



25 Chamberlain St.
P.O. Box 997
Glenmont, NY
12077-0997
(518) 434-3111
(800) 424-4244
(888) 225-6935 fax
www.pia.org
govaffairs@pia.org

**LEGISLATIVE
REPRESENTATIVE**

Allison Lee
DKC Government Affairs

**DIRECTOR OF
GOVERNMENT &
INDUSTRY AFFAIRS**

Matthew F. Guilbault, Esq.

EXECUTIVE DIRECTOR

Diane Fowler

DISTRICT OFFICE VISITS

Legislative priorities for 2011

The Professional Insurance Agents of New York State Inc.—representing insurance agents throughout New York state. PIANY is a voluntary, membership-based trade association representing professional, independent property/casualty insurance agents. A statewide organization, PIANY serves member insurance agencies doing business in every New York community. In every city, every town and every village, we are your neighbors providing valuable property/casualty insurance coverage to protect the homes, businesses and automobiles of the citizens of New York state. PIANY members employ more than 20,000 insurance professionals, providing insurance for more than 2 million households and 750,000 businesses, governmental units and other organizations.

PIANY's issues protect insurance consumers.

As in years past, PIANY's 2010 legislative issues serve to protect insurance consumers. Our most recent legislative successes include preventing carriers from imposing accident surcharges on policyholders who suffer minor automobile accidents; giving property owners the security they need, by making the New York Property Insurance Underwriting Association permanent; and closing loopholes that let insurance companies deny payment by restricting late-notice-of-claim denials. This session, PIANY will continue our tradition of placing the interests of our members' clients first.

1. Standardize coastal homeowners insurance windstorm deductible triggers.

A severe hurricane affecting New York's coastal areas will reveal inconsistencies that will cause a public outcry over lack of foresight by policy-makers. Hurricane deductibles are percentage or dollar deductibles that are higher than for other perils or causes of loss. They generally are calculated as a percentage of the dollar amount of coverage on the dwelling. The trigger for hurricane deductibles (i.e., the point at which they apply) varies by company. Triggers have some common characteristics: they generally go into effect only when the National Weather Service issues a hurricane watch or warning and remain in effect for some time after the storm has passed. The intensity of hurricanes also affects the trigger. Hurricanes are classified on a scale of 1 to 5, with 5 as the highest intensity.

PIANY is concerned with the lack of standardization among homeowners insurance policies with respect to the events that trigger a policyholder's windstorm deductible. This lack of standardization will cause consumer confusion when a windstorm hits the state's coastal region. Neighboring homeowners with different windstorm coverage triggers may be equally affected by coastal storms, yet will become angry to find that one homeowner has coverage for the damage and the other does not. Standardizing the trigger point at which an insurer's windstorm deductible will apply will protect consumers against this type of scenario.

2. Combat auto insurance fraud by reforming no-fault.

Recent data shows that no-fault insurance costs, once brought under control by timely reforms, are again skyrocketing as those intent on fraud find new, creative ways of unjustly profiting off the system. PIANY proudly participates in a coalition dedicated to fighting fraud. New York's competitive auto insurance market is again threatened despite reforms the New York First auto fraud coalition has helped enact in the past. PIANY is advocating:

1. Extend time for fraud challenges. Currently, insurers get only 30 days to spot a suspicious claim. It's too little to fight sophisticated crooks.
2. Criminalize "runners." Fraud specialists called "runners" organize fake accidents and help run up huge medical bills at crooked clinics. This should be a felony.

3. Set treatment standards. Approved standards (like those used in New Jersey for auto accident victims and recently enacted in New York for workers' compensation) could reveal unnecessary or fictitious doctor visits, treatments, tests and procedures.
4. Mandate arbitration for provider disputes. Currently, arbitrated decisions on disputed medical payments aren't binding. This clogs both the arbitration and the court systems.

3. Repeal mandatory photo inspections that cause policyholders to lose automobile physical damage coverage.

Mandatory photo inspections have outlived their usefulness and should be repealed. 11 NYCRR 67.2 (Insurance Law Section 3411) sets forth automobile inspection requirements. The inspection law was first enacted over a quarter century ago to address problems of so-called "phantom automobiles." New methods have rendered inspections unnecessary. Vehicles' existence and equipment can be verified by standardized Vehicle Identification Numbers (VINs) adopted by the auto industry in the 1980s. Fraudulent policies purchased after an accident has taken place can be easily identified through today's new computer technology that pinpoints where and when a call was made and when a vehicle was in an accident or repaired. While some may still attempt to purchase policies for phantom vehicles, insurers' modern Special Investigation Units (SIUs) are far better equipped today to identify such fraud than their counterparts of the 1970s. The current regulation, as prescribed by Section 3411, is complex and expensive for insurers to comply with, which drives up the overall cost for all auto insurance in New York. In addition, under current law, people who have no intention of committing auto insurance fraud can find, at the time of an accident, that they have lost coverage for damages to the vehicle because no auto inspection was performed. In this situation, the insured has purchased coverage and paid the premium, but will not be covered if his or her auto sustains physical damage, simply because the auto inadvertently was not inspected.

4. Require certificates of insurance to be filed and approved by the NYSID

Insurance producers across the state are burdened on a daily basis by requests to issue certificates of insurance. This process becomes

problematic when licensed producers are asked to complete certificate of insurance forms on behalf of their clients that add terms or clauses that a public entity requires but which are not contained in the insurance policy. Moreover, various agencies and other public authorities and corporations regularly require, as a condition of doing business that insured parties supply evidence of insurance on preprinted forms supplied by the agency and these forms alter, expand or modify the terms of the subject insurance policy. Still, in other cases, the government agency may require the insured to add terms to a standard ACORD certificate of insurance form that do not appear in the insurance policy.

The New York State Insurance Department has issued at least three regulatory directives dealing with certificates of insurance reciting their position (with which we agree) that certificates of insurance should be used only to provide evidence of insurance in lieu of an actual copy of the applicable insurance policy and should not be used to amend, expand or otherwise alter the terms of the actual policy.

Moreover, an insurance producer is in violation of the Insurance Law if it amends, expands or alters the terms of the policy without authorization from the insurer and, where required, approval from this department; and the department may seek disciplinary measures against producers who act in this manner.

Still, the NYSID does not consider a certificate of insurance which lists the pertinent coverage terms as they appear in the actual policy to be a policy form that requires the superintendent's prior approval. However, any document that amends, expands or otherwise alters the terms of the applicable insurance policy constitutes a policy form which must be filed with the superintendent of insurance in accordance with Section 2307(b) of the Insurance Law.

PIANY offers a proposal that would foster greater uniformity among certificates of insurance and prevent public authorities and corporations from insisting upon the creation of unique and highly problematic certificates. We believe that legislation should be passed to require that only certificates filed with and approved by the superintendent would be permissible for use. The superintendent would have strong protective criteria to follow when considering certificates for approval. All standard forms provided by ISO and ACORD would be deemed automatically approved.

PIANY aims to be a resource for policy-makers. For help on any insurance-related issue or constituent problem, PIANY offers legislators and policy-makers the resources of its experienced and professional staff. Call any time for fast, accurate answers from PIA's Industry Resource Center on any insurance-related issue. For more information on any of these issues, or help in researching any insurance-related topic, just give us a call, here in Albany, at (518) 434-3111 or toll-free at (800) 424-4244 or e-mail govaffairs@pia.org.



Professional Insurance Agents of New York State Inc.

25 Chamberlain St. • P.O. Box 997 • Glenmont, NY 12077-0997

(518) 434-3111 • (800) 424-4244 • fax: (888) 225-6935

www.pia.org