

April 22, 2014

Hon. James L. Seward, Chair
New York State Senate Insurance Committee
172 State Street, Room 430, Capitol
Albany, NY 12247

Re: Support for SB 4756

Dear Senator Seward:

We are writing to share relevant information and voice our support for SB 4756 (DeFrancisco). The purpose of this bill is to improve our current system for efficiently and inexpensively resolving property insurance claim disputes through the “Appraisal” process and without undue use of judicial resources.

Unlike in the real estate context, an appraisal in the insurance claim context is a process designed to resolve disputes over the extent and value of damage or destruction to real property. An example of a dispute suitable for appraisal would be a kitchen fire where the home owner and insurer are in disagreement on whether an adjacent bathroom needs to be repaired, including ceiling tiles containing asbestos and an older, moldy window frame that was exposed to fire suppression water. The goal of the appraisal would be to calculate the damage caused by the fire, the work that needs to be done to properly repair the home and how much that work and related materials will cost.

Appraisal is an efficient way of doing that calculation because it involves construction materials, repair and mold abatement methods, building components and other technical matters. The property owner and insurer submit evidence and a panel of appraisers makes a determination on the amount of damage and the cost of restoring the property to its pre-loss condition. If there is a *coverage* dispute, it gets resolved after the appraisal by the parties or a court, but the scope (extent and cost) of damage has already been (efficiently) established by technical experts outside of court.

The purpose of this bill is to clarify that an insurance appraisal should calculate the entire extent of damage and cost of necessary repairs – regardless of coverage. Using our kitchen example – if the insurer wanted to dispute *coverage* for the mold abatement- that issue would not be resolved in an appraisal. But the cost of

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necessary repairs – *including the mold* abatement should be appraised – and if the insurer wants to dispute coverage it can do so after the appraisal. An appraisal that does not include the full scope of damage and cost of repairs is a waste of time and money and parties would be better off using the judicial system to resolve the entire matter.

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. SB 4756 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. Both policyholders and insurers should support SB 4756.

“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.

Thank you for your consideration of both SB 4756 and this letter in support.

Sincerely,

A handwritten signature in black ink that reads "Amy Bach". The signature is written in a cursive, flowing style.

Amy Bach, Esq.
Executive Director