



LEGISLATIVE POSITION

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Commercial-lines insurance deregulation

PIANY strongly opposes this proposal to allow insurance companies to sell insurance contracts with language that had not been reviewed or approved by the Insurance Department.

Memorandum in opposition to: S.5811—by Sen. Seward A.8464—M. of A. Morelle

AN ACT to amend the Insurance Law, in relation to exempting insurers from certain rate and policy form approval requirements with respect to policies issued to large commercial insureds.

PIANY has historically warned lawmakers to approach ANY deregulation effort with care. Otherwise, well-intentioned efforts can backfire on the consumer and, ultimately, on the state's policymakers. This bill represents just such a scenario. This legislation, introduced only last Friday, is the most recent attempt at deregulation. Compared to a draft bill circulated earlier this month, it has many fewer consumer protection measures and weakens the authority of the Insurance Department to promptly address abuses that this change may allow to occur.

Our position is not one of pure "opposition" to deregulation; rather, it is a concern that deregulation, if done at all, be done right. The lack of ample time for review and debate on this bill, its removal (compared to its earlier draft) of multiple consumer protections, combined with its retention of a premium-threshold figure that remains much too low, all combine to give us no choice but to oppose this legislation.

As agents, our primary concern is that deregulation would allow unregulated policy forms to be sold to New York business owners, public entities, professional practitioners, not-for-profit groups and other "commercial risks." Those insurance contracts could be offered for sale without being checked by the Insurance Department to assure that their terms are fair to the policyholder.

The basic premise of deregulation in most states is that only "sophisticated" commercial risks should be eligible to accept coverage written on these new, unregulated forms. The current argument in New York is about how to define "sophisticated." Most states with deregulation laws include in their definition a "premium threshold," which is an amount of annual premiums paid. Larger premiums correlate to larger entities insured.

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PIANY has made it clear to advocates of deregulation that, regardless of the size of the commercial risk, including the very smallest, we could support deregulation of ANY change in contract terms that deviates from a previously approved policy in a way that clearly **benefits the insured**. We think a consensus could be reached on the general types of change that insurers could make on this basis. ONLY changes that (compared to approved forms) would delete or restrict coverage, or otherwise work against the policyholder, concern us. But, **these changes concern us deeply**. We think the resulting contracts should be confined to “sophisticated” policyholders that can evaluate all the potential consequences of accepting these policy terms.

We would not oppose a deregulation bill if the premium threshold were set at an appropriate level. For example, we have in the past not opposed thresholds of \$75,000 per policy. In selecting a new threshold figure, however, we are extremely conscious of the continuing erosion of any amount, due to the escalation of premiums, should we return to hard-market conditions.