

June 8, 2015

Memorandum in Support: S4049A (Lanza) Fair insurance practices

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United Policyholders writes in strong support of this bill on behalf of the millions of New York business and property owners that take responsibility for their own economic security by buying insurance policies to serve as safety nets. We want people and businesses to do this.

We want New Yorkers to invest in buying insurance so they'll have their own financial resources for recovering from disasters and misfortunes and won't have to rely on government aid.

But as things stand now, property insurance policies in New York have less value than in most states. This is because insurers know they face far less downside risk in New York for underpaying, denying or delaying the payment of insurance benefits. Only Alabama, Montana, and four other states give insurers the advantage that New York gives them: The security of knowing that if they fail to adhere to the state's fair claim handling standards, claimants are generally powerless to fight back. Senate bill 4049A increases the value of insurance contracts in New York.

This bill is good for the state's economy because it makes New Yorkers' insurance safety nets stronger. It does that by giving businesses and individuals the ability to legally enforce – *if need be* – their contractual right to policy benefits after a disaster, accident or loss.

The current regime is unhealthy for insurers, insurance consumers, and the government agencies that now have exclusive jurisdiction to enforce the state's fair insurance claim handling laws. In a sense, New Yorkers have the worst of both worlds: Property insurance prices in New York rank 10th highest in the nation¹, yet policyholders can't hold insurers legally accountable for paying full value on their policies after a loss.

S4049A will bring New York in line with the vast majority of states. New York is one of the few that don't allow a policyholder to bring an action to enforce their right to collect benefits owed under an insurance contract or recover attorney fees even where they legally prove an insurer has wrongfully withheld benefits owed under that contract.²

¹ Source: Insurance Information Institute

² See United Policyholders' 50 State Survey at uphelp.org

June 8, 2015

Page 2 of 2

As things stand now, the only New Yorkers that can challenge wrongful conduct by an insurer are those who are so morally outraged that they're willing to lose money fighting for the benefits they paid for, and those who are affluent enough to pay a lawyer by the hour. Paying a lawyer by the hour to challenge an insurance company's decisions on a claim in New York *makes no economic sense*. And insurers know that. This bill provides an important economic incentive for insurers to adhere to fair claim handling standards and pay claims in full and on time.

Interests that oppose our tort system will no doubt claim S4049A will raise insurance rates, yet there is no evidence to support this contention. (See [How Does Tort Reform Affect Auto Insurance Costs?](#), Paul Heaton, July 2013).

About United Policyholders

UP is a non-profit 501(c) (3) organization founded in 1991 that is a voice and an information resource for insurance consumers in all 50 states. Donations and foundation grants support the organization's work. UP does not sell insurance or accept funding from insurance companies. UP coordinates with the New York Department of Financial Services and has been actively supporting the Superstorm Sandy recovery effort in New York.

UP's work is divided into three program areas: Roadmap to Recovery™ (disaster recovery and claim help), Roadmap to Preparedness (insurance and financial literacy and disaster preparedness), and Advocacy and Action (advancing pro-consumer laws and public policy through Amicus Briefs and legislative advocacy).

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