

**United Policyholders**

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November 12, 2014

Seth Agata, Esquire
Acting Counsel
Executive Chamber
State Capitol
Albany, NY 12224

Re: AB 9346/SB 4756 – GOVERNOR’S SUPPORT

Dear Counsel Agata:

We are writing to reiterate our support for AB 9346 (Morelle)/ SB 4756 (DeFrancisco) and urge Governor Cuomo to sign this pro-consumer bill into law. As you may know, the purpose of this bill is to improve our current system for efficiently and inexpensively resolving disputes between insurers and insureds through a process unique to insurance called “Appraisal”. Insurance claim appraisals are different from real estate appraisals.

Appraisal in the insurance claim context is a process through which a panel of construction and claim adjusting professionals examine evidence and issue a decision on the extent and value of damage or destruction to real property. Insurance appraisals tackle technical issues such as: “How many gallons of paint are needed? How much sheetrock needs replacing?” When conducted properly, an insurance appraisal can settle disagreements over required work and costs. Insurance claim appraisals can be completed in a few months, far faster than it typically takes to resolve a lawsuit.

An example of a claim dispute suitable for appraisal would be a kitchen fire where the home owner and insurer are in disagreement on how much of an adjacent bathroom needs to be repaired, including ceiling tiles containing asbestos and a moldy window frame that was soaked with fire suppression water. During the appraisal, two “party” appraisers, (one hired by the insured, the other hired by the insurer) and an umpire would review estimates, reports and photographs and render an appraisal “award” (decision) on how many ceiling tiles need to be replaced, how much that should cost, whether the moldy window frame can be cleaned or whether it needs to be replaced, etc.

The purpose of this bill is to clarify that when an insurer or insured elects to submit a dispute to appraisal, the process should yield a calculation of the entire extent of damage and cost of necessary repairs – separate from and regardless of any disputes that may exist over coverage. The goal of the appraisal should be to calculate *all* the damage at issue, *all* the work that needs to be done to properly repair the home and how much that work and related materials will cost. Because some insurers are balking at this concept and trying to unduly narrow the evidence that can be considered in insurance claim appraisals, this bill is needed to preserve appraisal as a viable dispute resolution option.

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In our kitchen example, the appraisal award should properly include all aspects of the ceiling tiles and window repairs/replacement – *even if a portion of the window repairs relate to mold remediation*. If the insurer wanted to dispute *coverage* for the mold abatement- that coverage would not be resolved in an appraisal. But the full amount and *cost* of necessary repairs – including the mold abatement should be appraised. An appraisal that does not include the full scope of damage and cost of repairs is generally an inefficient waste of time and money - the parties would be better off using the judicial system to resolve both the nature and extent of the loss and coverage via traditional litigation.

Policyholders in New York currently have the right to petition a court for help where their insurer refuses their request to appraise a claim dispute. However, New York Courts have been reluctant to compel complete appraisals. This bill will serve the interests of law and equity, as well as those of judicial economy by preventing re-litigating the amount of loss or damage after a coverage dispute arises.

“We” are United Policyholders (“UP”), a non-profit that speaks for people and businesses in New York and across the nation who buy insurance and rely on their coverage to be a critical financial safety net in time of adversity. Through “Roadmap to Preparedness” and “Roadmap to Recovery” Programs, UP is engaged in communities throughout the state with a focus on areas hit hard by Hurricane Irene and Superstorm Sandy. UP hosts a library of materials on that includes guidance on insurance appraisals (See, e.g., <http://www.uphelp.org/library/resource/insurance-appraisal-simplified>).

UP is a voice and information resource for insurance consumers in all 50 states. Donations, foundation grants and volunteer attorneys support the organization’s work. UP does not sell insurance or accept funding from insurance companies. Please visit www.uphelp.org for more information.

Thank you for your time and consideration, and, in advance for Governor Cuomo’s signature on AB 9346/SB 4756.

Sincerely,

A handwritten signature in black ink that reads "Amy Bach". The signature is fluid and cursive, with the first name "Amy" and the last name "Bach" clearly legible.

Amy Bach, Esq.
Executive Director