



**New York State Assembly**

Carl E. Heastie, Speaker

# ANNUAL REPORT 2015

A dark blue silhouette of a city skyline, including various skyscrapers and buildings, positioned behind the large white text of the title.

Committee on

**Insurance**

Kevin A. Cahill, Chairman



KEVIN A. CAHILL  
Assemblymember 103<sup>rd</sup> District

CHAIR  
Assembly Insurance Committee

## THE ASSEMBLY STATE OF NEW YORK ALBANY

COMMITTEES  
Ways and Means  
Economic Development, Job Creation,  
Commerce & Industry  
Ethics and Guidance  
Health  
Higher Education

December 15, 2015

The Honorable Carl Heastie  
Speaker of the Assembly  
Room 932 - Legislative Office Building  
Albany, New York 12248

Dear Speaker Heastie:

I hereby submit to you the 2015 Annual Report for the Committee on Insurance. I am pleased to report that thanks to the due diligence and dedication of the members and with the help of your leadership, the Committee had a productive session.

Throughout the session, the Committee strove to ensure that the essential health benefits required by the Affordable Care Act remain available to all policy holders, and that New Yorkers can acquire health care when they need it. To that end, the Committee supported, and the Assembly passed, bills which would require coverage for prosthetic limbs when medically necessary, and allow women to enroll in a health insurance program when they become pregnant, without having to wait until the next open enrollment period. The Committee also supported legislation which would ensure that women have access to comprehensive contraceptive coverage.

The Committee continued to advocate for the rights of consumers for affordable insurance of all kinds, regardless of where they live, what they do, or their level of education. The Committee reported several bills which would guarantee that a homeowner's insurance policy cannot be subject to "red-lining," and that an insurer cannot raise auto insurance rates because of a policy holder's occupation or education. The Committee also supported legislation protecting consumers from unwarranted requests for private information by insurance companies prior to adjudicating claims.

While negotiating the 2015-16 Budget, the Assembly secured funding for a subsidy which makes health insurance affordable for entertainment workers as they transition into the state health exchange. We also fought for provisions which will allow medical practitioners continued access to affordable malpractice insurance.

In the area of life insurance, the Assembly passed bills which will ensure that domestic life insurers do not operate at a competitive disadvantage compared to out-of-state

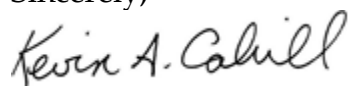
firms. These bills allow domestic life insurers to distribute dividends and to appoint controlling board members in the same ways as foreign insurers. Other bills supported by the Committee and passed by the Assembly would increase the variety of accident and health policies which insurers may sell, as well as expand the groups to which they may sell blanket accident and health policies.

In the area of automobile insurance, the Committee reported for the second year a number of auto insurance bills that were developed in response to testimony heard at a hearing that examined the industry held by the Committee in 2014. These bills would help New York's consumers by requiring the Department of Financial Services to conduct a study to determine the adequacy of the current mandatory minimum coverage amounts for private passenger auto insurance and to report on the impact of raising such amounts; prohibit auto insurers from discriminating against consumers based upon their education or occupation; and require insurers to file new information to the Department of Financial Services so it can determine how insurers arrive at their auto insurance rates. The Committee also co-sponsored two roundtables on ride and car sharing in New York State. It heard from groups for and against these transportation models as well as representatives of consumers, local governments and people with disabilities. The feedback from the roundtables provided necessary information to the Committee as it evaluates ride and car sharing legislation over the next session.

The Insurance Committee further scheduled a hearing on Thursday, December 17, 2015 regarding the budgetary and other implications of the essential health benefits cap in compliance with the federal Affordable Care Act. Several witnesses were invited and scheduled to participate, including representatives of at least three state executive agencies. With the exception of a representative for one executive department entity, those agencies failed to respond to the timely written invitation. The representative who did respond initially accepted, but later declined the invitation. Accordingly, the Committee postponed the hearing to accommodate those parties or to seek means to compel their attendance and testimony.

While the 2015 Session has been productive, we are already preparing for the important work that lies ahead. Under your leadership, the Insurance Committee stands ready to meet the upcoming 2016 legislative session with a commitment to legislative proposals that will further aid consumers and improve the insurance industry within the state of New York. I thank the members and staff of the Committee for their hard work during this past session. Furthermore, I again thank you, Mr. Speaker, for your leadership and continued support of legislation that protects New York's consumers.

Sincerely,



Kevin A. Cahill

Chairman

New York State Assembly

Standing Committee on Insurance

NEW YORK STATE ASSEMBLY

STANDING COMMITTEE ON INSURANCE

Kevin A. Cahill, Chair

▪ MEMBERS ▪

Majority

Vivian E. Cook  
Gary J. Pretlow  
José Rivera  
Crystal D. Peoples-Stokes  
Steven Cymbrowitz  
Charles D. Lavine  
Edward C. Braunstein  
Francisco P. Moya  
Andrew D. Hevesi  
Daniel Quart  
James G. Skoufis  
Phillip G. Steck  
Marcos A. Crespo  
Phillip Goldfeder  
John T. McDonald  
Latoya Joyner  
Erik M. Dilan

Minority

William A. Barclay,  
Ranker  
Marc W. Butler  
Gary D. Finch  
Stephen M. Hawley  
Kenneth D. Blankenbush  
Brian F. Curran  
Raymond W. Walter

▪ COMMITTEE STAFF ▪

Jennifer Best, Assistant Secretary for Program and Policy  
Dallas Trombley, Senior Analyst  
Fletcher Whyland, Committee Assistant  
Evan Gallo, Legislative Counsel  
Vincent Rossetti, Legislative Aide  
Sarah Conklin, Program and Counsel Secretary

▪ TABLE OF CONTENTS ▪

|  | <u>Page</u> |
|--|-------------|
| I. 2015 - 16 Budget.....                                 | 1           |
| II. Health Insurance.....                                | 2           |
| III. Property / Casualty Insurance.....                  | 5           |
| IV. Auto Insurance .....                                 | 9           |
| V. Life Insurance .....                                  | 11          |
| VI. Miscellaneous.....                                   | 13          |
| VII. Public Forums .....                                 | 14          |
| VIII. Outlook for 2016 .....                             | 15          |
| Appendix A: Summary of Action on All Bills in 2015 ..... | 17          |
| Appendix B: Chapters of 2015 .....                       | 18          |
| Appendix C: Bills Reported in 2015 .....                 | 20          |
| Appendix D: Bills Vetoed in 2015.....                    | 24          |

## ▪ 2015 - 16 Budget ▪

The Committee worked earnestly during negotiations for the 2015-16 Budget to ensure that the New York State of Health insurance exchange remained funded without making it a charge to policyholders. At the same time, the Assembly fought to ensure that provisions were not enacted in the Budget which would have required groups with 51-100 employees or members to join community rated plans. The Assembly also preserved the Entertainment Workers Healthcare Subsidy, which provides affordable healthcare for workers in this important sector of the New York State economy as these workers transition into the Health Exchange.

In order to protect medical providers and keep healthcare affordable for New Yorkers, the Assembly also supported provisions which facilitate access for providers to medical malpractice coverage. The Assembly rejected a proposal which would have required doctors, among others, to obtain clearance from the Department of Taxation and Finance before becoming eligible to enroll in malpractice coverage through the Medical Malpractice Hospital Excess Liability Pool. Instead, the enacted Budget extended this pool until June 30<sup>th</sup>, 2016.

## ▪ HEALTH INSURANCE ▪

### A. Blanket Accident and Health

*A.1153-A Cahill / S.1761-B Seward*

*Veto 277 of 2015*

This bill would expand the entities that can purchase blanket accident and health insurance policies to include groups which are charitable, recreational or religious in nature and give DFS the authority to allow additional entities to purchase such policies via regulation.

### B. Prosthetics

*A.1178-B (Gunther) / S.1708-B Bonacic*

This bill would clarify that coverage for prosthetic limbs must be provided as an essential health benefit consistent with the Affordable Care Act, if such devices are deemed medically necessary by a patient's physician. This coverage would include the replacement as well as the repair of such devices.

This bill passed the Assembly.

### C. Extrapolation

*A.1193 Lavine / S.2303 Hannon*

This bill would require health care plans that use extrapolation in determining whether health care providers have received overpayments to comply with the following requirements:

- Provide written notice to the health care provider that extrapolation will be utilized;
- Apply a valid statistical methodology that uses stratified random sampling methods to assure a fair evaluation of the claims subject to audit;
- Inform the health care provider as to the type of methodology used;
- Provide the health care provider sixty business days to appeal the audit findings; and
- In the event of an appeal of the audit findings, allow the health care provider to seek a review of the findings by a mutually agreed upon independent third party auditor whose costs shall be shared equally between the parties.

This bill passed the Assembly.

*D. Nurse Surgical First Assistants  
A.1241-A Lavine / S.1233-A Little  
Chapter 536 of the Laws of 2015*

This bill requires health insurers, Medicaid, and workers' compensation policies to provide reimbursement for services provided by a registered nurse first assistant (RNFA) when acting in the capacity of a non-physician surgical first assistant provided that: the RNFA is certified in operating room nursing; the RNFA is employed by a physician who bills for services; the policy otherwise provides for such services; and the services are within the scope of practice of a non-physician surgical first assistant.

This bill does not prevent a health insurance policy from requiring services through a network of participating providers or prevent an insurer from directly reimbursing a non-physician surgical first assistant.

*E. Court-Ordered Care  
A.1327-A Cahill / S.4922-A Hannon  
Chapter 371 of the Laws of 2015*

This bill requires an expedited utilization review process for individuals who are scheduled to appear or have appeared before a court, to receive coverage for mental health or substance abuse treatment which is required by court-order. This will allow patients receiving court-ordered care to be covered by their health insurance policies.

*F. Mail Order Pharmacies  
A.6194 Joyner / S.2530 Golden*

This bill would clarify that a health insurer cannot require an insured to use a mail order pharmacy as long as the local retail pharmacy agrees to the same reimbursement amount as the mail order pharmacies and removes the requirement that the local retail pharmacy also agree to the same terms and conditions as the mail order pharmacies.

This bill passed the Assembly.



*G. Pregnancy Special Enrollment Period  
A.6780-B Simotas / S.5972 Seward  
Chapter 581 of the Laws of 2015*

This bill established a Special Enrollment Period for pregnancy in order to allow women to receive health care on the first day of the month in which the woman becomes pregnant, as certified by her physician.

*H. Prosthetic Devices for Veterans  
A.7545-B Crespo / No Same As*

This bill would require health insurers that cover durable medical equipment include coverage for prosthetic devices for veterans of the armed forces who are residents of New York on parity with the coverage for durable medical equipment. Additionally, the bill would establish a definition of “prosthetic devices” which would include an artificial limb, but shall not include shoes or any other article considered as ordinary wearing apparel and defines “policy holders” as a veteran of the armed forces who resides in the state of New York and whose need for a prosthetic device resulted from an injury suffered in the line of duty.

This bill passed the Assembly.

*I. Student Accident and Health Policies  
A.7725-C Stirpe / S.5925-A Seward  
Chapter 461 of the Laws of 2015*

This bill allows for the continued sale of certain student accident and health insurance policies to college and university students. These policies would provide coverage above the essential health benefits required by the ACA. Such policies may be designed to cover injuries during intercollegiate athletic events or to cover the “excepted benefits” of the ACA, which include dental and vision care which may not be included under a student’s regular health insurance.

*J. Stop-Loss Insurance  
A.8134-A (Seawright) / S.5928-A Seward  
Chapter 588 of the Laws of 2015*

This bill allows certain small businesses which re-insured with stop-loss coverage for their health insurance claims to continue to re-insure with this product despite a general prohibition against stop-loss for employers in the “small group” health insurance market. This provision would expire in five years.

▪ **PROPERTY / CASUALTY INSURANCE** ▪

A. Redlining

*A.146 Gantt / No Same As*

This bill would prohibit an insurer from refusing to issue or renew, or from limiting the type or amount of coverage offered for, an automobile or homeowners' policy based upon the property's location, age, or market value unless the decision is based on sound actuarial data and is consistent with its treatment of risks of substantially similar hazards in all geographical locations it serves in this state. This bill would also set up a grievance procedure for consumers, agents, and brokers who feel that an insurer has violated these provisions to file a complaint with the Superintendent of Financial Services.

This bill was reported to the Codes Committee.

B. Unfair Claims Settlement Practices

*A257-A Weinstein / No Same As*

This bill would establish a civil cause of action for policyholders who have been the victims of unfair claims settlement practices by insurance companies. Under current law, policyholders have no right to sue insurance companies who engage in a general business practice of lowballing claims or otherwise, refusing to settle, or other actions systematically designed to decrease payment after a claim. This bill would give individual policyholders a right of action against a company for a single violation.

This bill was reported to Third Reading.

C. Sewer Backup Concurrent Causes

*A.453 Cymbrowitz / S.1454 Golden  
Chapter 410 of the Laws of 2015*

This bill requires the Department of Financial Services to examine and produce a study on concurrent causation in sewer backup and homeowners policies by January 1st, 2017. While the study would be limited to sewer backup claims, the information on how concurrent causation is treated by insurance companies would be helpful to the Legislature in formulating future insurance policy as concurrent causation is a condition in multiple insurance line contracts.

*D. Standardization of Policy Terms*

*A.1230 Cahill / S.4221 Seward*

This bill would require the Superintendent of Financial Services, within six months of the effective date of this bill, to promulgate regulations which provide standardized definitions for commonly used terms and phrases found in homeowners policies and commercial lines policies that provide coverage for loss or damage to real property, personal property or other liabilities for loss or damage to property. Insurers would be required to use the standardized terms and phrases in policies issued or delivered on or after the date the regulations are finalized, which would be no later than January 1, 2016. The bill would also allow insurers to use alternative definitions at the discretion of the Superintendent, so long as such definitions are not any less favorable to the policyholder or claimant than those required under the regulations.

This bill was advanced to the Third Reading Calendar.

*E. Disasters Task Force*

*A.4172 Skoufis / S.3758 Latimer*

This bill would create an eighteen-member task force to examine how insurers who write homeowners and commercial insurance policies respond to disasters, in what ways state and local agencies such as the Department of Financial Services (DFS) and the Department of Homeland Security and Emergency Services (DHSES) can assist claimants in such response and whether policyholders and communities have adequate insurance. The members of the task force would include state and local government officials as well as representatives from the insurance industry and consumer advocacy groups. The task force would be required to submit a report to the Governor and the Legislature on its findings and recommendations one year after the effective date.

This bill passed the Assembly.

*F. Certificates of Insurance*

*A.4616 Morelle / S.3681 Seward*

*Chapter 8 of the Laws of 2015*

This amendment to Chapter 552 of the Laws of 2014 further amended the Insurance Law in relation to certificates of insurance in order to clarify the definitions of an "insurance certificate" and a "property casualty insurance company," as well as to clarify the requirements for the use of insurance certificates on public projects.

G. Scaffolding Sunshine

*A.4718 Moya / S.3392 Lanza*

This bill would require all insurers issuing a policy of liability insurance to a contractor or owner of real property to file a supplemental financial disclosure statement with the superintendent of the Department of Financial Services (DFS). This statement would include all sources of income, including: premiums attributable to coverage for Labor Law 240 claims, investment income, salaries, consulting fees, and advertising costs, among other information. This statement would need to be signed by the insurer's chief executive officer. DFS would be required to make all information gathered under this section publicly available on the department's website.

This bill was reported to the Codes Committee.

H. Adjusters

*A.5015 Perry / S.4276 Golden*

*Veto 228 of 2015*

This bill would establish that insurers and all independent adjusters that are issued a temporary permit to adjust claims within New York State must utilize cost data that is regionally appropriate for the area of the state where the loss or damage occurred. The provisions of this bill would exclude automobile insurance policies.

I. Municipal Insurance Reciprocity

*A.6663 McDonald / S.4599 Breslin*

*Veto 263 of 2015*

This bill would allow the New York Municipal Insurance Reciprocal to seek permission from the Department of Financial Services to return money from its assessments to its individual municipal members. Such reimbursement would occur yearly if more than enough money had been collected for the payment of claims arising within the jurisdictions of its municipal members. Current law requires a portion of this money to be credited to NYMIR operating reserves which have accreted over time.

J. Residential Home Safety Courses  
A.6846 Crespo / S.1529 Klein  
Veto 233 of 2015

This bill would authorize the Department of Financial Services, in consultation with the Office of Fire Prevention and Control of the Division of Homeland Security and Emergency Services, to certify residential home safety and loss prevention courses. Such courses would be required to include information and methods on how an insured can prevent or minimize property losses and personal injuries due to fire, theft, burglary, accidents and weather related events such as hurricanes. The Department would be authorized to promulgate regulations governing these courses, including curriculum standards.

The Department would also be required to provide for an actuarially appropriate premium reduction for homeowners or fire insurance premiums for three years for an insured who successfully completes such a course.

K. Hurricane Windstorm Deductibles  
A.7537 Kaminsky / S.253 LaValle

This bill would require the Superintendent of the Department of Financial Services to promulgate, within 180 days of the effective date of this bill, regulations providing standards for hurricane windstorm deductibles which create, to the greatest extent possible, uniformity in the operation of such deductibles with respect to the triggering event.

This bill passed the Assembly.

▪ **AUTO INSURANCE** ▪

A. *Auto Sunshine*

*A.328-A Weinstein / S.2987 Martins*

This bill would provide lawmakers, regulators, and the public with a source of reliable and accessible data that would allow them to evaluate automobile insurance and insurance companies by requiring insurers writing private passenger auto insurance to report detailed financial information to the Department of Financial Services, who shall make the info public.

This bill was advanced to the Third Reading Calendar

B. *Flex Rating Sunset*

*A.454 Cymbrowitz / S.2257 Larkin*

This bill would strengthen consumer protections and oversight of private passenger auto insurance premiums by sunseting the law that allows for flex rating on June 30, 2017.

This bill was advanced to the Third Reading Calendar.

C. *Fraud Fighters*

*A.2085 Cahill / No Same As*

This bill would increase consumer protections by removing collateral estoppel from the no-fault law, expanding the situations in which the Department of Financial Services can decertify unscrupulous medical providers within the no-fault system, and creating a new Office of Public Auto Insurance Consumer Advocate in the Executive Branch to advocate on behalf of auto insurance consumers.

This bill was reported to the Ways & Means Committee.

D. *Minimum Coverage Study*

*A.2578 Brennan / No Same As*

This bill would require the Department of Financial Services to conduct a study of the current mandatory minimum coverage amounts and coverage options for private passenger auto insurance and to assess the impact on premiums of increasing such amounts.

This bill advanced to the Third Reading Calendar.

E. Supplementary Uninsured/Underinsured Motorist (SUM) Coverage  
*A.3121 Morelle / S.4674 Seward*

This bill would educate consumers about the availability of supplementary uninsured/underinsured motorist (SUM) coverage. It would allow SUM coverage to be purchased in the same amount as a motorist's bodily injury coverage and require insurers to provide motorists with a notice informing them of the availability of SUM coverage and the amount of SUM coverage that can be purchased.

This bill advanced to the Third Reading Calendar.

F. Education/Occupation Discrimination  
*A.6834 Crespo / No Same As*

This bill would reduce discrimination by auto insurers by prohibiting all motor vehicle insurers doing business in New York State from basing premiums, rates or the issuance or renewal of a policy on a policy holder's education or occupation.

This bill passed the Assembly.

G. Private Right of Action  
*A.257-A Weinstein / No Same As*

This bill would improve consumer protections against unfair claims practices for when an insurance company refuses to pay or imposes an unreasonable delay in payment by providing policyholders a private right of action.

This bill was advanced to the Third Reading Calendar.

## ▪ LIFE INSURANCE ▪

### A. Dividend Distribution

*A5202-B Brindisi / S.1380-B Seward  
Chapter 586 of the Laws of 2015*

This bill changes the limit on the amount of dividends that may be distributed by a domestic life insurance company to its shareholders. The maximum amount would be up to 25% of the surplus to policyholders, 15% if the company took a loss within the previous three years. Additionally, the company would be required to notify DFS of such amount to seek approval for any amount distributed if a loss was incurred, and the dividend must be reasonable in relation to the company's outstanding liabilities and adequate to meet its financial needs.

### B. Domestic Stock Life Insurance Directors

*A7458-A Skoufis / S.3012 Seward  
Chapter 575 of the Laws of 2015*

This bill allows domestic life insurance companies which are subsidiaries to use the same controlling members as their parent company. Currently, this is allowed for property and casualty insurance companies and for most foreign insurers. This bill closes a loop-hole whereby domestic stock life insurance companies were the only domestic insurers subject to this standard.

### C. Multi-National Companies

*A.7789 Cahill / S.5647 Seward  
Chapter 64 of the Laws of 2015*

This chapter clarified the kinds of activities which brokers licensed with respect to accident and health and annuities can engage in with multinational companies without violating laws which prohibit brokers from doing business with unlicensed alien entities. The chapter provided that brokers may engage in certain specified activities provided that:

- The policyholder is a "multinational entity" which has substantial business in the U.S. as well as abroad and the activities relate to group life, group annuity or group accident and health coverage for the multinational entity's employees and their dependents and those dependents reside outside of the U.S. (although they may be residing in the U.S. temporarily);
- The policy shall not be negotiated or delivered in NYS;
- The alien insurer is authorized to transact business in its jurisdiction;
- Written notice is delivered to the multinational entity outlining the protections which are not afforded by virtue of the alien insurer being unlicensed in NYS;
- The alien insurer shall not maintain an office in NYS; and,



- No advertising or solicitation for such service is allowed.

If these conditions are met, the broker may provide information to the multinational entity, meet and discuss its needs, refer them to an alien insurer, respond to requests, provide information on renewals, and manage its employee benefits program. The superintendent of the Department of Financial Services will serve as the attorney for unauthorized insurers, in order that New York policyholders have someone to serve notice to when bringing a claim against an alien insurer, without having to travel to a distant venue.

▪ MISCELLANEOUS ▪

A. Personal Financial Information

*A.1340 Dinowitz / No Same As*

This bill would make it an unfair claim settlement practice for insurers to demand as standard practice, intrusive personal, financial and tax information of the insured to process ordinary theft claims unless there are special circumstances that warrant the disclosure of such documents in order to determine if the claim is fraudulent.

This bill was advanced to the Third Reading Calendar.

B. Specialty Risk Exemption Extender

*A.6131-A Steck / S.3513-A Seward*

*Chapter 24 of the Laws of 2015*

This chapter extended until June 30, 2019, the exemption for underwriters of large commercial risks other than medical malpractice coverage that retain an outside specialty risk manager licensed as a producer in NYS from the obligation to file an insurance certificate with the Department of Financial Services within one day of binding coverage. Such insurers must send a copy of the policy to the Department of Financial Services within 3 days of the policy delivery and no later than 60 days after the inception date of policy.

C. Electronic Signatures

*A.8099 Cahill / S.5911 Seward*

*Veto 245 of 2015*

This bill would allow instructors of insurance continuing education courses to submit signatures to the Department of Financial Services to provide such CLE courses electronically rather than only by direct mail.

## ▪ PUBLIC FORUMS ▪

### *Ride and Car Sharing in New York State*

The Committee co-sponsored two roundtables on ride-sharing and car-sharing in New York State, in cooperation with the committees on Transportation, Cities and Local Governments, and the Assembly Task Force on People with Disabilities. The purpose of these roundtables was to gain perspectives on these emerging and largely unregulated transportation companies, which provide access to transportation via smart phone applications. In New York City and in Albany, the Committee participants included from ride-sharing and car-sharing companies, as well as representatives of taxi, limousine and black car services, individuals with disabilities, insurers and business owners. While ride-sharing is allowed in New York City if it is organized through a livery base, ride-sharing companies seek to operate across the state on a pure “peer-to-peer” model without having to contract with a physical base. Livery, limousine and black car representatives testified that it would be unfair to allow ride-sharing companies to operate without being subject to the same regulations which have long applied to taxi-like services. Car-sharing companies are seeking to be able to purchase group liability policies to cover personal vehicles rented to others. Advocates for persons with disabilities sought fair access to any new transportation services authorized. Insurance companies pointed out the importance of making sure that no coverage gaps exist in the interplay between a driver’s personal automobile insurance policy and the coverage afforded by the ride-sharing company while the driver is in the process of finding rides. The Committee will continue to evaluate the various bills which would authorize ride- and car-sharing in New York State.

## ▪ OUTLOOK FOR 2016 ▪

For the 2016 legislative session, the Insurance Committee will continue to advance legislation that protects New York's consumers while also strengthening the insurance market in this state.

The Committee will continue to monitor and ensure proper implementation of the federal Affordable Care Act (ACA) in New York State through the New York State of Health, the New York State Health Benefit Exchange. The New York State of Health has enrolled a total of 2.1 million people according to their 2015 Open Enrollment Report.<sup>1</sup> As we press forward, the Committee is steadfast in its commitment to supporting legislation that ensures the availability of quality, affordable health insurance.

The Committee will also continue to examine the state of the automobile insurance industry within New York State. Drivers in New York are required to purchase liability coverage, as it provides important protections to New Yorkers who are at risk of being injured in accidents or who may experience damage to their vehicle or other property. The Committee will continue to stand firm against discrimination in auto insurance based on education or occupation, and will continue to examine the differences in premium rates amongst those with varying educational and occupational backgrounds.

Issues related to the emerging shared economy have generated questions related to liability, which the Insurance Committee will continue to evaluate. In 2016, the Committee will work with the other Assembly Standing Committees to ensure that this new business model assures longstanding consumer protections.

New York must keep abreast of advancements in medicine and healthcare treatments and technology in order to ensure that New Yorkers receive the highest quality, most up-to-date health care. The postponed Insurance Committee hearing would have specifically addressed the process by which the State may require health benefits in excess of the essential health insurance benefits cap. The Committee will continue working with state agencies to accommodate those parties and insure their participation in further discussions.

The Committee will also continue to evaluate the insurance industry's response to disasters and other emergencies to ensure that policyholders are provided adequate coverage and that the insurance industry remains solvent. Over the past few years, New York has been hit by several large storms that have caused immense damage across the State. In such situations, individuals and businesses often must rely upon their property & casualty and flood insurance to cover damages, if such coverage was in place. The reality was that for far too many New Yorkers, their insurance coverage and the required processes that followed did not address their needs at such a critical time. In response to this, the Committee is committed to continuing its review of what more

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<sup>1</sup> New York State of Health. "2015 Open Enrollment Report." (July 2015).

can be done to ensure that the insurance products that are purchased in the Empire State protect New Yorkers from unforeseen catastrophic natural events in the future.

## APPENDIX A 2015 SUMMARY SHEET

### Summary of Action on all Bills Referred to the Insurance Committee

|   | <u>ASSEMBLY</u><br><u>BILLS</u> | <u>SENATE</u><br><u>BILLS</u> | <u>TOTAL</u><br><u>BILLS</u> |
|---|---------------------------------|-------------------------------|------------------------------|
| <b>BILLS REPORTED WITH OR WITHOUT AMENDMENT</b>           |                                 |                               |                              |
| TO FLOOR; NOT RETURNING TO COMMITTEE (FAVORABLE)          | 15                              |                               | 15                           |
| TO WAYS AND MEANS   | 8                               |                               | 8                            |
| TO CODES  | 14                              |                               | 14                           |
| TO RULES  | 12                              |                               | 12                           |
| TO JUDICIARY  |                                 |                               | 0                            |
| TOTAL   | 49                              |                               | 49                           |
| <b>BILLS HAVING COMMITTEE REFERENCE CHANGED</b>           |                                 |                               |                              |
| TO Ways and Means   | 1                               |                               | 1                            |
| TO COMMITTEE  |                                 |                               | 0                            |
| TOTAL   | 1                               |                               | 1                            |
| <b>SENATE BILLS SUBSTITUTED OR RECALLED</b>               |                                 |                               |                              |
| SUBSTITUTED   |                                 | 7                             | 7                            |
| RECALLED  |                                 | 2                             | 2                            |
| TOTAL   |                                 | 9                             | 9                            |
| <b>BILLS DEFEATED IN COMMITTEE</b>                        |                                 |                               |                              |
|   | 0                               | 0                             | 0                            |
| <b>BILLS HELD FOR CONSIDERATION with a roll-call vote</b> |                                 |                               |                              |
|   | 32                              | 0                             | 32                           |
| <b>BILLS NEVER REPORTED, HELD IN COMMITTEE</b>            |                                 |                               |                              |
|   | 210                             | 16                            | 226                          |
| <b>BILLS HAVING ENACTING CLAUSES STRICKEN</b>             |                                 |                               |                              |
|   | 8                               | 0                             | 8                            |
| <b>MOTIONS TO DISCHARGE LOST</b>                          |                                 |                               |                              |
|   | 0                               | 0                             | 0                            |
| <b>TOTAL BILLS IN COMMITTEE</b>                           | 300                             | 24                            | 325                          |
| <b>TOTAL NUMBER OF COMMITTEE MEETINGS HELD</b>            | 9                               |                               |                              |

**APPENDIX B  
CHAPTERS OF 2015**

| <b>Bill/ Sponsor</b>                  | <b>Description</b>   | <b>Final Action</b> |
|---------------------------------------|--|---------------------|
| A.453 /Cymbrowitz<br>S.1454 /Golden   | Would provide the Legislature with information on the effects of anti-concurrent causation clauses in sewer backup insurance coverage policies.  | Chapter 410         |
| A.840 /Brindisi<br>S.1312 /Seward     | Makes technical amendments to Chapter 527/2014 which allows domestic property/casualty insurance companies to exceed the management expenses cap by up to 5% to make upgrades to their IT systems, with DFS approval.  | Chapter 1           |
| A.1241-A /Lavine<br>S.1233-A /Little  | Would require reimbursement for surgical first assistant services.   | Chapter 536         |
| A.1327-A /Cahill<br>S.4922-A /Hannon  | Would require health insurers to cover court ordered health care services, which are already a covered benefit of the services if ordered by a court of competent jurisdiction and provided by an in-network provider. | Chapter 371         |
| A.4616 /Morelle<br>S.3681 /Seward     | Amends the Insurance Law in relation to certificates of insurance, and would amend chapter 552 of the laws of 2014 relating to the effectiveness of certificates of insurance.   | Chapter 8           |
| A.5202-B /Brindisi<br>S.1380-B Seward | Would revise the standard for determining when domestic stock life insurers may distribute dividends.  | Chapter 586         |
| A.6131-A /Steck<br>S.3513-A /Seward   | The purpose of this bill is to extend authorization for certain exemptions from filing requirements for certain specialty risk insurers.   | Chapter 24          |
| A.6780-B /Simotas<br>S.5972 /Seward   | Would allow pregnant individuals to enroll in a health plan through the exchange at any time.  | Chapter 581         |
| A.7458-A /Skoufis<br>S.3012 /Seward   | Would authorize parent insurance corporations, mutual insurance holding companies, or a publicly held corporation to fulfill the independent board of director requirements for domestic life insurers.                | Chapter 575         |
| A.7725-C /Stirpe<br>S.5925-A /Seward  | Would authorize the issuance of certain accident and health insurance policies to institutions of higher education.  | Chapter 461         |
| A.7789 /Cahill<br>S.5647 /Seward      | Allows an insurance broker licensed with respect to life insurance or annuities, or accident and health, to engage in certain activities with alien insurers.  | Chapter 64          |
| A.7943 /Cahill<br>S.5758 /Seward      | Would allow HMOs to offer to certain municipalities a group high deductible health plan in conjunction with a health savings account.  | Chapter 463         |

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| A.8134-A /Seawright<br>A.5928-A /Seward | Would allow certain small groups to retain their stop loss coverage and municipal and school cooperative associations to remain whole. | Chapter 588 |
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**APPENDIX C**  
**BILLS THAT WERE REPORTED IN 2015**

| <b>Bill/ Sponsor</b>                  | <b>Description</b>  | <b>Action</b>             |
|---------------------------------------|---|---------------------------|
| A.146 /Gantt<br>No Same As            | Would prohibit discrimination in the issuance of homeowners' insurance policies and clarifies the prohibition of refusal to issue policies based solely on geographical location.                                     | Reported to Codes         |
| A.257-A /Weinstein<br>No Same As      | Would give policyholders a private right of action when an insurer commits an unfair claim settlement practice and other unfair practices.  | Advanced to Third Reading |
| A.328-A /Weinstein<br>S.2987 /Martins | Would require significant disclosure of and public access to claims, financial, and compensation data from auto insurers.   | Advanced to Third Reading |
| A.453 /Cymbrowitz<br>S.1454 /Golden   | Would provide the Legislature with information on the effects of anti-concurrent causation clauses in sewer backup insurance coverage policies.   | Chapter 410               |
| A.454 /Cymbrowitz<br>S.2257 /Larkin   | Would sunset the section of law that allows for flex rating for non-commercial auto policies on June 30, 2017.  | Advanced to Third Reading |
| A.840 /Brindisi<br>S.1312 /Seward     | Makes technical amendments to Chapter 527/2014 which allows domestic property/casualty insurance companies to exceed the management expenses cap by up to 5% to make upgrades to their IT systems, with DFS approval. | Chapter 1                 |
| A.1153-A /Cahill<br>S.1761-B /Seward  | Would expand the listing of types of eligible groups that could be covered by blanket group accident and health insurance.  | Veto Memo<br>277          |
| A.1178 /Gunther<br>S.1708-B /Bonacic  | Would mandate insurance providers to cover insureds costs of prosthetic devices as well as their repair costs, assessment, evaluation, treatment, and follow up care.   | Passed Assembly           |
| A.1193 /Lavine<br>S.2303 /Hannon      | Would allow providers to appeal a health insurer's overpayment recovery when the insurer uses extrapolation.  | Passed Assembly           |
| A.1230 /Cahill<br>S.4221 /Seward      | Would require the Department of Financial Services to promulgate regulations that would standardize the definitions of terms and phrases commonly used in homeowners and certain commercial insurance policies.       | Advanced to Third Reading |
| A.1241-A /Lavine<br>S.1233-A /Little  | Would require reimbursement for surgical first assistant services.  | Chapter 536               |
| A.1327-A /Cahill<br>S.4922-A /Hannon  | Would require health insurers to cover court ordered health care services, which are already a covered benefit of the services if ordered by a court of   | Chapter 371               |

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|                                     | competent jurisdiction and provided by an in-network provider.   |                                     |
| A.1340 /Dinowitz<br>No Same As      | Would restrict insurers from demanding intrusive personal, financial, and tax information from insureds as a standard practice in ordinary theft claims.   | Advanced to Third Reading           |
| A.2085 /Cahill<br>No Same As        | Would increase consumer protections by removing collateral estoppel from the no-fault law, expanding the situations in which the Department of Financial Services can decertify unscrupulous medical providers in the no-fault system, and creating a new Office of Public Auto Insurance Consumer Advocate in the Executive Branch to advocate on behalf of auto insurance consumers. | Reported to Ways & Means            |
| A.2578 /Brennan<br>No Same As       | Would require the Department of Financial Services to conduct a study of the current mandatory minimum coverage amounts and coverage options for private passenger auto insurance and to assess the impact on premiums of increasing such amounts.   | Advanced to 3 <sup>rd</sup> Reading |
| A.3121 /Morelle<br>S.4674 /Seward   | Would require insurers to make supplementary uninsured/underinsured motorist (SUM) coverage available in the same amount as the insured's bodily injury and to require the insured to designate if they want to purchase SUM coverage.   | Advanced to Third Reading           |
| A.4036-A /Quart<br>S.2809-A /Lanza  | Would allow patients to synchronize the refills of their prescriptions.  | Passed Assembly                     |
| A.4172 /Skoufis<br>S.3758 /Latimer  | Would create a task force to examine and report on how insurers respond to disasters.  | Passed Assembly                     |
| A.4435-A /Silver<br>No Same As      | Would create a Homeowners' Bill of Rights to educate consumers about property/casualty insurance coverage and require the Department of Financial Services to develop a Consumer's Guide on insuring against catastrophic loss.  | Reported to Ways & Means            |
| A.4458 /Skoufis<br>S.1398 /Carlucci | Would prevent delays in the processing of insurance claims by establishing claim investigation and settlement standards for insurance companies to follow in the event of a disaster.  | Passed Assembly                     |
| A.4616 /Morelle<br>S.3681 /Seward   | Amends the Insurance Law in relation to certificates of insurance, and would amend chapter 552 of the laws of 2014 relating to the effectiveness of certificates of insurance.   | Chapter 8                           |
| A.4718 /Moya<br>S.3392 /Lanza       | Would require insurers writing coverage for liability under the Scaffold Law to report detailed financial information to the Department of Financial Services, who shall make the info public.   | Reported to Codes                   |
| A.5015/Perry<br>S.4276 /Golden      | Would require the use of local cost data when adjusting claims; requires an insurer and independent  | Veto Memo<br>228                    |

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|   | adjuster to adjust certain claims made under an insurance policy that provides coverage for loss of or damage to property using cost data appropriate for the region of this state where the loss or damage occurred arising from emergency situations.                                       |                           |
| A.5202-B /Brindisi<br>S.1380-B Seward       | Would revise the standard for determining when domestic stock life insurers may distribute dividends.   | Chapter 586               |
| A.6131-A /Steck<br>S.3513-A /Seward         | Extends authorization for certain specialty risk insurers certain exemptions from filing requirements.  | Chapter 24                |
| A.6194 /Joyner<br>S.2530 /Golden            | Would strengthen the existing statute that prohibits health insurers from forcing consumers to use mail order pharmacies by clarifying that local retail pharmacies must agree to the same reimbursement amount, and not the same contractual terms and conditions, as mail order pharmacies. | Passed Assembly           |
| A.6421-A /Joyner<br>S.4724-A /Martins       | Would provide that failure to appear for an IME or exam under oath shall not be basis of denial of claim if there are mitigating circumstances.   | Reported to Rules         |
| A.6663 /McDonald<br>S.4599 /Breslin         | Would authorize the Superintendent of the Department of Financial Services to suspend continued funding of subscriber operating reserves for a fiscal year as long as that same amount is returned directly to municipal subscribers the following year.                                      | Veto Memo<br>263          |
| A.6684 /Englebright<br>S.120f / Defrancisco | Would require that no insurer providing collision or comprehensive loss shall require a repair facility to use a specific vendor or process for the procurement of parts or other materials necessary for the repair of a motor vehicle.  | Advanced to Third Reading |
| A.6780-B /Simotas<br>S.5972 /Seward         | Would allow pregnant individuals to enroll in a health plan through the exchange at any time.   | Chapter 581               |
| A.6834 /Crespo<br>No Same As                | Would prohibit auto insurers from discriminating against consumers based upon a consumer's education or occupation.   | Passed Assembly           |
| A.6846 /Crespo<br>S.1529 /Klein             | Would authorize the Department of Financial Services, in consultation with the Division of Homeland Security and Emergency Services, to certify residential home safety and loss prevention courses.  | Veto Memo<br>233          |
| A.7458-A /Skoufis<br>S.3012 /Seward         | Would authorize parent insurance corporations, mutual insurance holding companies, or a publicly held corporation to fulfill the independent board of director requirements for domestic life insurers.   | Chapter 575               |
| A.7537 /Kaminsky<br>S.253 /LaValle          | Would require the Superintendent of Financial Services to establish uniform trigger standards for   | Passed Assembly           |

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|---|---|------------------------------|
|   | hurricane windstorm deductibles.  |                              |
| A.7545-B /Crespo<br>No Same As            | Would require health insurance companies to provide coverage for prosthetic limbs for veterans for rehabilitative and habilitative services.                              | Passed Assembly              |
| A.7707 /Peoples-Stokes<br>S.5382 /Martins | Would protect consumers from the adverse effects of mid-year formulary changes.   | Passed Assembly              |
| A.7725-C /Stirpe<br>S.5925-A /Seward      | Would authorize the issuance of certain accident and health insurance policies to institutions of higher education.   | Chapter 461                  |
| A.7738 /Magnarelli<br>S.5639 /Defrancisco | Would require insurers to notify policyholders of their right to have their vehicle repaired at the shop of their choice, and to maintain a copy of such a signed notice. | Advanced to<br>Third Reading |
| A.7882 /Dilan<br>No Same As               | Would extend the requirement for health maintenance organizations to offer at least one high deductible direct payment plan with an out of network option.                | Advanced to<br>Third Reading |
| A.7789 /Cahill<br>S.5647 /Seward          | Allows an insurance broker licensed with respect to life insurance or annuities, or accident and health, to engage in certain activities with alien insurers.             | Chapter 64                   |
| A.7943 /Cahill<br>S.5758 /Seward          | Would allow HMOs to offer to certain municipalities a group high deductible health plan in conjunction with a health savings account.                                     | Chapter 463                  |
| A.8076 /Hevesi<br>S.5249 /Seward          | Would permit insurance notices to be delivered electronically and allow state-approved insurance policies to be accessed via the internet.                                | Reported to<br>Codes         |
| A.8099 /Cahill<br>S.5911 /Seward          | Would allow for the submission of signatures electronically for continuing education courses by certain insurance professionals.  | Veto Memo<br>245             |
| A.8100 /Crespo<br>S.1471-A /Golden        | Would allow for retroactive cancellation of newly issued automobile insurance policies in certain circumstances.  | Passed Assembly              |
| A.8101 /Cahill<br>No Same As              | Would de-link the workers' compensation and no-fault provider fee schedules and promulgate an independent no fault provider reimbursement schedule.                       | Advanced to<br>Third Reading |
| A.8134-A /Seawright<br>A.5928-A /Seward   | Would allow certain small groups to retain their stop loss coverage and municipal and school cooperative associations to remain whole.                                    | Chapter 588                  |
| A.8135 /Cahill<br>S.6013 /Bonacic         | Would require health insurance policies to provide coverage for contraceptives and prohibit restrictions of such coverage.  | Reported to<br>Ways & Means  |

**APPENDIX D  
BILLS THAT WERE VETOED IN 2015**

| <b>Bill/ Sponsor</b>                 | <b>Description</b>   | <b>Final Action</b> |
|--------------------------------------|--|---------------------|
| A.1153-A /Cahill<br>S.1761-B /Seward | Would expand the listing of types of eligible groups that could be covered by blanket group accident and health insurance.   | Veto Memo<br>277    |
| A.6663 /McDonald<br>S.4599 /Breslin  | Would authorize the Superintendent of the Department of Financial Services to suspend continued funding of subscriber operating reserves for a fiscal year as long as that same amount is returned directly to municipal subscribers the following year. | Veto Memo<br>263    |
| A.6846 /Crespo<br>S.1529 /Klein      | Would authorize the Department of Financial Services, in consultation with the Division of Homeland Security and Emergency Services, to certify residential home safety and loss prevention courses.   | Veto Memo<br>233    |
| A.8099 /Cahill<br>S.5911 /Seward     | Would allow for the submission of signatures electronically for continuing education courses by certain insurance professionals.   | Veto Memo<br>245    |

**- END OF REPORT -**