benefit plans, retirement systems, fraternal benefit societies, and rate service organizations; State Insurance Fund; New York Property Insurance Underwriting Association; New York Medical Malpractice Insurance Plan; New York Automobile Insurance Plan; Motor Vehicle Accident Indemnification Corporation; and Excess Line Association of New York; to provide the Department with specific information (see items 3 and 4 below) that will assist the Department in responding to natural and man-made disasters.

3. Disaster Response Questionnaires and Plans

All entities listed in item 2 above were required to submit a Disaster Response Questionnaire and Disaster Response Plan to the Department by August 16, 2004 and October 6, 2004, respectively. A total of 915 companies are expected to report information to the Department. The Bureau has processed questionnaires from approximately 76% (694 of 915) of the entities required to submit such reports to the Department, the remaining 221 companies are, in general, small companies. In addition, the Bureau has also received approximately 428 Disaster Response Plans covering 435 companies. Of the 428 plans submitted, approximately 78% (335/428) are in an electronic format. Moreover, the Bureau has been sending out letters to companies whose Plans have been reviewed, requesting updates and amendments to the Disaster Response Plans that were deemed deficient based upon a checklist of items that DPR staff suggested should be included in the Plans.

4. Business Continuity Plan Questionnaires and Plans

All entities listed in item 2 above were also required to submit a Business Continuity Questionnaire to the Department by August 26, 2004. The entities were not required to submit their Business Continuity Plans to the Department, but were required to submit an attestation stating that such a plan existed. Examiners from the Bureau would then verify the existence of such a Plan upon examination. The Bureau has processed questionnaires from approximately 68% (626 of 915) of the entities expected to submit such reports to the Department.

5. Pre-Disaster Data

Circular Letter No. 7 (2004) also required companies writing commercial or personal property insurance in New York State to submit a "Pre-disaster data/information survey" by April 1, 2005. Each property/casualty insurer must provide to the Insurance Department a listing - by New York State county - of property exposure information, as of December 31, 2004 for personal lines (non-auto) and commercial lines (non-auto) for each authorized member within an insurance company group. This data is collected because accurate, timely and consistent information is of critical importance to the Governor and the State Emergency Management Office (SEMO) during disasters.

6. The Department's Disaster Recovery/Business Continuity Plan

The Bureau is involved in updating the Department's Disaster Recovery/Business Continuity Plan (the Plan). The Plan is based on a comprehensive risk assessment and requires staff training that the Bureau will be involved with. The Plan allows the Department to continue mission-critical operations in the event of a disaster directly affecting the Department, and requires testing and updating annually.

7. New York Information Network (NYIN)

The Bureau is responsible for maintenance of the Department's electronic information network. NYIN is a password-protected area on the Department's Web site that contains directives, advisories, and other terrorism-related information addressed to insurers. NYIN also includes an Intelligence/Information Mailbox enabling participants to exchange intelligence and other terrorism-related information with the Department.

8. Public Access Defibrillator (PAD) Program

The PAD program requires the voluntary participation of Department employees who are certified in both Cardiovascular Pulmonary Resuscitation (CPR) and Automatic External Defibrillation (AED). The Bureau developed a PAD program that contains protocols for the administration of a PAD and CPR during a medical emergency that occurs in either the Albany or New York City offices of the Department. The PAD program establishes a medical emergency response program that includes trained and equipped PAD responders who, with appropriate medical oversight, will provide early defibrillation in the event of sudden cardiac arrest. The goal is to defibrillate within three minutes of a witnessed collapse or discovery of the victim. The PAD responders will apply CPR as necessary.

9. West Workspace

The Bureau is involved in maintenance of, and training members of the Department in the use of, West Workspace. West Workspace is a Web-based communication tool operating on the Extranet. It allows for exchange of documents, data, and messages when the Department's own Wide Area Network (WAN) or Local Area Network (LAN) have been impaired. It is used to store mission-critical data, and provides a virtual online meeting room where Department staff can meet and continue business operations.

10. The Incident Command System

Pursuant to Governor Pataki's Executive Order, and modeled after SEMO's Incident Command System, the Department has developed its own framework of managers who have been assigned specific roles/titles in the event of an actual disaster. Members of the Bureau have been attending training in the use of the Incident Command System, and will be conducting training for senior management in the near future.

11. Life Safety Procedures

The Bureau oversees the semi-annual employee fire drills and evacuations procedures. The Department had developed a series of Cohort locations where employees may assemble and be accounted for in the event of an incident that requires the full evacuation of the Department's Albany and/or New York City offices. The Bureau has taken over the maintenance of the employee lists that are used to facilitate Department protocols in the event that such an evacuation is warranted. The Bureau is also responsible for updating the evacuation procedures that are posted on the Department's intranet and West Workspace. The Bureau conducted several training sessions last summer to familiarize Department employees with the aforementioned Department protocols. Finally, the Bureau assisted in the creation of an Employee Toll-Free Safe Line. The purpose of the Toll-Free Safe Line is to provide a means for employees to report into the Department after a disaster. This procedure provides management with the ability to ensure that all employees are accounted for, and to provide instructions to the employees calling in to the Toll-Free Safe Line (*i.e.,* building closings, when to report to work, etc.).

K. 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 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 "alternative insurance mechanisms." As of December 31, 2004, there were 27 captive insurance companies authorized in New York. The assets of these 27 captive insurers posted total assets of $5.8 billion, total liabilities of $1.9 billion and capital and surplus of $3.9 billion. In addition, these captives had net income of $981.7 million, paid premium taxes of $2.1 million and had net premium written of $498.8 million.

There has been explosive growth in captive formation in the past year. In addition, the Department has a dedicated captive team, responsible for the licensing of all captive insurers in New York. The team provides a direct link to decision-makers, features a streamlined licensing process, and the easing of administrative burdens after licensing through 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 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; 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 effectively 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.

L. TRAINING & PROFESSIONAL DEVELOPMENT

Staff training is a core priority for the Department. Newly hired examiner trainees are required to participate in a two-year training program consisting of a combination of lectures, seminars, workshops and classroom instruction, in addition to their regular work assignments. In 2004, 46 trainees participated in the training program.

Professional development of seasoned examiners is encouraged through on-the-job training and attendance at bureau-wide seminars. In 2004, examiners attended six in-house seminars on current issues facing the Department and the insurance industry. Examiners also attended NAIC-sponsored training classes and pursued professional designations. In addition, the Department implemented a 15 month management development program to provide high-level managers with training in management and leadership.

M. 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. Chapter 511 of the Laws of 1999

Chapter 511 of the Laws of 1999 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 these self-insured fees.

3. 2004 Activity

During 2004, MVAIC opened 2,312 new cases. A total of 2,613 cases were settled with payment in 2004 at a moving average cost per claim of $8,521. In 2002 and 2003, the moving average cost per claim was $9,441 and $9,089 respectively. An additional 1,441 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 2004 was 2,972.

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 62
SOURCES OF FUNDS
Motor Vehicle Accident Indemnification Corporation
2002-2004

Source	2004	2003	2002
Net assessments	$37,563,597	$34,742,079	$31,521,831
Self-insurers' fees	247,037	231,298	229,705
Investment income/profit/loss/other	2,201,096	2,144,438	2,861,731
Subrogation recoveries	3,102,645	2,175,378	2,077,610
Total	**$43,114,375**	**$39,293,193**	**$36,690,877**

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Source: Motor Vehicle Accident Indemnification Corporation

Table 63
TRANSACTIONS
Motor Vehicle Accident Indemnification Corporation
2002-2004

Transaction	2004	2003	2002
	Number of Cases		
Pending at beginning of year[a]	3,469	3.836	5,301
Total opened cases[a]	3,557	4,790	4,334
Reported tort and no-fault	2,312	3,614	3,324
Reopened	1,245	1,176	1,010
Total closed cases[a]	4,054	5,157	5,799
Cases closed without payment	1,441	2,018	2,257
Settled cases with payment (No-fault and tort)	2,613	3,139	3,542
Pending at end of year[a]	2,972	3,469	3,836
	Payments of Settled Claims (Before Subrogation)		
Payments to claimants (no-fault & tort)	$20,218,243	$22,285,868	$26,575,573
Allocated expense[b]	3,375,214	3,813,821	3,897,165
	Reserves Year-End (in 000s)		
Total reserves[c]	$57,263	$58,066	$54,075
On pending claims	19,493	24,166	25,785
On claims (IBNR)	23,270	20,900	21,073
Special expense reserve	7,000	5,500	6,959
Unallocated claims expense	7,500	7,500	258

[a] When both tort and PIP are involved, a separate case is established for each.
[b] The Corporation also expended $6,473,511 in 2004, $6,521,916 in 2003, and $5,967,603 in 2002 for operations and maintenance (unallocated expenses).
[c] The surplus in 2004 was $11,564,301; the 2003 surplus, $1,182,378. In 2002, there was no surplus. In 2002, the Corporation established a reserve in accordance with the Financial Accounitng Standards Accounting Board's FASB 106 (Insurance Benefits for Retirees/Revised). In 2004, the FASB 106 reserve and pension was $2,706,060; in 2003 it was $2,400,000; and in 2002, $2,000,000.

Source: Motor Vehicle Accident Indemnification Corporation

The following table distributes, by type of case, the 2,312 claims newly reported during 2004. Uninsured New York automobile drivers represent 54.97% of the total reported cases compared with 61.04% for the previous year, a decrease of 6.07 percentage points.

Table 64
NEWLY REPORTED CASES, BY TYPE
Motor Vehicle Accident Indemnification Corporation
2004

Type of Case[a]	Number of Cases	Percent of Total
No-fault (PIP) and Tort [b]	2,312	100.00%
Uninsured out-of-state automobiles	176	7.61
Uninsured hit-and-run drivers	851	36.81
Uninsured New York automobiles	1,271	54.97
Stolen automobiles	14	0.61
Insurance inapplicable to the accident	0	-
Automobiles operated without consent of owners	0	-
Insured automobiles where the insurance is inapplicable to the accident	0	-
Unregistered automobiles	0	-

[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 2004. Unidentified hit-and-run drivers represented 40.49% of all cases, but accounted for 54.11% 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 65
SETTLED CASES WITH PAYMENT, BY TYPE
Motor Vehicle Accident Indemnification Corporation
2004
(dollar amounts in thousands)

Type of Case	Number of Cases	Percent of Total	Amount Paid*	Percent of Total
Total	2,613	100.00%	$20,218	100.00%
Uninsured out-of-state autos	296	11.33	2,258	11.17
Unidentified hit/run drivers	1,058	40.49	10,940	54.11
Uninsured New York automobiles	1,224	46.84	6,641	32.84
Stolen automobiles	14	0.54	174	0.86
Automobiles operated without consent of the owner	2	0.08	62	0.31
Insured autos where insurance is inapplicable to the accident	16	0.61	135	0.67
Unregistered automobiles	3	0.11	8	0.04

*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 2004 Chapter Law)

This section of the Annual Report covers bills enacted during the 2004 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.*

Chapter 114 of the Laws of 2004 amends the Public Health Law, State Finance Law and Insurance Law as follows:

- The bill adds a new Article 27-J to the Public Health Law to establish comprehensive care centers for eating disorders. Specifically, the bill authorizes the Commissioner of Health to facilitate the development and identification of comprehensive care centers to provide a coordinated, comprehensive system for the treatment of eating disorders, and to conduct community education, prevention, information, referral and research activities. The bill defines "eating disorders" to include, but not be limited to, anorexia nervosa, bulimia and binge eating disorders. In addition, the Commissioner is required to identify a sufficient number of comprehensive care facilities to ensure adequate access in all regions of the State, but must, to the extent possible, initially identify three such centers.

- In order to qualify as a comprehensive care center, the Commissioner must find that the facility can provide a continuum of care tailored to the specialized needs of the individual with eating disorders such as individual health, psychosocial and case management services, in both institutional and non-institutional settings from licensed and certified health care providers. The facility must also demonstrate that it can provide medical/surgical, psychiatric and rehabilitation care in a general hospital or a hospital licensed under the Mental Hygiene Law. Finally, the facility must demonstrate that it can provide residential care and services in either a residential health care facility licensed under Article 28 of the Public Health Law or Article 31 of the Mental Hygiene Law or a residential care program approved by the Commissioner to provide care for persons with eating disorders.

- The Commissioner is authorized to apply for grants and to accept gifts from private and public sources to facilitate the development of comprehensive care facilities. In addition, the Commissioner is directed to annually allocate $1,000,000 from the Health Care Reform Act (HCRA) pools to support the development of comprehensive care centers through the establishment of a grant fund. Finally, the bill amends various sections of the Insurance Law to prohibit insurers from excluding from coverage those services covered under its policy when provided by a comprehensive care center for eating disorders.

Chapter 121 of the Laws of 2004 amends the Insurance Law and Chapter 42 of the Laws of 1996, amending the Insurance Law relating to homeowners' insurance and a temporary panel on homeowners' insurance coverage, as follows:

- The bill amend Sections 5411 and 5412 of the Insurance Law and Section 13 of Chapter 42 of the Laws of 1996 to restore the provisions of the New York Property Insurance Underwriting Association (NYPIUA), which expired on April 30, 2004, and to extend such provisions to June 30, 2005. In addition, the bill makes the extension of the provisions of NYPIUA retroactive to April 30, 2004.

Chapter 125 of the Laws of 2004 amends Chapter 479 of the Laws of 2001, amending the State Administrative Procedure Act relating to establishing an alternative method of implementation of local government regulatory mandates, as follows:

- The bill removes the sunset provision found in Chapter 479 of the Laws of 2001, which added Section 204-a to the State Administrative Procedure Act. By deleting the sunset provision, the bill makes permanent the section of law that permits local governments to petition a state agency to approve an alternative method of compliance with a regulatory mandate.

Chapter 230 of the Laws of 2004 amends the Civil Practice Law and Rules, the Criminal Procedure Law, the Domestic Relations Law, the Education Law, the Executive Law, the Insurance Law, the Mental Hygiene Law, the Penal Law, the Public Health Law, the Social Services Law, the Partnership Law and Chapter 420 of the Laws of 2002, amending the Education Law and other laws relating to the profession of social work, as follows:

- The bill amends a number of different consolidated laws to reflect the changes made by Chapter 420 of the Laws of 2002 which, among other things, created two new professional titles: “licensed master social worker” and “licensed clinical social worker.” Among the laws amended both by this bill and Chapter 420 is the Insurance Law.

- Prior to Chapter 420, Sections 3221 and 4303 of the Insurance Law required insurers to “make available” for sale to groups requesting such benefits, coverage for services rendered by a certified social worker possessing three years post-degree experience in psychotherapy. Those sections also required coverage for the services of certified social workers possessing six years post-degree experience in psychotherapy in group policies that provided benefits for mental health care. Chapter 420 then amended the Insurance Law to change the terminology used in the social worker “make available” and mandated benefits to reflect the newly created licensure requirements while leaving all else the same. This bill makes further changes to Sections 3221 and 4303 regarding coverage of the services of social workers by eliminating the three year experience requirements of those social workers eligible for reimbursement under the "make available" benefit and reducing the six-year experience requirements of those social workers eligible for reimbursement under the mandate to three years post-degree experience in psychotherapy

Chapter 245 of the Laws of 2004 amends the Insurance Law as follows:

- Section 1 of the bill amends Section 110(a) of the Insurance Law to provide that when the Superintendent enters into an agreement to share documents, materials and other information with state, federal and international regulatory agencies and law enforcement authorities, as well as with the National Association of Insurance Commissioners (NAIC), the agreement shall not be construed as limiting the public’s access to those records pursuant to the Freedom of Information Law.

- Section 2 of the bill amends Section 2112(h)(1) of the Insurance Law to provide that any documents, materials or other information in the control or possession of the Superintendent which were furnished by an insurer or insurance producer, or obtained by the Superintendent during the course of an investigation, which relate to the termination of an insurance producer, shall only be deemed privileged and confidential to the Superintendent. Any other person or entity that may also be in possession or control of these documents does not receive the same privileges that are afforded to the Superintendent.

Chapter 326 of the Laws of 2004 amends the Insurance Law as follows:

- Section 1 of the bill amends Section 1113(a) of the Insurance Law by adding a new paragraph 30 defining a new kind of insurance entitled "involuntary unemployment insurance."

- Section 2 of the bill adds a new Section 3448 to the Insurance Law to exempt supplemental involuntary unemployment insurance from the requirements of Insurance Law Sections 3425 and 3426, which relate to cancellation and renewal of policies. It also authorizes the Superintendent to promulgate regulations necessary to govern the policy terms and conditions of involuntary unemployment insurance.

- Section 3 of the bill amends Section 4101(b) of the Insurance Law to add involuntary unemployment insurance to the list of those forms of insurance that are designated as non-basic.

- Section 4 of the bill amends Section 4102(b)(1) of the Insurance Law to provide that a property/casualty insurance company organized and licensed to write basic kinds of insurance may be licensed to write involuntary unemployment insurance as a non-basic kind.

- Sections 5 and 6 of the bill amend Section 4103(a)(1) and Section 4107(b), respectively, to set forth requirements for paid-in capital, paid-in surplus, initial surplus and minimum surplus to be maintained for involuntary unemployment insurance.

Chapter 342 of the Laws of 2004 amends the Insurance Law and the Public Health Law as follows:

- The bill amends various sections of the Insurance Law and the Public Health Law to permit a health maintenance organization (HMO) to exclusively serve individuals in certain government programs without having to open enroll in the individual direct pay market, and the small and large group commercial market. The HMO would also not be required to participate in the Healthy New York Program. Government programs listed in the bill include Medicaid, Medicare, Family Health Plus and Child Health Plus programs.

Chapter 451 of the Laws of 2004 is a Special Act that:

- Establishes a temporary task force within the Department of State on the recruitment and retention of volunteer firefighters and ambulance drivers. The task force would consist of nine members, with the Superintendent of Insurance and the Commissioner of Health serving as *ex officio* members. The goal of the task force is to examine the effectiveness and feasibility of utilizing access to health insurance benefits as a method to recruit volunteer firefighters and ambulance workers. The task force is required to submit a report to the Governor, the Senate Majority Leader and the Speaker of the Assembly on or before December 31, 2005 that details the feasibility of offering health insurance as a way of recruiting volunteers, including the cost of the program to local property taxpayers.

Chapter 462 of the Laws of 2004 amends the Insurance Law as follows:

- The bill adds a new subsection (l) to Section 4310 of the Insurance Law to require that the Insurance Department, in determining the financial condition of not-for-profit health insurers and HMOs, include real estate (buildings, property, capital improvements and appurtenances) owned and held that is utilized in the ordinary course of business of such entities, provided that such real estate may be valued by the corporation at either its current amortized book value or at 90% of its current market value.

Chapter 476 of the Laws of 2004 amends the General Business Law as follows:

- This bill amends Section 396-z of the General Business Law by adding a new subdivision 13-a that would prohibit rental vehicle companies from using information from global positioning system (GPS) technology to determine or impose any costs, fees, charges or penalties on an authorized driver's use of a rental vehicle. This bill would not limit the right of a rental vehicle company to impose costs, fees, charges, or penalties to recover a vehicle that is lost, misplaced or stolen.

Chapter 495 of the Laws of 2004 amends the Insurance Law and the Public Health Law as follows:

- The bill adds a new Section 1122 to the Insurance Law setting forth two pilot programs intended to give relief in the form of "continuation assistance" to two specific groups of the uninsured population of New York State. The first program is the pilot program for entertainment industry employees and it is designed to assist eligible individuals who are entertainment industry workers in obtaining or maintaining continuation of health insurance coverage. The second program performs the same function for displaced workers. "Continuation assistance" is defined as payments made by the Superintendent to an eligible individual, a health plan or insurer, a participating employer or a labor management health benefits fund to allow an eligible individual to obtain or maintain continuation coverage.

- In order to be eligible to participate in these pilot programs, a person must be an entertainment industry employee or displaced worker who: (1) is not eligible for Medicare or Medicaid; (2) is eligible for or currently enrolled under continuation coverage that is not subsidized through continuation assistance pursuant to the Public Health Law; (3) resides in a household with a net household income at or below 208 % of the federal poverty level; and (4) is not eligible for employer provided coverage.

- The Superintendent is required to create an application form to be filled out by prospective applicants, review the completed applications and make eligibility determinations. Upon a determination of eligibility, the Superintendent must issue assistance, to the extent funds remain available, in the amount of 50% of the premium for a period of 12 months. The Superintendent must manage the funds available and, if he determines that such funding is not available to an applicant due to the level of enrollment in the programs, he may deny such application.

- The Superintendent is directed to complete a study of the efficacy of this program and to present the findings of such study to the Legislature.

- The bill also adds a new paragraph (i-1) to Section 2807-v (1) of the Public Health Law requiring the Department of Health to set aside money for the pilot programs from the Healthy New York Program. The Commissioner of Health must reserve and accumulate up to $2.5 million for 2004 and $1.25 for the first six months of 2005 for the program intended for employees of the entertainment industry. The Commissioner must also reserve and accumulate $700,000 for 2004 and $300,000 for the first six months of 2005 to be used for the program for displaced workers.

Chapter 516 of the Laws of 2004 amends the State Administrative Procedure Act, in relation to regulatory agendas, and amends Chapter 402 of the Laws of 1994, amending the State Administrative Procedure Act relating to requiring certain agencies to submit regulatory agendas for publication in the State Register, as follows:

- The bill amends Section 202-d (1) of the State Administrative Procedure Act to add the Department of Motor Vehicles and the Department of State to the list of those State agencies that must submit a regulatory agenda containing their proposed rules to the Secretary of State for publication in the State Register. The bill also allows, but does not require, these agencies to provide an e-mail address that can be used for requests for information and submission of comments concerning their regulatory agendas. Any agency that elects to continually update its Web site is only required to publish a hard copy of its regulatory agenda in the State Register once a year in January.

- The bill also amends Section 2 of Chapter 402 of the Laws of 1994, which established the requirement that certain public entities submit their regulatory agendas for publication in the State Register, to extend the current December 31, 2004 expiration date of such provisions to December 31, 2008.

Chapters 519 and 545 of the Laws of 2004 amends the State Administrative Procedure Act, in relation to regulatory agendas, and amends Chapter 402 of the Laws of 1994, amending the State Administrative Procedure Act relating to requiring certain agencies to submit regulatory agendas for publication in the New York State Register, as follows:

- The bill amends Section 202-d (1) of the State Administrative Procedure Act to add the Department of Motor Vehicles and the Department of State to the list of those State agencies that must submit a regulatory agenda containing their proposed rules to the Secretary of State for publication in the State Register. The bill also allows, but does not require, these agencies to provide an e-mail address that can be used for requests for information and submission of comments concerning their regulatory agendas. Any agency that elects to continually update its Web site is only required to publish a hard copy of its regulatory agenda in the State Register once a year in January.

- The bill also amends Section 2 of Chapter 402 of the Laws of 1994, which established the requirement that certain public entities submit their regulatory agendas for publication in the State Register, to extend the current December 31, 2004 expiration date of such provisions to December 31, 2008.

Chapter 527 of the Laws of 2004 amends the Banking Law and the Insurance Law as follows:

- The bill amends Section 577-a of the Banking Law to provide that where insurance coverage is procured through a wholesale producer for insurance policies financed with a premium finance agency, other than policies issued under the Assigned Risk Plan (Automobile Insurance Plan), the following conditions must be met:

    - prior to or contemporaneously with the advancement of any funds to the retail producer who has procured an insurance policy through a wholesale producer, the retail producer must provide the premium finance agency with the name and address of the wholesale producer through whom coverage was procured and, if available, the policy number of the insurance policy being financed, in writing.

    - the premium finance agency must notify, in writing, the wholesale producer and the insurer of the gross premium, the borrower's name and address, and, if available, the policy number, within ten business days of acceptance of the agreement.

- The bill also provides that any retail producer that fails to comply with the disclosure requirements would be liable for actual damages caused by their failure to disclose.

IV. Regulations Promulgated or Repealed

The following is a summary of Insurance Department regulations promulgated or repealed in 2004. These brief descriptions of the regulations are intended to provide general information and, therefore, should not be used in place of the full text of the regulations or regarded as interpretation of Insurance Department intent or policy.

The 2nd Amendment to Regulation 32-A (11 NYCRR Parts 140, 141, 142, 143, and 144): Private Passenger and Commercial Auto Statistical Plans (Adopted on a permanent basis effective 2/4/04)

Regulation 32-A contains provisions prescribing the format of statistical plans to be used in automobile markets (both private passenger and commercial) in general and for individual classifications in particular. This amendment removes obsolete references and provides a simplified framework for approval and implementation of revisions to statistical plans as market conditions warrant.

By eliminating the specific statistical codes from the regulation and by clarifying that the Insurance Department must approve all statistical plans, the industry will benefit by having the flexibility to appropriately modify the plans as market conditions warrant while being in conformity with the revised wording of the regulation.

The 1st Amendment to Regulation 171 (11 NYCRR 362): The Healthy NY Program Standard Application Form (Effective on an emergency basis since 11/19/01; Adopted on a permanent basis effective 2/11/04)

The Legislature enacted Chapter 1 of the Laws of 1999 to provide for the Healthy NY Program, a new initiative designed to encourage small employers that 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 was 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 eliminates 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 the Healthy NY Program. A simplified standardized application form streamlines the eligibility and administrative process, thereby facilitating enrollment. These provisions enhance the implementation and operation of the Healthy NY Program while improving the efficiency that individuals and small employers enjoy in accessing comprehensive health insurance, as the standard application form is made available from many sources.

The Adoption of the New Regulation 179 (11 NYCRR 100): Recognition of the 2001 CSO Mortality Table (Adopted on a permanent basis effective 6/23/04)

Section 1304 of the Insurance Law requires insurers to maintain reserves for life insurance policies and certificates according to prescribed tables of mortality and rates of interest. Section 4217(c)(2)(A)(iii) permits, as a minimum standard of valuation for life insurance policies, any ordinary mortality table adopted by the National Association of Insurance Commissioners (NAIC) after 1980, and approved by the Superintendent.

One major area of focus of the Insurance Law is solvency of insurers doing business in New York. One way the Department 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. The Insurance Law prescribes the mortality tables and interest rates to be used for calculating such reserves. The prior statutory valuation standard, the 1980 Commissioners Standard Ordinary (CSO) table, was more than 20 years old. Since the time the 1980 CSO table was developed there have been improvements in mortality levels.

The 2001 CSO table is based on mortality experience from the 1990s supplied by insurers that participated in a Society of Actuaries study on mortality. This table replaces the existing 1980 CSO table for valuing the minimum standards for ordinary life insurance. According to the American Academy of Actuaries Task Force Report, it is expected that the 2001 CSO table will produce overall reserves (excluding deficiency reserves) that will be approximately 20 percent lower than those produced by the 1980 CSO table. Since the use of this table will lower the reserves on ordinary life business, insurers may use the 2001 CSO table only if they provide an Actuarial Opinion based on asset adequacy analysis which is in compliance with Part 95 of this Title. This regulation, as amended, gives domestic insurance companies and foreign insurance companies licensed to do business in New York State the ability to compete effectively with companies doing business in other states.

The Adoption of the New Regulation 178 (11 NYCRR 230): Claim Submission Guidelines (Effective on an emergency basis since 8/14/03; Adopted on a permanent basis effective 2/2/05)

Chapters 637 and 666 of the Laws of 1997 amended the Insurance Law relating to the settlement of claims for health care and payment for health care services and took effect January 22, 1998. The legislation was intended to set timeframes within which insurers and HMOs must pay undisputed claims for health care services submitted by subscribers and health care providers. The legislation prescribed penalties in the form of interest payable on claims paid later than 45 days. The law also amended Section 2402 and gave the Superintendent the power to levy monetary penalties against insurers and HMOs for their failure to pay undisputed claims within 45 days of receipt, or untimely denials of claims, or for requesting additional information needed to process the claim beyond 30 days from receipt of the claim. The Insurance Department established mechanisms for accepting complaints from health care providers and created procedures for levying monetary penalties against insurers and HMOs for violations of the prompt payment statute.

One area of continuing concern had been determining when a claim is deemed to be "clean" and therefore ready for payment. This regulation creates claim payment guidelines based on agreement with representatives of the industry on what is needed in order to determine when a health care insurance claim is considered complete and ready for payment. By its terms, the regulation is applicable only to claims submitted on paper.

The 28th Amendment to Regulation 83 (11 NYCRR 68): Charges for Professional Health Services (Adopted on a permanent basis effective 10/06/04)

Chapter 892 of the Laws of 1977 recognized the necessity of establishing schedules of maximum permissible charges for professional health services payable as no-fault insurance benefits in order to contain the costs of no-fault insurance. In order to contain costs, the Superintendent is required to adopt those fee schedules that are promulgated by the Chair of the Workers' Compensation Board. In addition, the Superintendent may, after consulting with the Chair of the Workers' Compensation Board and the Commissioner of Health, establish fee schedules for those services for which schedules have not been prepared and established by the Workers' Compensation Board.

The Workers' Compensation Board fee schedules were initially adopted in 1977 and have been revised regularly since that time in order to reflect inflationary increases and to incorporate other necessary enhancements. Periodic revision to these fee schedules is a part of the ongoing process of

keeping the fee schedules current and reflective of changes in the health care industry, thereby facilitating access to health care for motor vehicle accident victims while controlling costs. Similar modifications and improvements have also been applied to those fee schedules established by the Insurance Department for various health care services that are not covered in any fee schedule established by the Workers' Compensation Board.

The Department adopted accordingly the fee schedule set forth in the New York State Medicaid Management Information System Provider Manual for durable medical equipment, medical/surgical supplies, orthopedic footwear, and orthotic and prosthetic appliances as the schedule that would be utilized for fees payable for the purchase and rental of durable medical equipment, medical/surgical supplies, orthotic footwear and orthotic and prosthetic appliances.

The adoption by the Superintendent of an established fee schedule that is updated was necessary to reflect increased costs and to include newer products as they are developed. In addition, it will provide for more timely payment of health care provider charges and result in a significant reduction in litigation costs that are being incurred due to the variable nature of the current fee schedule rule previously used to establish these costs. Utilization of the established New York State Medicaid fee schedules for durable medical equipment, medical/surgical supplies, orthopedic footwear and orthotic and prosthetic appliances should significantly reduce the number of disputes between insurers and health care providers, resulting in more uniform, efficient and cost effective processing and payment of no-fault claims.

The regulation was also amended to provide that Workers' Compensation fee schedule ground rules will control when determining the proper amount to pay when a licensed non-physician is providing care under the supervision of the licensed health provider. This would apply in any instance where a ground rule permits a licensed non-physician to bill at the supervising licensed health provider's rate, such as in the case of a Physical or Occupation Therapist (PT/OT) working under the supervision of a physician. In all other instances if not specifically controlled by the Workers' Compensation fee schedule, the fee payable is based on the fee schedule of the treating provider. This revision would still establish parity between the independent provider and the multi-specialty practice and reduce the financial incentive for multi-specialty practices to employ various health care providers in order to charge higher fees for services rendered. Physician fees are not being reduced by this amendment when the physician personally performs the service.

The 32nd Amendment to Regulation 62 (11 NYCRR 52): Health Insurance / Infertility Coverage (Adopted on a permanent basis effective 10/27/04)

Insurance Law Section 3217 authorizes the Superintendent to issue regulations to establish minimum standards, including standards of full and fair disclosure, for the form, content and sale of accident and health insurance policies. Section 3221 sets forth the standard provisions to be included in group or blanket accident and health insurance policies written by commercial insurers. Section 4303 governs the accident and health insurance contracts written by non-profit corporations and sets forth the benefits that must be covered under such contracts. Chapter 82 of the Laws of 2002 enhanced Sections 3221(k)(6) and 4303(s) of the Insurance Law by adding coverage for procedures used to diagnose and treat infertility when certain conditions are met and by adding a prescription drug benefit for coverage of prescription drugs approved by the FDA for use in the diagnosis and treatment of infertility. The law directed the Superintendent, in consultation with the Commissioner of Health, to promulgate regulations that shall stipulate the guidelines and standards that will be used in carrying out the mandates of the legislation.

This amendment directs insurers to use standards and guidelines no less favorable than those established and adopted by the American Society for Reproductive Medicine in relation to the determination of infertility, the identification of experimental procedures and treatments not covered for the diagnosis and treatment of infertility, the identification of the required training, experience and other

standards for health care providers for the provision of procedures and treatments for the diagnosis and treatment of infertility and the determination of appropriate medical candidates by the treating physician. This amendment provides insurers with guidance in interpreting the mandates of Chapter 82, Laws of 2002.

The 2nd Amendment to Regulation 144 (11 NYCRR 39): Partnership for Long-Term Care Program (Adopted on a permanent basis effective 1/26/05)

By Chapter 454 of the Laws of 1989, as amended by Chapter 659 of the Laws of 1997, the Legislature enacted the Partnership for Long-Term Care Program ("the Program") to provide that citizens of New York State who purchase a long-term care insurance policy/certificate under the Program, and who exhaust benefits under such policy/certificate, will become eligible for long-term care protection through the New York State Medicaid program. Regulation 144 establishes the standards and requirements relating to the Program.

This amendment to Part 39 of 11 NYCRR was necessary to expand the plan design options under the New York State Partnership for Long-Term Care Program. Prior to the amendment there was only one plan design offered.

The previously existing plan design (referred to as the 3/6/50 plan) provides minimum coverage of three years for nursing home benefits, or six years for home care benefits at half the nursing home benefit rate, and full asset protection under Medicaid upon exhaustion of policy benefits.

Two new plan designs (referred to as the 1.5/3/50 plan and the 2/2/100 plan) are included in this amendment. They provide more limited benefit periods, are more affordable, and provide partial asset protection under Medicaid. As minimum standards, these plan designs also allow the flexibility of offering greater benefits within the same structure. The third new plan design (referred to as 4/4/100) offers the longest benefit periods, the most comprehensive benefits with greater flexibility that may extend a consumer's ability to remain living in their own homes, and provides full asset protection under Medicaid.

This amendment provides more options for New York residents both in terms of covered benefits, flexibility, affordability, and asset protection under Medicaid upon exhaustion of policy benefits. The enhancement of the Partnership program through this amendment will effectuate a more attractive product that will broaden the long-term care insurance market and encourage independent financial responsibility on the part of consumers.

Emergency Regulations

The following is a summary of Insurance Department Regulations promulgated on an emergency basis in 2004 that were in effect on December 31, 2004. No final action was taken with regard to these Regulations in 2004 although it is anticipated that they will be permanently adopted in 2005. These brief descriptions of the regulations are intended to provide general information and, therefore, should not 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 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 & 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 previous version of the regulation provided 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 previous regulation required 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.

Beginning with year-end 2003, where the requirements of this regulation produce reserves higher than those calculated at year-end 2002, the insurer may linearly interpolate, over a four-year period, between the higher reserves and those calculated based on the year-end 2002 standards. Insurers must be in full compliance with this Part by year-end 2006. This allows insurers subject to the regulation ample time to achieve full compliance, since this regulation has been adopted on an emergency basis since December 31, 2002.

The 2nd 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 3/28/03)

A significant number of New York residents currently have no health insurance. A large portion of that uninsured population is made up of individuals employed in small businesses. Due in part to the rising cost of health insurance coverage, many small employers are currently unable to provide health insurance coverage to their employees. Additionally, the problem of the uninsured has been exacerbated by national events impacting the labor market and access to employer-based health insurance coverage. Chapter 1 of the Laws of 1999 enacted the Healthy NY Program as an initiative designed to encourage small employers to offer health insurance to their employees and to encourage uninsured individuals to purchase health insurance coverage.

This amendment is necessary to introduce a second Healthy NY benefit package at a reduced premium rate. The second benefit package provides for a lower cost alternative and gives individuals and small businesses the choice of a benefit package that meets their needs. The amendment deletes the well child copayment applicable to the Healthy NY Program in order to enhance access to preventive and primary care for children. The amendment permits the Healthy NY Program to be considered qualifying health insurance under the federal Trade Act of 2002 to allow those qualifying for a federal tax credit to benefit from that credit. The amendment revises the eligibility requirements

relating to employment in order to lessen complexity and enhance access. The amendment provides that child support payments shall not be treated as income of the parents for the purpose of determining household income eligibility equitably.

The amendment deletes the applicability of certain documentation requirements in connection with the re-certification process and facilitates re-certification closer to annual renewal date. This will allow for simplification of the re-certification process to assist in ensuring continuity of coverage for low-income individuals. The amendment clarifies that qualifying small employers choosing to offer coverage to part-time workers may choose the level of premium contribution on behalf of these workers to encourage employers to extend coverage to part-time workers. The amendment provides that employers making a *de minimis* contribution to employee premiums shall not be forced out of the Healthy NY Program for this reason. This *de minimis* amendment will avoid penalizing vulnerable employers for such premium contributions and will encourage these employers to purchase Healthy NY coverage subject to a 50% premium contribution requirement. The amendment clarifies that health maintenance organizations and participating insurers may reinsure their Healthy NY business if it achieves a favorable premium impact. The amendment also adjusts the stop loss corridors for the program in order to effectuate a level of premium reduction sufficient to encourage more currently uninsured businesses and individuals to purchase comprehensive health insurance coverage. These revisions should provide low-income individuals and vulnerable small businesses with enhanced access to the Healthy NY Program.

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 were required to 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. 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 Adoption of the New Regulation 180 (11 NYCRR 48): Key Person Company-Owned Life Insurance (Effective on an emergency basis since 6/2/04)

The insurable interest requirements contained in Section 3205 reflect the state's public policy against contracts wagering on human life. Section 3205(b)(2) prohibits the issuance of any policy upon the life of another person unless the beneficiary is the insured, personal representative of the insured, or a person having an insurable interest in the insured at the time the policy is issued.

In 1996, the Legislature added new subsections (d) and (e) to Section 3205 of the Insurance Law (L. 1996 c. 491) to specifically grant employers an insurable interest in any employee or retiree who is eligible to participate in an employee benefit plan. The Legislature enacted Section 3205(d) in order to assist employers with the financing of employee benefit plans through the use of corporate-owned life insurance ("COLI") purchased on the lives of employees.

The purpose of this regulation is to establish standards for life insurers issuing key employee COLI, pursuant to Section 3205(a) rather than Section 3205(d) to ensure that the employees on whose lives coverage is being written pursuant to Section 3205(a)(1)(B) of the Insurance Law are actually key employees. The definition of key employee in this proposed regulation is based on the definition of key employee set forth in a draft bill pending in the United States Senate which provides for the taxation of death proceeds of COLI under certain circumstances.

It is imperative that insurers be provided with standards for key employees to ensure that such employees are key employees and to avoid the potential for any abuses in the market. The establishment of a key employee standard will provide such guidance. In addition, the key employee standard will enhance the Department's market conduct exams by providing field examiners with a reference point. Field examiners currently lack statutory or regulatory standards for determining the proper application of Section 3205(a) and, specifically, whether COLI insurance issued pursuant to Section 3205(a) is on key employees.

The 1st Amendment to Regulation 147 (11 NYCRR 98): Valuation of Life insurance Reserves (Effective on an emergency basis since 12/29/04)

One major area of focus of the Insurance Law is the solvency of insurers doing business in New York. One way the Department seeks to ensure solvency is through requiring all insurers authorized to do business in New York State to hold reserve funds necessary in relation to the obligations made to policyholders.

Some companies have sold life insurance products that result in reserves being held that are lower than the reserves that would be required for products with similar death benefit and premium guarantees and are therefore holding reserves lower than those intended by Section 4217 of the Insurance Law and the current version of Regulation 147. The new reserve methodologies in this amendment address this problem. Not adopting this amendment could result in inadequate reserves for some insurers, which would jeopardize the security of policyholder funds. The regulation will also set standards for determining policy reserves for credit life insurance.

Consensus Regulations

Section 102(11) of the State Administrative Procedure Act states that a "Consensus rule" is a rule proposed by an agency for adoption on an expedited basis pursuant to the expectation that no person is likely to object to its adoption because it merely (a) repeals regulatory provisions which are no longer applicable to any person, (b) implements or conforms to non-discretionary statutory provisions, or (c) makes technical changes or is otherwise non-controversial. The Insurance Department acted to amend or repeal a number of rules on a consensus basis. Those actions are listed here with brief summaries.

The 2nd Amendment to Regulation 3 and the 2nd Amendment to Regulation 97 (both are 11 NYCRR 4): Rules Governing the Procedures for Adjudicatory Proceedings Before the Insurance Department (Adopted on a permanent basis effective 2/4/04)

This amendment removes obsolete references to addresses of offices of the New York State Department of Health and State Education Department and inserts the current correct addresses.

The 2nd and 3rd Amendments to Regulation 68-D (11 NYCRR 65-4): Comprehensive Motor Vehicle Insurance Reparations Act / Arbitration (Adopted on a permanent basis effective 2/4/04)

Regulation 68 contains provisions implementing Article 51 of the Insurance Law, known as the Comprehensive Motor Vehicles Insurance Reparations Act, popularly referred to as the No-Fault Law. The second amendment made a technical correction of an obviously erroneous cross-reference in Section 65-4.5(o)(3)(ii) of Part 65-4. The third amendment inserts a requirement that was inadvertently not included in the previously revised regulation: the long-standing administrative procedure that the designated administrator of the no-fault administration system will consult with the Insurance Department before making final determinations on requests to recuse an arbitrator for conflict of interest. The rule also provides that determinations shall be in writing and in a format approved by the Department. These changes are technical in nature and are non-controversial.

The 7th Amendment to Regulation 46 (11 NYCRR 9): Department Publications and Forms (Adopted on a permanent basis effective 2/4/04)

Regulation 46 establishes rules concerning the sale of publications and forms of the Insurance Department. This amendment deleted references to documents that are no longer published, added more modern references to documents, and added a reference to the Insurance Department's Web site address.

The 2nd Amendment to Regulation 52-A (11 NYCRR 80-2): Standards for Producer Controlled Insurers (Adopted on a permanent basis effective 2/4/04)

The amendment repealed Section 80-2.6, which contained obsolete provisions specifying actions that were required to be completed in 1991.

Five Parts of Title 11 (*Parts 21, 22, 23, 25, and 26)(Regulations 5, 6, 7, 10 and 25*) Limited Liability Company Law (Adopted on a permanent basis effective 3/31/04)

This regulation permits limited liability companies to apply for and obtain licenses under Article 21. This amendment concerns notification of change of address by licensees under Article 21, to reflect a change in statutory language as set forth in new Section 2134 of the Insurance Law, added by Chapter 687 of the Laws of 2003.

The 1st Amendment to Regulation 68-C (11 NYCRR 65-3): Comprehensive Motor Vehicle Insurance Reparations Act/Claims for PIP Benefits (Adopted on a permanent basis effective 5/19/04)

Regulation 68 contains provisions implementing Article 51 of the Insurance Law, known as the Comprehensive Motor Vehicles Insurance Reparations Act, popularly referred to as the No-Fault Law. The amendment to Regulation 68-C conforms the fraud warning statement contained in no-fault claim forms with the statutory language as contained in Regulation 95; amends any incorrect references and typographical errors; and presents the forms in a more easily readable format.

The 3rd Amendment to Regulation 172 (11 NYCRR 83): Financial Statement Filings and Accounting Practices and Procedures (Adopted on a permanent basis effective 5/19/04)

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. This amendment deletes obsolete references to certain Web sites.

The 11th Amendment to Regulation 64 (11 NYCRR 216): Unfair Claims Settlement Practices and Claim Cost Control Measures/Private Passenger Automobiles Involved in Total Losses (Adopted on a permanent basis effective 6/23/04)

This amendment relates to Unfair Claims Settlement Practices and Claim Cost Control Measures. It replaces the references in Section 216.8 to the National Insurance Crime Bureau (NICB) with an unspecified "central organization" designated by the Superintendent, which will receive and investigate automobile total losses. The central organization may also contract with another reporting entity acceptable to the Superintendent to assist it in executing its responsibilities pursuant to this Part.

The 5th Amendment to Regulation 71 (11 NYCRR 241): Availability of Insurance Department Records (Adopted on a permanent basis effective 8/11/04)

This regulation concerns the availability of Insurance Department records. The amendment updated references to names of bureaus within the Department and added a reference to the Department's Web site.

The 4th Amendment to Regulation 172 (11 NYCRR 83): Financial Statement Filings and Accounting Practices and Procedures (Adopted on a permanent basis effective 9/15/04)

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. This amendment updates a citation in Section 83.2(c) to refer to an accounting manual entitled *Accounting Practices and Procedures Manual as of March 2004* (instead of 2003).

V. Circular Letters Issued In 2004*

Number	Date	Addressed to	Subject
1	2/27/04	All carriers participating in the New York market stabilization pools for individual and small group health insurance, other than Medicare Supplement Insurance	Regulation 146 Individual and Small Group Health Insurance Market Stabilization Pools
2	3/24/04	All Licensed Property and Casualty Insurers	Treasury Department Survey on the Terrorism Risk Insurance Program
3	4/30/04	All Authorized Property/Casualty Insurers, Rate Service Organizations and Insurance Producer Organizations	Termination of Article 54 of the New York Insurance Law
4	7/09/04	All Insurers Licensed to Write Accident and Health Insurance in New York State ("Commercial Insurers"), Article 43 Corporations and Health Maintenance Organizations	Health Savings Accounts and High Deductible Health Plans
5	8/18/04	All Property/Casualty Insurance Companies; Co-operative Property/Casualty Insurance Companies; Reciprocal Insurers; Financial Guaranty Insurance Corporations; and New York Medical Malpractice Insurance Plan	Property/Casualty Insurance Security Fund Reporting Information & Instructions Quarterly Report Form
6	8/09/04	All Insurers Authorized to Write Life Insurance and Annuities, Including Life Insurers, Fraternal Benefit Societies, Charitable Annuity Societies and All Licensed Viatical Settlement Companies	Procedural Changes in the Approval Process for Life Insurance and Annuity Policy Form Submissions
7	8/06/04	All licensed life insurers, employee welfare funds, retirement systems, governmental variable supplements funds, property/casualty insurers, co-operative property/casualty insurers, financial guaranty insurers, mortgage guaranty insurers, title insurers, reciprocal insurers, accident and health insurers, Article 43 corporations, municipal cooperative health benefit plans, and rate service organizations; State Insurance Fund; New York Property Insurance Underwriting Association; New York Medical Malpractice Insurance Plan, New York Automobile Insurance Plan, Motor Vehicle Accident Indemnification Corporation; Excess Line Association of	Disaster Planning, Preparedness and Response

Number	Date	Addressed to	Subject
		New York; registered risk retention groups; service contract providers; Public Health Law Article 44 health maintenance organizations and integrated delivery systems, licensed to do business in New York State	
8	10/05/04	All Motor Vehicle Automobile Self-Insurers, and Insurers Authorized to Write Motor Vehicle Insurance in New York State and the Motor Vehicle Accident Indemnification Corporation	Revision to the No-Fault Fee Schedules - Adoption of the 28th Amendment to Regulation 83
9	10/20/04	All Insurers Authorized to Write Accident and Health Insurance in New York State, Including Article 43 Corporations and Health Maintenance Organizations	Implementation of Electronic Rates and Forms Filings Using the System for Electronic Rate and Form Filings
13	12/29/04	All authorized life insurers, property/casualty insurers, co-operative property/casualty insurers, financial guaranty insurers, mortgage guaranty insurers, title insurers, reciprocal insurers, captive insurers, accident and health insurers, and Article 43 corporations; registered risk retention groups and employee welfare funds; licensed Public Health Law Article 44 health maintenance organizations and integrated delivery systems, municipal cooperative health benefit plans, retirement systems, fraternal benefit societies, and rate service organizations; State Insurance Fund; New York Property Insurance Underwriting Association; New York Medical Malpractice Insurance Plan; New York Automobile Insurance Plan; Motor Vehicle Accident Indemnification Corporation; and Excess Line Association of New York	Financial Services Information Sharing and Analysis Center

*Circular Letters No. 10, 11 and 12 were not issued in 2004.

VI. Major Litigation

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
Appellate Division, First Department
New York Court of Appeals

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 were 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 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.

Plaintiffs filed a Notice of Appeal of the February 28, 2003 decision. The State Defendants then cross-appealed the February 28, 2003 decision. Plaintiffs subsequently amended their complaint and defendants moved to dismiss. In a memorandum decision dated October 1, 2003, Justice Gammerman denied the motion to dismiss. The State Defendants then took an interlocutory appeal of the decision denying the motion to dismiss. On appeal, the Appellate Division, First Department, affirmed both decisions of Justice Gammerman. By order dated October 12, 2004, the Appellate Division granted the plaintiffs and the defendants leave to appeal to the Court of Appeals, where the case is currently pending.

Atlantic Express Transport Group Inc., et al. v. Gregory V. Serio
Carmine Montemarano, et al. v. Gregory V. Serio
Supreme Court, New York County
Appellate Division, First Department

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 who were insured by Reliance and 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 ("PMV Fund"), because the PMV Fund is "financially strained" they cannot be provided either defense or indemnification at this time. The petitioners alleged that the failure of the PMV 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.

The *Montemarano* case was transferred to Justice Michael Stallman, who presides in the ancillary receivership proceeding. On March 27, 2003, Justice Stallman issued a decision and order dismissing the Article 78 proceeding. The Court held that the Superintendent had demonstrated that the PMV Fund did not possess sufficient assets to cover outstanding claims, and therefore he had not abused his discretion by declining to provide coverage in light of the Fund's financial condition. The Court also ruled that the Property/Casualty Insurance Fund is separate from the PMV Fund, and that the Superintendent could not, as requested by the petitioners, commingle the assets of the two funds, or take or borrow from one to satisfy claims made against the other. The Court also noted that if the present statutory structure and funding formula is inadequate to meet current and future needs, "it is the responsibility of the Legislature and the Governor to address it promptly through the legislative process." On June 1, 2004, the Appellate Division, First Department, affirmed the decision of Justice Stallman.

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. In January 2004, the petitioners filed another Article 78 proceeding in which they seek a stay of all litigation involving lawsuits against policyholders and insureds of Reliance for 180 days, or until such time as there are sufficient funds in the PMV Fund to provide defense and indemnification to Reliance policyholders and insureds. The proceeding was transferred to Justice Stallman. Both the Department and the Liquidation Bureau have filed answers seeking dismissal of the petition.

Excellus Health Plan, Inc. v. Gregory V. Serio
Supreme Court, Albany County
Appellate Division, Third Department
New York Court of Appeals

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. On April 6, 2004, the Court of Appeals affirmed the order of the Appellate Division, with one Judge dissenting in part. The Court held that under the "clear wording" of Section 4308(g)(1), "once the Superintendent receives a new premium rate filing, accompanied by the requisite actuarial certification, the rates specified in the filling are approved by operation of law." The Court noted that the remedy sought by the Superintendent on grounds of public policy -- traditional review of rate filings made under Section 4308(g) -- "lies with the Legislature, not with the courts."

Catholic Charities of the Diocese of Albany, et al. v. Gregory V. Serio
Supreme Court, Albany County
Appellate Division, Third Department

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.

On November 25, 2003, the Supreme Court (Acting Justice Dan Lamont) granted the Superintendent's motion for summary judgment and dismissed the complaint. The Court held that the Women's Health and Wellness Act does not violate any of the plaintiffs' constitutional rights under the United States and New York State Constitutions, nor does it violate any other New York State law. The plaintiffs have filed an appeal to the Appellate Division, Third Department, where the case is currently pending.

Charlene Polan v. State of New York Insurance Department
Supreme Court, New York County
Appellate Division, First Department
New York Court of Appeals

In this Article 78 proceeding the petitioner had filed a complaint with the Department's Consumer Services Bureau in which she claimed that the 24-month limitation for disabilities caused by mental and nervous disorders or diseases in her employer's group disability policy violated Section 4224(b)(2) of the Insurance Law. That statute prohibits insurers from limiting "the amount, extent or kind of coverage available to an individual . . . solely because of the physical or mental disability, impairment or disease, or prior history thereof, of the insured or potential insured" except where such limitation is based on sound actuarial principles. The petitioner contended that the disability policy violated the statute because coverage for physical disabilities extended to age 65 without a 24-month limitation. The Department rejected the complaint, finding no violation of Section 4224(b)(2), because the petitioner was offered the same benefits as all other employees covered under the group policy. The Department advised the petitioner that the statute does not require insurers to provide the same level of benefits for all conditions.

The Supreme Court (Justice Robert Lippmann) upheld the Department's interpretation of Section 4224(b)(2) and dismissed the Article 78 petition. On December 2, 2003, the Appellate Division, First Department, affirmed (with two Justices dissenting). In a unanimous decision issued July 1, 2004, the Court of Appeals affirmed. The Court of Appeals agreed with the Department's interpretation of Section 4224(b)(2), noting: "As pointed out by the Department, the statute's proscription against 'limiting the amount, extent or kind of coverage' in this context does not mean, as petitioner argues, that an insurer must provide the same benefits for all disabilities. Rather, section 4224(b)(2) forbids an insurer from limiting coverage by providing less generous benefits to a disabled individual than to a nondisabled individual."

VII. 2005 Legislative Recommendations

These are the legislative recommendations available at press time. Additional recommendations may be submitted throughout the year. The information that follows was accurate at the time the legislative recommendations were forwarded to the Legislature for introduction.

Insurance Department Bills for 2005

1. Establishes Risk-Based Capital (RBC) Requirements for Property/Casualty Insurance Companies and Procedures to Enforce Compliance: Departmental Bill No. 107

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 90 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, analyses 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 amends subsection (b) of Section 2402 of the Insurance Law to include a violation of Section 1324 (i)(2)(B) as a defined violation.

Section 3 of the bill amends subsection (o) of Section 7402 to include an authorized control level event or a mandatory control level event as a new ground for rehabilitation of a domestic property/casualty insurer (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 4 of the bill amends Section 1322(e)(l)(H) and Section 1322(h)(1)(C) 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 5 of the bill contains a severability provision.

Section 6 provides for an immediate effective date.

2. Establishes the Interstate Insurance Product Regulation Compact to Regulate Certain Insurance Products: Departmental Bill No. 69

Establishes an interstate insurance product regulation compact. The purposes of this compact are, through means of joint and cooperative action among the compacting states:

a. to promote and protect the interest of consumers of individual and group annuity, life insurance, disability income and long-term care insurance products;

b. to develop uniform standards for insurance products covered under the compact;

c. to establish a central clearinghouse to receive and provide prompt review of insurance products covered under the compact and, in certain cases, advertisements related thereto, submitted by insurers authorized to do business in one or more compacting states;

d. to give appropriate regulatory approval to those product filings and advertisements satisfying the applicable uniform standard;

e. to improve coordination of regulatory resources and expertise among state insurance departments regarding the setting of uniform standards and review of insurance products covered under the compact;

f. to create the interstate insurance product regulation commission; and

g. to perform such other related functions as may be consistent with the state regulation of the business of insurance.

Section 1 of the bill provides legislative findings.

Section 2 adds a new Article 88 to the Insurance Law entitled the "Interstate Insurance Product Regulation Compact" (hereinafter referred to as the "Compact"). This Article consists of 17 new bill sections: Sections 8801 - 8817.

The bill creates an Interstate Insurance Product Approval Commission (hereinafter referred to as the "Commission") and provides the statutory framework for states to enter into an interstate insurance product regulation compact.

The Compact would establish a single point of filing for certain insurance products and rate filings which would be subject to uniform national standards. Those states that are members of the Compact would develop the uniform standards that apply to products filed with the Commission. Product standards would be developed through a rulemaking process which would require the approval of two-thirds of the commission management committee and two-thirds of the commission members. Unless a state opts out as described below, approval of a product by the Compact would be the same as approval by a member state. The bill would, however, allow companies the option to continue to file products in the individual states through the existing form filing processes. The bill also provides that individual states will continue to regulate market activities and allows for coordination among states and the Commission to determine instances of violations of uniform standards subject to the final order of the Commission.

If a state disagrees with a product standard developed by the Commission, it may opt out of the uniform standard either by regulation or legislation. For long-term care insurance, states may opt out at the time of joining the Compact ("front-end" opt out). In order to opt out by regulation, a state must show that the uniform standard does not provide reasonable protections to the citizens of the state and that the needs of the state outweigh the Legislature's intent to participate in and receive the benefits of the Compact.

The Compact would become effective when two states enact compact legislation. The Commission becomes operational (that is, adopting uniform standards, receiving products and giving approvals/disapprovals) if 26 states or states representing 40% of the premium for life, annuities, disability income insurance and long-term care join the Compact.

Operations of the Commission would be financed initially through contributions and other sources of funding and over time through the filing fees paid by insurers.

All states joining the Compact would be involved in setting up and overseeing the activities of the Compact, including developing product standards and the rules and operating procedures of the Commission.

The Commission would make an annual report to the legislature and governor of each state joining the Compact. In addition to opting out of particular product standards, each state has the right to withdraw from the Compact, by enacting a statute repealing this bill.

Section 3 of the bill provides for an immediate effective date.

3. Authorizes Procedure for Administrative Supervision by the Superintendent of Insurance of Insurers: Departmental Bill No. 67

Section 1 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 or her 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.

Section 3 sets forth a July 1, 2006 effective date.

VIII. Regulatory Activities

A. OPERATING STATISTICS

1. Licenses Issued During Year

Table 66
LICENSES ISSUED DURING YEAR
2003 and 2004

	2004	2003
Total	**108,558**	**127,713**
Adjusters[a]		
Independent	6,773	1,123
Public	220	144
Agents[b]		
Life/Accident and Health	25,500	113,897
Property and Casualty	38,518	6,900
Rental Vehicle	36	4
Mortgage Guaranty Insurance	1	3
Bail Bond	40	84
Limited Lines[c]	18	0
Personal Lines[d]	880	0
Brokers[e]		
Life	944	1,571
Property and Casualty	33,696	3,387
Excess Line (Regular)	859	171
Excess Line (Limited)	495	43
Viatical Settlement	16	13
Consultants[f]		
Life	9	187
General	355	32
Reinsurance Intermediaries[g]	183	28
Service Contract Registrants[h]	15	126

Note: Footnotes to table appear on next page.

Footnotes to Table 66

[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] Personal Lines is a new major line for agents and brokers which became effective with the passing of the Producer Model Licensing Act. This new class of license covers Property/Casualty insurance that would cover only the risks encountered by individuals. Most often this insurance would cover personal automobiles and homes. Inasmuch as this is a specialized area of insurance, a specific exam was developed for applicants for this class of license. Personal Lines licenses are renewable biennially as of July 1 (agent) and November 1 (broker) of even numbered years.

[e] 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.

[f] 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.

[g] Reinsurance Intermediary licenses issued pursuant to Section 2106 are renewable biennially as of September 1 of even numbered years.

[h] 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 67
RESULTS OF EXAMINATIONS FOR LICENSES
Adjusters, Agents, Brokers and Consultants
2003 and 2004

Type of Examination	2004 Number Taking Examination	2004 Percent Passing	2003 Number Taking Examination	2003 Percent Passing
Total	**31,736**	**48%**	**40,731**	**54%**
Public Adjusters	118	35	68	51
Independent Adjusters - Total	2,945	57	3,191	58
Accident and Health	234	58	212	72
Automobile	353	60	359	49
Aviation	0	0	0	0
Casualty	762	46	775	51
Fidelity and Surety	0	0	11	80
Fire	122	54	86	52
General (All Lines)	628	42	329	39
Health Service Charges	83	47	90	62
Inland Marine	63	43	3	100
Limited Auto (Damage or Theft Appraisals only)	700	84	1,326	75
Agents and Brokers - Total	28,663	47	34,749[c]	54
Agt/Broker, A&H	3,909	49	14,129	62
Agt/Brk, A&H (Spanish)[a]	3	0	0	0
Agt/Brk, Life	9,960	38	18,385	46
Agt/Brk, Life (Spanish)[a]	210	8	0	0
Agt/Brk, Life, A&H	8,564	51	0	0
Agt/Brk Life, A&H (Spanish)[a]	1	100	0	0
Agt, Property and Casualty	1,548	50	2,185	58
Broker, Property and Casualty	3,012	47	2,707[c]	49[c]
Agt, Mortgage Guaranty	1	100	4	100
Agt, Credit	0	0	0	0
Agt/Brk, Personal Lines[b]	1,432	74	0	0
Agt, Bail Bond	23	74	36	58
Consultants - Total	10	40	26	58
Life	7	29	23	17
General	3	67	3	100

[a] In 2004, the Department began providing Agent/Broker Life examinations as well as Accident and Health exams in Spanish.

[b] In 2004, the Producer Licensing Model Act was signed into Law which, among other things, provided a line of licensing authority that covers *Personal Lines* Property and Casualty insurance. As a result, the Department developed a new examination covering only personal lines property and casualty insurance.

[c] In the comparable table published in the 2003 Annual Report, Brokers and Agents were broken out as separate categories. Thus, there was no category labeled “Agents and Brokers – Total” in last year’s report. The 34,749 total listed in the above table reflects only the total number of agents who took the exam in 2003. Moreover, the 2,707 number of property and casualty brokers who took the exam in 2003 was attributable simply to “Brokers” in the 2003 Annual Report.

3. Changes in Authorized Insurers During 2004

a. Life Insurance Companies

Amendments to Charter

Farm Family Life Insurance Company, Town of Bethlehem, NY	Feb. 18
Teachers Insurance and Annuity Association of America, of New York, NY	Mar. 18
Sun Life Insurance and Annuity Company of New York, New York, NY	Apr. 30
Sentry Life Insurance Company of New York, Syracuse, NY	June 7
First Security Benefit Life Insurance and Annuity Company of New York	Sept. 1

Change of Names

"CNA Group Life Assurance Company" to "Hartford Life Group Insurance Company," Chicago, IL	May 3
"Conseco Direct Life Insurance Company" to "Colonial Penn Life Insurance Company," Philadelphia, PA	May 24
"CIGNA Life Insurance Company" to "Prudential Retirement Insurance and Annuity Company," Hartford, CT	June 25
"Equitable Life Assurance Society of the United States" to "AXA Equitable Life Insurance Company"	Sept. 7
"First Safeco National Life Insurance Company of New York" to "First Symetra National Life Insurance Company of New York"	Sept. 8
"Zurich Life Insurance Company of New York" to Chase Insurance Life Company of New York," New York, NY	Nov. 1

Restated Charters

North American Company for Life and Health Insurance of New York, Garden City, NY	Feb. 26
Amalgamated Life Insurance Company, New York, NY	Mar. 26
Bankers Life Insurance Company of New York, Woodbury, NY	Apr. 12
Teachers Insurance and Annuity Association of America, New York, NY	Aug. 11

b. Accident and Health Insurance Companies

Charter Amendment

Fiduciary Insurance Company of American, Long Island City, NY	June 21

c. Property and Casualty Insurance Companies

Domestic Companies Incorporated

Scholastic Insurance Company, County of Westchester, NY	April 1
Park Insurance Company, New York, New York	Nov. 23

Domestic Companies Licensed

TNUS Insurance Company, New York, NY	July 1
United States Branch of the Nichido Fire and Marine Insurance Company, Limited (United States Branch)	July 1

Foreign Companies Licensed

MEMIC Indemnity Company, Manchester, NH	Jan. 7
Professional Solutions Insurance Company, Clive, IA	May 17
Sentry Casualty Company, Stevens Point, WI	June 2
Universal Casualty Company, Elk Grove Village, Il	June 25
IDS Property Casualty Insurance Company, De Pere, WI	July 13
The Bar Plan Mutual Insurance, St. Louis, MO	July 21
General Fidelity Insurance Company, San Diego, CA	July 27
Clermont Insurance Company Urbandale IA	Sept. 14
Housing Authority Property Insurance, A Mutual Company	Sept. 28
Cherokee Insurance Company, Port Huron, MI	Dec. 8
American Southern Insurance Company, Topeka, KS	Dec. 29
Garrison Property and Casualty Insurance Company, San Antonio, TX	Dec. 29

Restated Charters

Utica First Insurance Company, New Hartford, NY..... Mar. 22

Amendments to Charter

Progressive Northeastern Insurance Company, Hauppauge, NY..... Jan. 8
XL Capital Assurance Inc., New York, NY..... Jan. 20
Atlantic Mutual Insurance Company, New York, NY..... Jan. 21
Farm Family Casualty Insurance Company, Town of Bethlehem, NY..... Feb. 18
United Farm Family Insurance Company, Town of Bethlehem, NY..... Feb. 18
Liberty Insurance Underwriters, Inc., New York, NY..... Apr. 19
Fire Districts of New York Mutual Insurance Company, Inc., Spring Valley, NY..... May 20
Hudson Specialty Insurance Company, New York, NY..... May 25
Kensington Insurance Company, County of New York..... June 22
Hartford Steam Boiler Inspection and Insurance Company..... July 23
Global Reinsurance Corporation (U.S. Branch), New York, NY..... Oct. 8
Mitsui Sumitomo Insurance USA Inc., New York, NY..... Oct. 19
Balboa Insurance Company, Irvine, CA..... Oct. 29
Central States Indemnity Co. of Omaha, Omaha, NE..... Dec. 7
Cumis Insurance Society, Inc., Madison, WI..... Dec. 15

Change of Names

"Underwriters Reinsurance Company," to "RSUI Indemnity Company, Manchester, NH Jan. 22
"Fidelity National Property and Casualty Insurance, Inc., " to " Fidelity National Property and Casualty Insurance Company," Chicago, IL..... Jan. 23
"Commercial Underwriters Insurance Company" to "Allied World Assurance Company (U.S.) Inc.," Wilmington, DE..... Jan. 21
"Travelers Casualty and Surety Company of Illinois" to "Travelers Personal Insurance Company," Hartford, CT..... Feb. 18
"Travelers Indemnity Company of Illinois" to "Travelers Property Casualty Company of America," Hartford, CT..... Feb. 18
"Travelers Property Casualty Insurance Company of Illinois" to "Travelers Personal Insurance Company," Hartford, CT..... Feb. 18
"Arkwright Insurance Company" to "Coface North America Insurance Company," Waltham, MA..... Mar. 2
"Odyssey Reinsurance Corporation" to "Clearwater Insurance Company," Wilmington, DE..... Mar. 9
"National Farmers Union Standard Insurance Company" to "Quanta Indemnity Company," Denver, CO..... Mar. 11
"GE Auto & Home Assurance Company" to "AIG Preferred Insurance Company," Fort Washington, PA..... Apr. 1
"GE Casualty Insurance Company" to "AIG Premier Insurance Company," Fort Washington, PA..... Apr. 1
"GE Indemnity Insurance Company" to "AIG Indemnity Insurance Company," Fort Washington, PA..... Apr. 1
"GE Property & Casualty Insurance Company" to "AIG Centennial Insurance Company," Fort Washington, PA..... Apr. 1
"State National Specialty Insurance Company" to "National Specialty Insurance Company," Waco, TX..... Apr. 30
"Prudential General Insurance Company" to "LM General Insurance Company," Wilmington, DE..... May 4
"Prudential Property and Casualty Insurance Company" to "LM Property and Casualty Insurance Company," Indianapolis, IN..... May 10
"Gerling Global Reinsurance Corporation" to "Global Reinsurance Corporation," New York, NY..... May 12
"Tokio Marine and Fire Insurance Company" to "Tokio Marine and Nichido Fire Insurance Co., Ltd," New York, NY..... Aug. 19

"Ranger Insurance Company" to "Fairmont Specialty Insurance Company," Houston, TX	Sept. 24
Changes in Capital	
Hudson Specialty Insurance Company, New York, NY ($2,500,000 to $7,500,000)	May 25
Kensington Insurance Company, County of New York ($4,000,000 to $1,000,000)	June 22
Redomestications Filed	
Commercial Underwriters Insurance Company (from California to Delaware)	Jan. 21
Travelers Casualty and Surety Company of Illinois (from Illinois to Connecticut)	Feb. 18
Travelers Indemnity Company of Illinois (from Illinois to Connecticut)	Feb. 18
Travelers Property Casualty Insurance Company of Illinois (from Illinois to Connecticut)	Feb. 18
Blue Ridge Indemnity Company (from Connecticut to Wisconsin)	Apr. 12
Blue Ridge Insurance Company (from Connecticut to Wisconsin)	Apr. 12
Encompass Indemnity Company (from Florida to Illinois)	May 20
Continental Insurance Company (from New Hampshire to South Carolina)	June 10
Fidelity and Casualty Company of New York (from New Hampshire to South Carolina)	June 10
Guarantee Insurance Company (from Delaware to South Carolina)	June 10
Seaton Insurance Company (from Washington to Rhode Island)	June 25
The Mayflower Insurance Company, Ltd. (from Indiana to South Carolina)	Aug. 26
Merger Agreements Filed	
Northwestern National Casualty Company, Brookfield, WI into Highlands Insurance Company, Houston, TX	Mar. 10
Orion Insurance Company, Farmington, CT into Security Insurance Company of Hartford, Farmington, CT	Apr. 12
Radian Reinsurance Inc., New York, NY into Radian Asset Assurance Inc., New York, NY	May 17
Nichido Fire and Marine Insurance Company (US Branch) into TNUS Insurance Company	July 1
Crum & Forster Underwriters Company of Ohio into United States Fire Insurance Company	Aug. 23
Financial Structures Insurance Company into The Sea Insurance Company of America	Dec. 27
Guaranty National Insurance Company of Connecticut into Guaranty National Insurance Company	Dec. 31
American and Foreign Insurance Company into Royal Indemnity Company	Dec. 31
Globe Indemnity Company into Royal Indemnity Company	Dec. 31
Royal Insurance Company of America into Royal Indemnity Company	Dec. 31
Phoenix Assurance Company of New York into Royal Indemnity Company	Dec. 31
The Fire and Casualty Insurance Company of Connecticut into Security Insurance Company of Hartford	Dec. 31
The Connecticut Indemnity Company into Security Insurance Company of Hartford	Dec. 31
Safeguard Insurance Company into Security Insurance Company of Hartford	Dec. 31

In Receivership

Security Indemnity Insurance Company, Manasquan, NJ……. Aug. 23
US International Reinsurance, Manchester, NH……..……. Nov. 5

Withdrawn

Tariff Reinsurances Limited……. Dec. 30

d. Advance Premium Co-operative Insurance Companies

Restated Charter

Associated Mutual Insurance Cooperative, Woodridge, NY……. Jan. 20

e. Title Insurance Companies

Foreign Company Licensed

United Capital Title Insurance Company, Los Angeles, CA…….. Nov. 3

Merger Agreement Filed

Fidelity National Title Insurance Company of New York with and into Fidelity National Title Insurance Company……. July 13

f. Accredited Reinsurers

Change of Names

"Gerling Global Life Reinsurance Company" to "Revios Reinsurance U.S., Inc.," Los Angeles, CA…….. Jan. 22
"Gerling NCM Credit Insurance, Inc.," to "Atradius Trade Credit Insurance, Inc.," Baltimore, MD…….. Apr. 14
"Alea North America Reinsurance Company" to "Alea North America Specialty Insurance Company," Wilmington, DE……. Apr. 28
"ERC Re Life Corporation" to "Scottish Re Life Corporation," Jefferson City, MO……... May 5

Redomestications Filed

Yosemite Insurance Company from CA to IN…….. Feb. 25
Stonewall Insurance Company from Ohio to Rhode Island…….. Aug. 9

Withdrawn

New York Life and Health Insurance Company……. Sept. 9
Kemper Commercial Insurance Company……... Oct. 18

g. Charitable Annuity Societies

Permits Issued

Christian Children's Fund, Incorporated, Richmond, VA…….. Mar. 4
The First Church of Christ, Scientist in Boston, Massachusetts, Boston, MA……. Apr. 26
HIAS, Inc., New York, NY…….. Apr. 28
Oberlin College, Oberlin, OH…….. May 12
The University of Chicago, Chicago, Il……. Aug. 4
Gettysburg College, Gettysburg, PA……. Aug. 11
Earthjustice, Oakland, CA…….. Aug. 31
United Jewish Communities, Inc., New York, NY…….. Sept. 10
University of Delaware, Newark, DE……. Sept. 23
Clarkson University, Potsdam, NY…… Oct. 21
Trustees of the University of Pennsylvania, Philadelphia PA…….. Oct. 22

Name Changes

"Colgate Rochester Divinity School" to "Colgate Rochester Crozer Divinity School," Rochester NY……. May 14
"Environmental Defense Fund, Inc." to "Environmental Defense, Incorporated"…….. Sept. 21

h. Fraternal Benefit Society

Merger Agreements Filed

Orthodox Society of America, Pittsburgh, PA into Loyal Christian Benefit Association, Erie, PA…….. July 21

Workmen's Circle into Workmen's Benefit Fund of the United States of America, Hicksville, New York…… Aug. 18

Withdrawn

National Fraternal Society of the Deaf…….. Sept. 9
United Lutheran Society…….. Sept. 16

i. Financial Guaranty Companies

Domestic Company Incorporated

MML Assurance, Inc., New York, NY…… Nov. 29

Change of Name

"Ace Guaranty Corporation" to "Assured Guaranty Corp"…….. July 1

Change in Capital

Financial Guaranty Insurance Co.
($6,000,120 to $21,000,120)……... July 7

j. Mortgage Guaranty Companies

Licensed

United Guaranty Mortgage Indemnity Company, Greensboro, NC…… June 2

Name Change

"ACE Capital Mortgage Reinsurance Company" to "Assured Guaranty Mortgage Insurance Company," New York, NY…….. Apr. 26

k. Captive Insurance Companies

Domestic Companies Incorporated

LCT Insurance Company, County of New York…….. Jan. 29
North Castle Insurance Inc., County of Westchester…… Feb. 27
Twin Brook Insurance Company, Inc., New York, NY…… Mar. 9
Locust Street Insurance Company, County of New York…….. May 17
Paychex Insurance Concepts, Inc. New York, NY…….. June 30
Wharf Reinsurance Inc. New York, NY…… July 9
Safe Sat of New York, Inc., Melville, NY…….. Aug. 24
TD USA Insurance, Inc. New York, NY…… Dec. 1
RVC Insurance Company, Inc., New York, NY…….. Dec. 22

Captive Companies Licensed

Black Ridge Insurance Company, Ballston Spa, NY…….. Jan. 1
LCT Insurance Company, County of New York…….. Jan. 30
North Castle Insurance Inc., Armonk, NY…… Mar. 1
Ecclesia Assurance Company, Rockville Centre, NY…… Mar. 8
Twin Brook Insurance Company, Inc., New York, NY…… Mar. 30
Locust Street Insurance Company, Melville, NY…….. June 14
Paychex Insurance Concepts, Inc., Melville, NY…… July 19
Wharf Reinsurance Inc., New York, NY…… July 28
Peter Turner Insurance Company, New York, NY……... Aug. 31
Safe Sat of New York, Inc., Melville, NY……. Sept. 1
HHC Insurance Company, Inc., New York, NY…….. Dec. 15
TD USA Insurance, Inc. New York, NY…… Dec. 24

l. Reciprocal Insurers

Amendments to Charter

Academic Health Professional Insurance Association, New York, NY…… Mar. 22
New York Municipal Insurance Reciprocal, Albany, NY…… June 7
Physicians Reciprocal Insurers, Manhasset, NY…… Nov. 23

4. Examination Reports Filed During 2004

Name of Company	As of	Date Filed
Domestic Life Insurance Companies		
Church Life Insurance Corporation	12/31/02	8/4/04
Columbian Mutual Life Insurance Company	12/31/01	9/13/04
Empire Fidelity Investments Life Insurance Company	12/31/02	2/12/04
Farm Family Life Insurance Company	12/31/02	3/10/04
Fidelity and Guaranty Life Insurance Company of New York	12/31/02	9/30/04
First Ameritas Life Insurance Corp. of New York	12/31/02	11/8/04
First Citicorp Life Insurance Company	12/31/02	7/29/04
First Investors Life Insurance Company	12/31/02	3/25/04
First United American Life Insurance Company	12/31/02	7/1/04
GE Capital Life Assurance Company of New York	12/31/01	5/10/04
Jackson National Life Insurance Company of New York	12/31/02	2/12/04
MONY Life Insurance Company	12/31/01	6/21/04
National Benefit Life Insurance Company	12/31/02	9/23/04
National Income Life Insurance Company	12/31/02	7/1/04
New York Life Insurance Company	8/10/01	8/12/04
North American Company For Life and Health Insurance of New York	12/31/01	2/11/04
Phoenix Life and Reassurance Company of New York	12/31/02	12/15/04
Standard Life Insurance Company of New York	12/31/03	12/23/04
Unity Mutual Life Insurance Company	12/31/02	4/13/04
Foreign Life Insurance Company		
Pruco Life Insurance Company of New Jersey	12/31/01	1/15/04
Domestic Accident and Health Insurance Companies		
Commercial Travelers Mutual Insurance Company	12/31/02	11/18/04
HIP Insurance Company of New York	12/31/01	12/22/04
Oxford Health Insurance, Inc.	12/31/02	8/30/04
Domestic Property and Casualty Insurance Companies		
Aioi Insurance Company of America	12/31/02	2/19/04
Alliance Assurance Company of America	12/31/02	2/26/04
Atlantic Mutual Insurance Company	12/31/01	3/17/04
Atlantic Specialty Insurance Company	12/31/01	3/17/04
AXA Corporate Solutions Insurance Company	12/31/02	12/27/04
Centennial Insurance Company	12/31/01	3/17/04
Church Insurance Company	12/31/02	6/30/04
Drivers Insurance Company	12/31/02	12/30/04
Guilderland Reinsurance Company	12/31/01	12/16/04
Hermitage Insurance Company	12/31/02	6/14/04
Homesite Insurance Company of New York	12/31/02	11/3/04
Jefferson Insurance Company	12/31/02	12/29/04
MIIX Insurance Company of New York	12/31/01	1/7/04
Mitsui Sumitomo Insurance USA Inc.	12/31/02	10/27/04
National Continental Insurance Company	12/31/02	6/2/04
Navigators Insurance Company	12/31/00	3/9/04
NIC Insurance Company	12/31/00	2/17/04
Professional Liability Insurance Company of America	12/31/02	8/25/04
Progressive Northeastern Insurance Company	12/31/02	6/2/04
Providence Washington Insurance Company of New York	12/31/02	8/3/04

Rampart Insurance Company	12/31/02	8/23/04
Selective Insurance Company of New York	12/31/02	10/25/04
Seneca Insurance Company, Inc.	12/31/00	7/7/04
Sompo Japan Fire & Marine Insurance Company of America	12/31/02	9/8/04
Tower Insurance Company of New York	12/31/01	2/11/04
Tri-State Consumer Insurance Company	12/31/02	10/28/04
Alien Property & Casualty Insurance Companies		
LG Insurance Company, Limited	12/31/01	2/11/04
Nissay Dowa General Insurance Company, Limited (U.S. Branch)	12/31/01	3/17/04
Assessment Co-operative P&C Insurance Companies		
Farmers' Town Mutual Insurance Company of Clinton	12/31/03	10/4/04
Franklin Fire Insurance Company	12/31/03	12/28/04
Meredith Insurance Company	12/31/03	12/28/04
Washington County Co-operative Insurance Company	12/31/02	4/12/04
Advance Premium Co-operative P&C Insurance Companies		
Central Co-operative Insurance Company	12/31/03	8/6/04
Dryden Mutual Insurance Company	12/31/03	12/8/04
Ontario Insurance Company	12/31/03	10/19/04
Otsego Mutual Fire Insurance Company	12/31/02	6/7/04
Financial Guaranty Company		
XL Capital Assurance Inc.	12/31/02	7/27/04
Title Insurance Company		
Stewart Title Insurance Company	12/31/03	12/20/04
Fraternal Benefit Societies		
Baptist Life Association	12/31/03	7/22/04
Polish National Alliance of Brooklyn, United States of America	12/31/02	6/1/04
Mortgage Guaranty Company		
Assured Guaranty Mortgage Insurance Company	12/31/02	5/20/04
Reciprocal Insurer		
Adirondack Insurance Exchange	9/24/04	12/6/04
Charitable Annuity Societies		
American Bible Society	12/31/01	7/26/04
American Tract Society	12/31/02	3/24/04
Amnesty International of the U.S.A., Inc.	12/31/03	12/15/04
Brooklyn College Foundation, Inc.	12/31/01	10/25/04
Cancer Care, Inc.	12/31/02	5/11/04
Catholic Charities, Diocese of Brooklyn	12/31/02	3/24/04
Colleges of the Seneca	12/31/02	4/27/04
Cornell University	12/31/02	5/13/04
Environmental Defense, Incorporated	12/31/03	11/8/04
Geneseo Foundation, Inc.	12/31/02	7/15/04
Hadassah, the Women's Zionist Organization of America, Inc.	12/31/02	4/28/04
Houghton College	12/31/02	5/11/04
International Rescue Committee, Inc.	12/31/02	4/26/04
Juilliard School	12/31/01	9/14/04
Laubach Literacy International	12/31/01	8/4/04

Lighthouse International	12/31/02	7/19/04
Ministers and Missionaries Benefit Board of the Amer. Baptist Churches	12/31/00	4/7/04
Ministers and Missionaries Benefit Board of the Amer. Baptist Churches	12/31/03	9/2/04
Natural Resources Defense Council, Inc.	12/31/01	7/19/04
Our Lady of Victory Homes of Charity	12/31/03	10/15/04
Pace University	12/31/01	7/26/04
Philharmonic-Symphony Society of New York, Inc.	12/31/02	10/29/04
Planned Parenthood Federation of America, Inc.	12/31/02	4/22/04
Province of St. Mary of the Capuchin Order	12/31/03	10/19/04
Roman Catholic Diocese of Ogdensburg, New York	12/31/02	8/24/04
Salesian Missions	12/31/02	7/1/04
St. Lawrence University	12/31/01	10/14/04
Union College	12/31/02	5/11/04
University at Albany Foundation	12/31/03	10/19/04
University at Buffalo Foundation, Inc.	12/31/02	1/16/04
Watchtower Bible and Tract Society of New York, Inc.	12/31/02	4/2/04
Wildlife Conservation Society	12/31/02	3/30/04
Foreign Charitable Annuity Society		
American Heart Association, Inc.	12/31/02	9/15/04
Captive Insurance Company		
CM Insurance Company, Inc.	12/31/02	12/1/04
Health Maintenance Organizations		
Elderplan, Inc.	12/31/02	8/27/04
Oxford Health Plans of New York, Inc.	12/31/02	8/30/04
Vytra Health Plans, Long Island, Inc.	12/31/01	11/23/04
Nonprofit Corporations		
Delta Dental of New York, Inc.	12/31/02	6/10/04
Excellus Health Plan, Inc.	10/10/03	8/30/04
Health Insurance Plan of Greater New York	12/31/01	12/22/04
Healthnow New York Inc.	12/10/03	6/9/04
Pupil Benefits Plan, Inc.	12/31/03	11/03/04
Vytra Health Services, Inc.	12/31/03	11/03/04
Retirement Systems and Pension Fund		
Board of Benefits Services of the Reformed Church in America	11/26/03	9/9/04
Viatical Settlement Company		
Legacy Benefits Corporation	12/31/03	12/2/04
Foreign Viatical Settlement Company		
Wm. Page & Associates, Inc.	12/31/02	7/15/04
Municipal Co-operative Health Benefit Plan		
Orange-Ulster School Districts Plan	6/30/03	8/25/04
Welfare Trust Funds		
East End Health Plan	12/31/01	3/12/04
Suffolk County Police Benevolent Association Benefit Fund	12/31/01	3/12/04
Suffolk County Police Benevolent Association Legal Services Fund	12/31/01	3/17/04
Foreign Welfare Trust Fund		
Central Southern Tier Health Care Plan Trust	6/30/02	5/17/04

5. Rehabilitation, Liquidation, Ancillary Receivership and Conservation Proceedings

The insurance entities under the Liquidation Bureau's jurisdiction during 2004 were as follows:

Rehabilitations

Commenced: Interboro Mutual Indemnity Insurance Company

Continued: Executive Life Insurance Company of New York
Frontier Insurance Company

Completed: None

Liquidations

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
First Central Insurance Company
Galaxy Insurance Company
Group Council Mutual Insurance Company
Home Mutual Insurance Company of Binghamton, NY
Horizon Insurance Company
Ideal Mutual Insurance Company
Medical Malpractice Insurance Association
Midland Insurance Company
Midland Property and Casualty Insurance Company
Nassau Insurance Company
New York Merchant Bakers Insurance Company
New York Surety Company
Transtate Insurance Company
Union Indemnity Insurance Company of New York
United Community Insurance Company
U. S. Capital Insurance Company
Whiting National Insurance Company

Closures: Hum Healthcare System, Inc.
Long Island Insurance Company
Nem Re Insurance Corporation
North Medical Community Health Plan, Inc.
Northumberland General Insurance Company (U.S. Branch)

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: Security Indemnity 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
Far West Insurance Company
Fremont Indemnity Company
Frontier Pacific Insurance Company
Integrity Insurance Company
LMI Insurance Company
Legion Insurance Company
MCA Insurance Company
Mission Insurance Company
Phico Insurance Company
Reliance Insurance Company
The Connecticut Surety Company
The Home Insurance Company
Transit Casualty Company
Villanova Insurance Company

Closure: Western Employers Insurance Company

Conservations - All foreign or alien (*i.e*., not domiciled in New York) insurers not licensed in New York but doing business on an excess and surplus lines basis must establish a trust fund in New York. If such an insurer becomes insolvent, the Insurance Department must apply to the court in order for the Insurance Department (and the Superintendent as Conservator) to conserve the assets of that trust fund for the benefit of all U.S. policyholders.

Commenced: Folksam International Insurance Company (UK) Ltd.

Continued:
Alpine Insurance Company
FAI General Insurance Company, Ltd.
HIH Casualty and General Insurance, Ltd.
Legion Indemnity
Northumberland General Insurance Company – 41 Trust
Pacific and General Insurance Company
Reliance Insurance Company of Illinois
United Capital Insurance Company

Closures:
Municipal General Insurance Ltd.
National Colonial Insurance Company

Insurance Companies

During 2004, three proceedings commenced while 56 insurance company proceedings continued. Eight proceeding was completed and closed. The 59 active insurance company proceedings were classified as follows:

3 Rehabilitations
24 Liquidations
23 Ancillary Receiverships
9 Conservations

As of December 31, 2004, assets, liabilities and current insolvency of the 59 active insurance company proceedings, taken as a group, were as follows:

Total Assets	$2,583,765,287
Total Liabilities	$5,725,905,658
Current Insolvency	$3,142,140,371

During 2004, cash payments received from the New York State security funds on allowed claims totaled $205,557,802 for claims, $2,498,887 for return premiums, and $57,010,882 for expenses. Payments by other states' guaranty funds are excluded from these totals.

During 2004, cash distributions paid to the New York State security funds from domestic estates totaled $20,287,568. Distributions to the New York State security funds from other states' guaranty funds totaled $111,970,353 for a combined total $132,257,921.

Fraternal Benefit Societies

As of December 31, 2004, there were 46 pending liquidation proceedings. During 2004, 68 proceedings were terminated and 9 proceedings were commenced. The remaining assets of the 46 liquidation proceedings totaled $821,595. During 2004, assets of $212,080 were distributed to former members of fraternal benefit societies.

6. Insurance Department Receipts and Expenditures

Table 68
DEPARTMENT RECEIPTS
Fiscal Year Ended March 31, 2004

Taxes Collected Under the New York State Insurance Law:	
Taxes collected by reason of retaliation under Section 1112	$23,107,395.88
Excess Line - Section 2118	65,852,236.56
Organization Tax - Section 180, Tax Law	41,187.59
Subtotal	**$89,000,820.03***
Fees Collected Under Section 1112 of the NYS Insurance Law:	
Filing Annual Statements and Certificates of Authority to Companies	$142,796.62
Agents' Certificates of Authority	677,829.76
Admission Fees	32,445.00
Subtotal	**$853,071.38**
Licensing and Accreditation Fees:	
Agents' Licenses - Section 2103	$6,642,536.62
Adjusters' Licenses - Section 2108	153,450.00
Brokers' Licenses - Section 2104 and 2105	317,584.29
Bail Bond Agents' Licenses - Section 6802	500.00
Insurance Consultants' Licenses - Section 2107	47,555.00
Reinsurance Intermediary Licenses - Section 2106	11,500.00
Special Risk Licenses - Section 6302	190,000.00
Accredited Reinsurers - Section 107(a)2	127,050.00
Limited License	120.00
Duplicate License Fees	46,665.00
Viatical Licenses	30,500.00
Continuing Education Provider Fee	452,900.00
Subtotal	**$8,020,360.91**
Assessments and Reimbursement of Department Expenses:	
Section 313 - Company Examinations	$9,135,595.93
Section 332 – Assessment	131,118,021.20
Section 9104/9105 - Tax Distribution	99,608.69
Administrative Expense Security Funds	71,524.00
Subtotal	**$140,424,749.82**

(table continues on next page)

Table 68
DEPARTMENT RECEIPTS
Fiscal Year Ended March 31, 2004
(continued)

Other Fees and Receipts:	
Regulation 68 - Health Services Arbitration Expenses	$7.50
Section 9107 - Certification & Filing Fees	110,029.75
Section 9108 - Fire Insurance Fee	13,770,059.26
Section 1212 - Summons and Complaints	1,326,679.75
Fines and Penalties	5,111,137.31
FOIL Requests	18,558.62
Miscellaneous	1,771.00
Regulation 134	2,000.00
Motor Vehicle Law Enforcement Fee	51,857,578.68
Continuing Education Filing Fees	192,670.00
CAPCO Application Fees	3,000.00
Section 7902 – Service Contract Registration Fee	27,000.00
Subtotal	**$72,420,491.87**
Foreign Fire Tax, and Security Funds Receipts	
Foreign Fire Tax - Insurance Law Sections 2118, 9104 and 9105	$35,939,462.65
Property Casualty Insurance Security Fund - Sections 7602 and 7603	146,002,663.92
Public Motor Vehicle Liability Security Fund – Section 7601	31,898,971.26
Workers' Compensation Security Fund	48,135,232.34
Subtotal	**$261,976,330.17**
TOTAL DEPARTMENT RECEIPTS	**$572,695,824.18**

*This amount is in addition to the $930 million collected by the Department of Taxation and Finance under Article 33 of the Tax Law.

Table 69
INSURANCE TAX RECEIPTS*
(in millions)

Fiscal Year	Net
1999-00	$589.0
2000-01	584.0
2001-02	633.0
2002-03	696.0
2003-04	930.0

*Collected by the Department of Taxation and Finance under Article 33 of the Tax Law.
Source: State of New York, Annual Budget Message, 2005-06

Table 70
DEPARTMENT EXPENDITURES
Fiscal Year Ended March 31, 2004
Paid in the First Instance from Appropriations

Personal Service	
Employee salaries	**$55,106,191.53**
Maintenance and Operation	
General office supplies	$586,903.17
Travel expense	2,485,094.06
Rental equipment	12,664.81
Repair and maintenance of equipment	294,107.71
Real estate rental	6,342,847.81
Postage and shipping	631,848.43
Printing	122,301.34
Telephone	1,682,700.12
Miscellaneous contractual services	4,465,768.54
OFT Computer	226,093.50
OGS Interagency courier	35,219.64
Equipment	1,820,420.65
Employee fringe benefits/indirect cost	26,640,336.25
Subtotal Maintenance and Operation	**$45,346,306.03**
Suballocations to Other State Agencies	
Personal Service, Maintenance and Operation	**$35,035,305.37**
TOTAL DEPARTMENT EXPENDITURES	**$135,487,802.93**

Table 71
RECEIPTS VS. DEPARTMENT EXPENDITURES
Fiscal Year Ended March 31, 2004

Total Department Receipts	$572,695,824.18
Total Department Expenditures	$135,487,802.93
Excess of Department Receipts Over Department Expenditures	**$437,208,021.25**

7. Security Funds Income and Disbursements

Table 72
PROPERTY/CASUALTY INSURANCE SECURITY FUND[1]
Income and Disbursements
April 1, 2004

	To and Including 3/31/03	4/1/03 to 3/31/04	As of 4/1/04
Paid into the Fund	$ 777,516,457.68	$ 79,500,968.72	$ 857,017,426.40
Interest income - net	443,835,821.87	2,484,642.03	446,320,463.90
Recoveries from companies in liquidation	611,790,733.53	62,337,431.17	674,128,164.70
General Fund Reimbursement	130,440,553.00	1,679,622.00	132,120,175.00
Total	**$1,963,583,566.08**	**$ 146,002,663.92**	**$2,109,586,230.00**
Less disbursements:			
Administrative expenses	$ 1,455,487.59	$ 119,150.00	$ 1,574,637.59
Awards and expenses of companies in liquidation	1,613,385,864.15	169,814,643.89	1,783,200,508.04
Refunds and credits to companies	44,442,985.54	-0-	44,442,985.54
Transfers to other funds[2]	169,562,280.96	15,000,000.00	184,562,280.96
Total	**$1,828,846,618.24**	**$ 184,933,793.89**	**$2,013,780,412.13**
Total of Fund	**$ 134,736,947.84**	**$ (38,931,129.97)**	**$ 95,805,817.87**
Cash in bank and U.S. securities (at par)	**$ 134,736,947.84**		**$ 95,805,817.87**
Total of Fund	**$ 134,736,947.84**		**$ 95,805,817.87**

[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 $50,000,000 transferred through 3/31/04 to the Public Motor Vehicle Liability Security Fund (see Table 73).

Table 73
PUBLIC MOTOR VEHICLE LIABILITY SECURITY FUND[1]
Income and Disbursements
April 1, 2004

	To and Including 3/31/03	4/1/03 to 3/31/04	As of 4/1/04
Paid into the Fund	$ 105,577,195.85	$ 8,541,446.78	$ 114,118,642.63
Interest income - net	27,829,824.35	64,500.25	27,894,324.60
Recoveries from companies in liquidation	77,354,838.82	8,293,024.23	85,647,863.05
Transfers	35,000,000.00	15,000,000.00	50,000,000.00
Total	**$ 245,761,859.02**	**$ 31,898,971.26**	**$ 277,660,830.28**
Less disbursements:			
Administrative expenses	$ 510,578.53	$ 27,180.33	$ 537,758.86
Awards and expenses of companies in liquidation	228,307,994.82	32,549,066.67	260,857,061.49
Refunds to companies	13,583,306.98	-0-	13,583,306.98
Total	**$ 242,401,880.33**	**$ 32,576,247.00**	**$ 274,978,127.33**
Total of Fund	**$ 3,359,978.69**	**$ (677,275.74)**	**$ 2,682,702.95**
Cash in bank and U.S. securities (at par)	**$ 3,359,978.69**		**$ 2,682,702.95**
Total of Fund	**$ 3,359,978.69**		**$ 2,682,702.95**

[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 FUND[1]
Income and Disbursements
April 1, 2004

	To and Including 3/31/03	4/1/03 to 3/31/04	As of 4/1/04
Paid into the Fund	$ 155,015,987.96	$ 20,324,206.89	$175,340,194.85
Interest income - net	118,342,270.36	163,985.45	118,506,255.81
Recoveries from companies in liquidation	115,398,068.56	27,647,040.00	143,045,108.56
Total	**$ 388,756,326.88**	**$ 48,135,232.34**	**$ 436,891,559.22**
Less disbursements:			
Administrative expenses	$ 875,382.57	$ 31,833.68	$ 907,216.25
Awards and expenses of companies in liquidation	305,593,900.96	68,419,928.05	374,013,829.01
Refunds to companies	27,381,071.74	-0-	27,381,071.74
Transfers [2]	37,000,000.00	(37,000,000.00)	-0-
Total	**$ 370,850,355.27**	**$ 31,451,761.73**	**$ 402,302,117.00**
Total of Fund	**$ 17,905,971.61**	**$ 16,683,470.61**	**$ 34,589,442.22**
Cash in bank and U.S. securities (at par)	**$ 17,905,971.61**		**$ 34,589,442.22**
Total of Fund	**$ 17,905,971.61**		**$ 34,589,442.22**

[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. Table 75
DEPARTMENT STAFFING
NEW YORK STATE INSURANCE DEPARTMENT
Number of Filled Positions by Bureau (as of March 2005)

Bureau	Examiners	Attorneys	Actuaries	Other Professionals	Investigators	Support Staff	Total
New York City Office:							
Executive				6		5	11
Life	95		10	3		9	117
Health	42		5	1		3	51
Administration*	1			8		8	17
Consumer Services	30			1		17	48
Frauds	4			3	19	5	31
Office of Gen. Counsel		21		2		11	34
Public Affairs/Research				2		2	4
Property	167		22	1		22	212
Systems	5			16		5	26
Capital Markets				6		2	8
Examiner Pool	43						43
Disaster Preparedness	8						8
NYC Total	**395**	**21**	**37**	**49**	**19**	**89**	**610**
Albany Office:							
Executive				8		3	11
Life		11	19			6	36
Health	4	17	5	1		4	31
Administration*				16		17	33
Consumer Services	36			2		16	54
Frauds					5		5
OGC		7		1		1	9
Property	9					1	10
Systems				26		11	37
Licensing	1			6		33	40
Disaster Preparedness	1			2	2		5
Albany Total	**48**	**35**	**25**	**52**	**6**	**94**	**271**
ALL OTHER							
Brooklyn Office:					5		5
Buffalo Office:							
Health		1					1
Consumer Services	2					1	3
Frauds					3		3
Mineola Office:							
Consumer Services	2					1	3
Frauds					8		8
Oneonta Office:					5		5
Rochester Office:					1		1
Syracuse Office:					3		3
All Other Total	**4**	**1**	**0**	**0**	**25**	**2**	**32**
Department Total	**450**	**57**	**61**	**111**	**51**	**183**	**913**

*Includes Human Resources Management & Offices Services.

Note: Table does not include 19 Student Assistants assigned to various bureaus during the year.

C. NEW YORK STATE INSURANCE DEPARTMENT

Publications
as of 5/15/2005

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)
- Handbook for Livery Drivers (English & Spanish)

Frauds Guides
- Annual Frauds Bureau Report
- Welcome to the NYS Insurance Department Frauds Bureau – A Consumer Brochure (online only)

Health Guides
- External Review: Your Rights as a Health Care Consumer
- External Appeals Program Annual Report
- 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 (an interactive guide is 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 (Web guide only)
- 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).