



**NEW YORK STATE ASSEMBLY**

**A N N U A L**

**2 0 1 2**

**R E P O R T**



**Committee on  
Insurance**

**Joseph D. Morelle, Chairman**

**SHELDON SILVER, SPEAKER**



JOSEPH D. MORELLE  
Assemblyman 132<sup>nd</sup> District  
Monroe County

THE ASSEMBLY  
STATE OF NEW YORK  
ALBANY

CHAIRMAN  
Committee on Insurance

COMMITTEES  
Economic Development, Job Creation,  
Commerce & Industry  
Higher Education  
Rules  
Ways & Means

*December 15, 2012*

*The Honorable Sheldon Silver  
Speaker of the Assembly  
Room 932 – Legislative Office Building  
Albany, New York 12248*

*Dear Speaker Silver:*

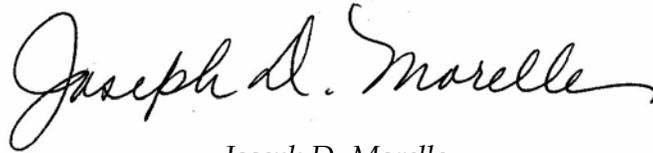
*As the Chair of the Assembly Standing Committee on Insurance, it is my pleasure to submit the Committee's Annual Report for 2012. This legislative session was very successful, as the Committee advanced noteworthy legislation that will increase access to health care, expand the protections provided by automobile insurance, and add important consumer protections to existing insurance law.*

*In the area of health care, the Committee extended until 2014 the health insurance program for freelancers and other individuals who are self-employed. The Committee also secured the enactment of legislation that will provide quality, affordable health care to students by allowing certain universities to self-fund their student health insurance plans. We also created a pilot program to ensure that certain early retirees are able to retain their health insurance.*

*The Committee also took numerous actions on behalf of the consumers of New York. We required life insurance companies to periodically cross-check their policies against the United States Social Security Administration's Death Master File of potentially deceased individuals in order to identify and locate potential beneficiaries for unclaimed life insurance benefits. The Committee also increased the ability of the Department of Financial Services to protect policyholders and regulate insurers by requiring property/casualty insurers to file an additional capital report with the Department.*

*I would like to thank you, Mr. Speaker, for your continued leadership and the members and staff of the Insurance Committee for their hard work and support during the 2012 session.*

*Warmest personal regards,*

A handwritten signature in black ink that reads "Joseph D. Morelle". The signature is written in a cursive style with a large, prominent initial "J".

*Joseph D. Morelle  
Chairman  
New York State Assembly  
Standing Committee on Insurance*

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NEW YORK STATE ASSEMBLY  
STANDING COMMITTEE ON INSURANCE

Joseph D. Morelle, Chair

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▪ HEALTH INSURANCE ▪

A. Coverage for Prescription Fertility Drugs

A.8900 (Silver) / S.6126 (Skelos)

Chapter 10 of the Laws of 2012

Chapter 598 of the Laws of 2011 ensured that consumers with insurance policies that provide coverage for prescription fertility drugs have an equal opportunity to purchase fertility drugs from either a mail order or non-mail order pharmacy without any additional cost-sharing. This chapter amends Chapter 598 to clarify that insurance policies that provide coverage for prescription fertility drugs purchased through an in-network mail order or non-retail specialty pharmacy shall provide the same coverage to consumers when such drugs are purchased from a network participating non-mail order retail pharmacy, provided that the non-mail order retail pharmacy accepts the reimbursement rate and other contractual terms and conditions that the insurer has established for network participating mail order or non-retail specialty pharmacies.

B. Mail Order Pharmacy Coverage

A.8904 (Heastie) / S.6054-A (Maziarz)

Chapter 11 of the Laws of 2012

Chapter 597 of the Laws of 2011 allowed consumers to purchase medication at participating local retail pharmacies at the same cost-sharing amount as mail-order pharmacy coverage under their health insurance policies. This chapter makes clarifying changes to Chapter 597 that allow individuals to purchase their prescription drugs at an in-network non-mail order retail pharmacy without any additional cost-sharing, provided that the pharmacy agrees to the same contractual terms and conditions that the insurer has established with the in-network mail order and non-retail specialty pharmacies.

C. Oral Chemotherapy

A.8906 (V. Lopez) / S.6055 (Lanza)

Chapter 12 of the Laws of 2012

Chapter 559 of the Laws of 2011 required any health insurance policy that provides coverage for prescription drugs and intravenous cancer chemotherapy treatment to provide coverage for a prescribed oral chemotherapy medication at the lower cost-sharing of either the oral or intravenous chemotherapy treatment. This chapter amends Chapter 559 to clarify that coverage for orally administered anti-cancer medications must be at least as favorable to the insured as coverage for intravenous cancer chemotherapy treatments.

*D. Health Insurance for Freelance Workers*

*A.9225 (Silver) / S.6841 (Hannon)*

*Chapter 31 of the Laws of 2012*

Independent contractors and individuals who are self-employed, work part-time, or obtain temporary work frequently have difficulty accessing employment-based health insurance and often cannot afford to purchase coverage in the private pay market. This chapter extends, until December 31, 2014, the model health insurance program that allows this unique population to obtain reasonably priced health insurance that meets their needs.

*E. Soil and Water Conservation Districts*

*A.8168-A (Morelle) / S.5040-A (Seward)*

*Chapter 191 of the Laws of 2012*

In 1993, in an effort to reduce the cost of health insurance for certain public employees, New York State began allowing municipalities, school districts, and Boards of Cooperative Educational Services to band together to form Municipal Health Cooperative Health Benefit Plans. Under such plans, these entities can collectively purchase health insurance and prescription drug coverage at a reasonable rate for their covered employees and retirees. This chapter allows Soil and Water Conservation Districts to participate in such plans.

*F. Health Insurance for Students*

*A.10577 (Morelle) / S.7314-B (Seward)*

*Chapter 246 of the Laws of 2012*

This chapter permits certain public and private universities that are governed by the NYS Board of Regents and that have an endowment of at least one billion dollars to obtain a certificate of authority from the Superintendent of Financial Services to self-fund their student health insurance plans. This allows these universities to reduce the administrative costs associated with such plans while still providing their students with comprehensive health insurance coverage. Any plan established under this law is subject to the same consumer protections, benefits, rates, and premium requirements as a non-profit health insurer established pursuant to article 43 of the Insurance Law. In addition, the universities are required to file all documents related to the plan and certain financial reports with the Superintendent and meet statutory minimum reserve requirements.

G. Annual Physicals and Wellness Visits

A.397-A (Gunther) / S.5850-A (Marcellino)

Chapter 273 of the Laws of 2012

This chapter requires health insurers that provide coverage for a physical or wellness visit once in a 365 day period to provide such coverage once in a calendar year regardless of if 365 days have passed since the previous physical or wellness visit.

H. Health Insurer Claims Denials and Reduction in Payments

A.9946-B (Morelle) / S.7071-B (Hannon)

Chapter 297 of the Laws of 2012

While it is important to ensure that consumers have access to quality and affordable health care, it is also important to ensure that providers are receiving adequate and timely payments. This chapter prohibits a health insurer from denying payment to a hospital for medically necessary inpatient emergency services solely because the hospital did not notify the insurer in a timely fashion that the services had been provided. In addition, when an insurer adjusts a hospital's payment by changing the coding for the service, the hospital can submit to the insurer the medical records for the service; the insurer is then required to review the medical records and, if necessary, re-process the payment.

I. Reconstruction Surgery after a Partial Mastectomy

A.7193-A (Cook) / S.3801-A (Lavalle)

Chapter 302 of the Laws of 2012

Under current law, health insurance plans that provide medical, major medical, or similar comprehensive type coverage are required to provide coverage for breast reconstruction surgery following a mastectomy as well as reconstruction of the other breast to produce a similar appearance. This chapter requires health insurers to provide the same coverage following a partial mastectomy.

J. Health Insurance Pilot Program for Early Retirees  
A.9675-B (Morelle) / S.6740-B (Robach)  
Chapter 362 of the Laws of 2012

This chapter helps early retirees access affordable health insurance by establishing a pilot program to ensure that employees who accepted an early retirement package from a New York company can retain the same health insurance coverage they received through their former employer. The program, which will sunset at the end of 2013, is monitored and evaluated for its effectiveness by the Superintendent of Financial Services.

K. Health Insurance for Eligible Municipal Employees  
A.9711-B (Morelle) / S.6810-B (Seward)  
Chapter 440 of the Laws of 2012

This bill would allow HMOs to offer a group high deductible health plan in conjunction with a health reimbursement account or a health savings account until December 31, 2015, provided that the plan is offered pursuant to an existing collective bargaining agreement between the employer and its employees and that the employer pays the deductible on behalf of its employees. An HMO that offers such a plan would be required to report to the Superintendent of Financial Services and the Commissioner of Health the number of people covered by the plan and how the plan compares to similar non-high deductible plans by April 1, 2014.

L. Disruption of Health Services  
A.4456-A (Castro) / No Same As

This bill would prohibit health insurers from causing a disruption in health services by requiring an insured to use a specific primary care provider. A health insurer would not be prohibited from requiring an insured to select a primary care provider from within the insurer's network or from selecting a primary care provider on behalf of the insured when the insurer is authorized to do so by law, rule, or regulation.

This bill was referred to the Codes Committee.

M. Coverage for Baby Formula

*A.4492 (Meng) / S.3270 (Hassell-Thompson)*

Advanced baby formulas are often prescribed by physicians as part of a treatment regimen for Crohn's disease, gastroesophageal reflux disease, severe food allergies and other conditions that, if left untreated, could lead to malnourishment, mental retardation, or death. These formulas are costly and can place an undue burden on parents' ability to adequately provide care for their infant children. This bill would require that coverage by any individual, group, or HMO policy that provides coverage for prescription drugs must provide at least \$3000 annual coverage for the cost of prescribed infant and baby formulas that are proven effective as a disease-specific regimen.

This bill was referred to the Codes Committee.

N. Surgical Nurse First Assistant Reimbursement

*A.10178 (Lavine) / S.4138-B (Little)*

This bill would require health insurance policies to provide reimbursement for services provided by a registered nurse first assistant when acting in the capacity of a non-physician surgical first assistant. Additional provisions would require the registered nurse first assistant to be certified in operating room nursing and be employed by a physician who bills for services. Assuming the policy otherwise provides for such services, those services would be required to be within the scope of practice of a non-physician surgical first assistant. This bill would not prevent an insurer from requiring services be provided through a network of participating providers.

This bill was referred to the Ways & Means Committee.

▪ PROPERTY / CASUALTY INSURANCE ▪

A. Board Requirements for Property / Casualty Insurance Co-ops

A.8627-B (Gunther) / S.2874-B (Seward)

Chapter 126 of the Laws of 2012

Cooperative insurance companies are the major insurance writers of coverage for farm owners, agricultural-related small businesses, and seasonal businesses. This chapter amends the requirements for the Board of Directors of a property/casualty insurance cooperative by reducing the minimum number of directors from nine to seven, which creates parity with for-profit property/casualty insurance companies, and requiring that at least one be a resident of the territory in which the cooperative does business.

B. Service Contracts

A.3782-A (Morelle) / S.4040-A (Seward)

Chapter 409 of the Laws of 2012

Under a service contract, a consumer pays a company a set fee and in exchange the company agrees to perform certain services should the need arise. Such services often include towing, emergency road service, and the repair or replacement of residential appliances. This chapter expands the definition of a service contract to include providers of services for the repair of windshield cracks and chips and services for the paintless repair or removal of dents and dings from a motor vehicle. Such providers are required, thirty days prior to the effective date of any provider fee, to file such fees with the Superintendent of Financial Services.

C. Homeowners Insurance Deductibles: Trigger Standards

A.3283-A (Weisenberg) / A.3387-A (Lavalle)

Though windstorm damage is a frequent occurrence in many areas of the state, the insurance deductible triggers for these claims are often inconsistent between various types of policies and can be confusing to the detriment of consumers who rely on this coverage to insulate them from the financial burden of a damaged home. This bill would direct the Superintendent of Financial Services to establish uniform standards for these deductible triggers.

This bill passed the Assembly.

D. Discrimination Against Dog Breeds  
*A.3507-A (Glick) / S.3092-B (Robach)*

In some instances, insurers refuse to issue or renew a homeowners' insurance policy or increase premiums due to the breed of domesticated dogs living in the home. This bill would prohibit insurers from discriminating against homeowners' insurance policies with respect to issuance, renewal, or premiums based on the breed of dog if such breed has not been designated as "dangerous" pursuant to section 103 of the Agriculture and Markets Law.

This bill passed the Assembly.

E. Expanding Consumer Protections for Policyholders with Property Damage  
*A.3729-A (Weprin) / S.7802 (Robach)*

This bill would provide expanded consumer protections for policyholders with property damage by prohibiting an insurer from requiring that repairs for loss or damage to real property be completed by a particular entity or individual and prohibiting a public or independent adjuster from receiving any compensation or anything of value for a direct referral of a client. Insurers and public and independent adjusters would be prohibited from suggesting or recommending that repairs be made by a particular entity or individual unless specifically asked by the insured, in which case the insurer or adjuster would have to disclose any controlling or business interest that it has in the entity or individual that it recommends or suggest.

This bill would further require independent adjusters to meet the same licensing requirements as public adjusters, including having a minimum one-year's experience in the insurance business or successfully completing a formal training course. Finally, independent adjusters would be required to meet the same continuing education requirements as public adjusters, including completing fifteen credit hours of instruction every two years.

This bill passed the Assembly.

*F. Boating Liability Insurance Rate Reduction  
A.6452 (Galef) / S.7199 (Carlucci)*

The purpose of this bill is to reduce the number and severity of boating accidents on New York waterways by providing for an actuarially appropriate reduction in boating liability insurance premiums for individuals who complete a boat safety course approved by the Commissioner of Parks, Recreation and Historical Preservation.

This bill passed the Assembly.

*G. Homeowner's Insurance Discrimination  
A.825 (Gantt) / No Same-as*

This bill would prohibit property and automobile insurance carriers from discriminating against insureds or potential insureds based on the age or market value of property or risk. In addition, it would prohibit insurers from terminating or refusing to renew a policy or contract unless the decision is based on sound actuarial data and is consistent with its treatment of licensed agents or brokers who negotiated policies for risks of substantially similar hazard in all geographical locations it serves in this state.

This bill was referred to the Codes Committee.

*H. Prohibition of Discrimination Based on Inquiries  
A.1921 (Peoples-Stokes) / No Same As*

This bill would prohibit insurers from reporting inquiries about coverage to any insurance support organization or company that maintains insurance claim history or data. The bill would also prohibit insurers from refusing to issue or renew a policy, charging a higher premium, or assigning an insured to a more expensive affiliate based on policy inquiries to the current or previous insurer, or based on insurer reports to any insurance support organization or company that maintains a claims history database.

This bill was advanced to the Third Reading Calendar.

I. Reimbursement for Lost Property  
A.4601 (Englebright) / S.4689 (Flanagan)

This bill is intended to protect individuals who file legitimate claims for lost property and recover the property after the claim has been paid. Despite reporting the recovered property to the insurer and returning the amount of the claim, the claim may be documented and can be considered in the formulation of higher premium rates. This causes a disincentive to report the recovery or return the claim payout which ultimately results in higher premiums for everyone else. This bill would prevent insurers from maintaining the original claims record in the event the aforementioned events occur.

This bill was advanced to the Third Reading Calendar.

J. Insurance Required for Public Vessels  
A.6699-A (Schimminger) / No Same As

Boat outings on public vessels are an increasingly popular New York tourist attraction. It is important that such vessels are adequately insured. This bill would provide that no certificate of inspection or temporary permit shall be issued unless the owner of the public vessel produces proof of marine protection and liability insurance to the inspector. This type of coverage, which may take the form of a surety bond, may be purchased in the commercial market or the excess lines market as long as the requirements for such coverage are satisfied and the bonds are equal to at least one million dollars per occurrence.

This bill was advanced to the Third Reading Calendar.

K. Domestic Excess Line Insurers  
A.9783 (Morelle) / S.6808 (Seward)

Under current law, an insurance company cannot write in the excess line market in the state in which it is domiciled. This bill would allow the formation of domestic excess line insurance companies to write excess line insurance within New York State. Domestic excess line insurers would be exempt from licensing and other regulatory provisions of the Insurance Law and from certain taxes, fees, and assessments under the Insurance Law, the Financial Services Law, and the Tax Law. Such companies would be required to maintain certain minimum capital and paid in surplus amounts and would be subject to certain articles of the Insurance Law governing assets and deposits, investments, holding companies, subsidiaries, mergers, consolidations, rehabilitation, liquidation, and dissolution.

This bill was referred the Ways & Means Committee.

▪ AUTO INSURANCE ▪

A. SUM Coverage for Ambulance Crews and Volunteer Firefighters

*A.10090-B (Morelle) / S.7312-B (Seward)*

*Chapter 496 of the Laws of 2012*

Under current law, consumers are required to purchase uninsured motorist coverage as part of their automobile insurance policy. This provides protection when the insured is injured by an uninsured motorist. Policyholders have the option to increase their coverage by purchasing a supplementary uninsured/underinsured motorist (SUM) endorsement, which allows them to choose higher uninsured motorist coverage amounts (up to the policy's bodily injury limits) and also provides coverage in the case they are injured by an underinsured motorist.

When a motorist purchases SUM coverage, all individuals named on the policy receive coverage when they are injured by an uninsured/underinsured motorist, even if they were not in a vehicle when the injury occurred. However, when an ambulance company or volunteer fire company is the policyholder, the coverage only applies when the employees and volunteers are within a vehicle that is listed on the policy. As a result, emergency personnel who have been injured by uninsured/underinsured motorists while acting within the scope of their duties have been denied SUM coverage simply because they were outside the insured vehicle at the time of the accident.

This bill would establish that when an ambulance company or volunteer fire company purchases SUM coverage, such coverage extends to the members of the ambulance or volunteer fire company who are injured by an uninsured/underinsured motorist while acting in the scope of their duties, regardless of if they were in an insured vehicle at the time of the accident.

B. SUM Coverage Expansion/Fraudulent Durable Medical Equipment Providers

*A.10784 (Morelle) / S.7787 (Seward)*

*Veto 179*

Even though SUM coverage provides important protections to policyholders and their families, many motorists are not even aware that the option is available to them. This bill would address this by requiring an insurance agent or broker to explain to an insured or potential insured how SUM coverage works and that SUM coverage must be purchased in the same amount as the insured's bodily injury coverage unless the insured explicitly rejects such coverage or selects lower coverage amounts. If the insured rejects SUM coverage or selects lower coverage amounts, the agent or broker would be required to confirm such rejection or selection in writing.

In addition, this bill would allow the Superintendent of Financial Services to prohibit a provider of durable medical equipment from demanding or requesting payment under the no-fault law if the Superintendent determines that the provider engaged in certain fraudulent or dishonest practices, including fraudulent, excessive, or unlawful billing of insurance companies for durable medical equipment.

*C. Retrofitted Daytime Running Lamps  
A.4057 (Magnarelli) / S.4175 (DeFrancisco)*

Under current law, car owners may only obtain this type of discount if their vehicle has factory installed daytime running lamps. This bill would give insurers the option to provide an actuarially appropriate reduction in premiums for bodily injury liability, property damage liability, personal injury liability, medical payments and collision coverage for automobiles retrofitted with daytime running lamps. The lamps must be designed to reduce accidents by increasing vehicle visibility and be approved by the Superintendent. The Superintendent would be required, after consultation with the Commissioner of the Department of Motor Vehicles, to establish standards for the installation of these lamps.

This bill passed the Assembly.

*D. Auto Insurance Deductibles  
A.10318-A (Cook) / No Same As*

This bill would allow auto insurers to offer consumers a policy without a deductible or a deductible that can be reduced until there is no deductible; under current law, a deductible cannot be less than \$100. The insurer would also have to disclose to the insured or potential insured certain information regarding the premium cost of such a policy, how it would interact with the other provisions of the insured's policy, and the circumstances under which the deductible may diminish or be increased. Finally, this bill would prohibit an insurer from penalizing an insured who has such a deductible by both surcharging the insured's premium and increasing the deductible in response to the same claim or incident.

This bill passed the Assembly.

*E. Auto Claim Disputes*

*A.2744-A (Perry) / S.7603 (Alesi)*

This bill would prohibit insurance companies from canceling or refusing to renew automobile policies solely due to a pending dispute or complaint against the carrier.

This bill was advanced to the Third Reading Calendar.

*F. Retroactive Cancellation of Spurious Auto Policies*

*A.6346-D (Heastie) / No Same As*

Every year insurance companies pay claims to covered motorists who procure a policy using a non-existent bank account and then stage an automobile accident. This bill would permit insurers to retroactively cancel auto insurance policies to the date of the policy's inception within the first 30 days of the policy in the event that the initial premium payment is deemed illegitimate due to the non-existence of a bank account. To protect individuals who are harmed during a staged accident but were not participating in any fraudulent activity, this bill would ensure that innocent persons receive coverage under their own policy or by the Motor Vehicle Accident Indemnification Corporation.

This bill was referred to the Rules Committee.

▪ LIFE INSURANCE ▪

A. Life Insurance Guaranty Corporation  
A.9607 (Morelle) / S.6507-A (Seward)  
Chapter 217 of the Laws of 2012

This chapter increases the total assessment against the members of the Life Insurance Company Guaranty Corporation, which consists of all life insurance companies licensed in New York State, from \$500 million to \$558 million. This ensures that consumers who have policies with of a domestic life insurance company that is subject to an order of rehabilitation are made whole. This chapter also gives the Superintendent of Financial Services the authority to decrease such assessment by any amount not needed for the Corporation to be able to pay its obligations in connection with the liquidation of such domestic insurer.

B. Derivative Transactions  
A.10532-A (Morelle) / S.7306-B (Seward)  
Chapter 398 of the Laws of 2012

Under current law, an insurer can enter into derivative transactions if the transaction is cleared through a clearinghouse or an exchange, is with a qualified counterparty, which is a bank that has been rated AA-/Aa3 or higher, or in the case of a non-qualified counterparty, the exposure of the insurer's admitted assets is limited. However, because of continuing uncertainty in the financial sector, rating organizations are downgrading many major banks below AA-/Aa3, the life insurance industry will be severely restricted as to whom it can enter into these types of transactions with. This chapter establishes that a qualified counterparty must have an investment grade rating (BBB-/Baa3 or higher) and that the transaction must be collateralized.

C. Unclaimed Life Insurance Benefits  
A.9845-B (Morelle) / S.6943-B (Seward)  
Chapter 495 of the Laws of 2012

This bill would require life insurers to undertake continuous efforts to locate the potential beneficiaries of unclaimed benefits by requiring them to periodically cross-check every policy, contract, certificate, and account against the United States Social Security Administration's Death Master File of potentially deceased individuals. In addition, this bill would require the Superintendent of Financial Services to develop and implement a lost policy finder to assist potential beneficiaries in locating unclaimed life insurance benefits.

▪ MISCELLANEOUS ▪

A. Qualified Financial Contracts

A.8903 (Morelle) / S.6131 (Seward)

Chapter 4 of the Laws of 2012

Chapter 600 of the Laws of 2011 removed burdens placed on insurers due to antiquated proceedings by, amongst other things, allowing certain insurers to use qualified financial contracts during insolvency proceedings. This chapter clarifies that companies that write financial guaranty insurance are specifically not allowed to use qualified financial contracts during such proceedings.

B. Increasing Oversight and Combining the Insurance and Banking Annual Reports

A.10391-A (Quart) / S.6710-A (Seward)

Chapter 173 of the Laws of 2012

This chapter gives the Department of Financial Services greater oversight over property/casualty insurers by requiring a property/casualty insurance company to file an additional risk-based capital report with the Department indicating whether the company's total adjusted capital meets certain thresholds. In addition, this chapter combines the separate annual reports required to be submitted by the former Banking and Insurance Departments, eliminates certain out-dated provisions in those reports, and sets the due date for the combined report as June 15<sup>th</sup>.

C. Workers' Compensation Rate Service Organization

A.10160 (Wright) / S.6978 (Seward)

Chapter 237 of the Laws of 2012

This chapter extends, from June 2, 2013 to June 2, 2018, the requirement that a workers' compensation rate service organization (RSO) file for approval certain financial and statistical information that is used to determine workers' compensation rates with the Department of Financial Services (DFS). This chapter also extends the requirements for the governing board of a workers' compensation RSO and the temporary continuation in office of certain incumbent members of the governing body of a workers' compensation RSO whose terms have expired.

*D. Updating the Anti-rebating Statutes  
A.9702-A (Hevesi) / S.6812-A (Seward)  
Chapter 291 of the Laws of 2012*

Sections 2324 and 4424 of the Insurance Law restrict insurers and agents from providing anything of value to applicants for insurance beyond that which is provided for in the insurance contract, with an exemption for items of limited value. These sections, referred to as the anti-rebating statutes, were established to keep insurers and agents from offering valuable items not related to the insurance contract as incentives for an applicant to purchase a policy. This chapter updates these sections by increasing the maximum value of merchandise or other considerations property and casualty insurers may provide to an applicant from fifteen to twenty-five dollars and permitting life insurers to provide merchandise or other considerations of the same maximum value to applicants.

*E. Insurance Licenses for New Applicants  
A.6435-A (Morelle) / S.2704-A (Seward)  
Chapter 442 of the Laws of 2012*

This bill would streamline the licensing renewal process for new applicants for an insurance license with the Department of Financial Services. Under current law, most licenses are issued for a term of twenty-four months and expire on the licensee's birth date. When a potential licensee makes an initial application, however, the term is much shorter if the licensee's date of birth is shortly following the initial application. The result is that some licensees must apply and obtain a new license immediately following the issuance of their initial license. This bill would allow the Superintendent of Financial Services to issue insurance licenses to new applicants for a term of up to 30 months.

*F. Medical Malpractice Insurance Extenders  
A.10432 (Lavine) / S.7514-A (Martins)  
Chapter 489 of the Laws of 2012*

This bill would extend the existing exemption for medical malpractice insurers from the statutory risk-based capital requirements from June 30, 2014 to December 31, 2016.

This bill would also extend, from June 30, 2014 to December 31, 2016, the prohibition on an application for an order of rehabilitation or liquidation of a medical malpractice insurer on the grounds that the insurer is insolvent or has failed or refused to comply with an order from the Department of Financial Services to make good on an impairment of its capital or minimum surplus.

G. *Wireless Communication Equipment Vendors*  
*A.9313 (Braunstein) / S.6463 (Libous)*  
*Veto 187*

This bill would require wireless communications equipment vendors to disclose when they receive or will receive a commission, and exempt them from other producer disclosure requirements established by law or regulation.

H. *Claims Denial Quotas*  
*A.2204-A (Zebrowski) / No Same As*

This bill would prohibit an insurer from establishing a quota for the denial of claims or cancellation of insurance policies. Insurance companies have the right to deny claims or cancel policies, in an effort to keep the cost of insurance affordable. However, denials and cancellations must be legal and based on the merits of a claim or policy and not on the desire to satisfy an arbitrary and often unreasonable quota.

This bill was advanced to the Third Reading Calendar.

I. *Protections for Victims of Domestic Violence*  
*A.3387-C (Cymbrowitz) / No Same As*

This bill would protect victims of domestic violence by allowing a domestic violence victim covered by an insurance policy, where another person is the policyholder, to designate alternative contact information for the purpose of receiving insurance claim or billing information. The victim would have to provide to the insurance company a signed statement made under oath that he or she is a victim of domestic violence and that disclosing his or her contact information would endanger him or her. The insurance company would be prohibited from disclosing to the policyholder the victim's contact information and the contact information of any person providing health care services to the victim or from mailing any information to any address other than the address provided by the victim.

This bill was advanced to the Third Reading Calendar.

## ▪ PUBLIC FORUMS ▪

### *The Costs of Prescription Drug Medications*

On October 11, 2012 the Committee held a roundtable to discuss the cost of prescription drug medications and to examine the procedures insurance companies use to mitigate costs associated with current prescription medication trends. The cost of prescription medications has risen dramatically over the past 10 to 15 years, often outpacing the costs of other types of medical care. For this reason many insurance companies have implemented various cost saving measures to minimize the use of costly medications and to manage the daily utilization of more commonly prescribed medications.

The discussion involved representatives from the Health Plan Association, the New York Biotechnology Association, The Pharmaceutical Research and Manufacturers of America, and the Pharmacists Society of the State of New York. The speakers focused on why prescription drug benefits are necessary, how such benefits are provided, the many factors that can influence the cost of prescription drugs, and how the cost of prescription drugs can influence which drugs are prescribed. The Committee also heard about the procedures insurance companies use to control the cost of prescription medications and manage care and why they believe these procedures are necessary. The Committee will continue to examine this issue in the 2013 legislative session and beyond.

### *Long Term Care Insurance Rates*

On December 18, 2012 the Committee held a public hearing on the affordability and accessibility of long term care insurance products. Long term care, whether it is provided in a nursing home or in the home, can be expensive. Many New Yorkers find it difficult to pay for these services in part because many of the recipients of long term care services are seniors living on fixed incomes. One option is long term care insurance. These policies provide coverage for home care, nursing home care, assisted living facilities, respite and, when necessary, hospice. However, it can be difficult for people to afford long term care insurance policies that meet their needs. In addition, the high cost of providing long term care can be difficult for insurers to predict. The result has been fluctuations in the marketplace that have affected the availability and accessibility of long term care insurance.

The committee heard testimony from the Department of Financial Services, the Life Insurance Council of New York, and the National Association of Insurance and Financial Advisors-New York State. The testimony focused on the current state of the long term care insurance marketplace and the role of insurers, agents, consumers, and the State of New York in that marketplace. There was discussion on the cost of long

term care insurance, what factors a consumer considers when deciding whether to purchase such insurance, and the regulatory role played by the Department of Financial Services. The Committee will continue to look into this important issue.

## ▪ OUTLOOK FOR 2013 ▪

In 2013, the Committee will continue to work with the Senate and the Governor to propose and review legislation that will strengthen the insurance market in this state by increasing consumer protections and allowing more products to be made available. Our focus will include, but not be limited to:

### *Health Insurance*

One issue of serious concern to the Committee is that many New Yorkers do not have access to quality, affordable health insurance. To address this, the Committee will continue to suggest, evaluate, and advance innovative legislation that expands health coverage for New Yorkers. In the past few years, the Committee has taken a number of steps in this area, including allowing certain universities to self-fund their student health insurance plans and requiring that insurers provide coverage for autism services.

The Committee will continue to take an active role in implementing the federal Patient Protection and Affordable Care Act (PPACA) in New York State, including the implementation of a Health Benefit Exchange in New York. The intent of the Exchange is to reduce the number of uninsured persons in the state, assist individuals with accessing coverage, educate consumers, and provide for a transparent marketplace. The Exchange is vital to ensuring that individuals and businesses are able to obtain affordable health insurance.

The Committee will also focus on the implementation and impact of the Small Business Health Options Program (SHOP) and the essential health benefits insurers are required to include in their plans under PPACA. SHOP will assist small businesses with providing affordable, quality health insurance to their employees by providing them with a variety of plans to choose from. The essential health benefits, a set of ten broadly defined core benefits that insurers must include in their individual and small group plans, include mental health services, emergency services, pediatric care, and wellness care. The Health Exchange, SHOP, and the essential health benefits will lead to quality and affordable health coverage and care for more New Yorkers.

### *No-fault Insurance*

The cost of no-fault insurance is one factor that increases auto insurance premiums for policyholders across New York State. In recent years, the Insurance Committee has undertaken a system-wide review of the no-fault system. This effort has looked at the role of insurance companies, medical providers, and consumers in the no-fault system with the goal of reducing premiums while ensuring that New Yorkers have insurance coverage that meets their needs and that the rights of consumers and injured victims are protected. The Committee will continue to examine all aspects of the no-fault system to develop effective reforms.

### *Storm Damage*

Over the past few years, New York has been hit by several large storms that have caused tremendous damage across the State. In such situations, individuals and businesses often must rely upon their property and casualty and flood insurance to cover damages. The Insurance Committee will continue to evaluate the insurance industry's response to disasters and other emergencies to ensure policyholders are provided adequate coverage and that the insurance industry remains solvent.

APPENDIX A  
2012 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)          | 16                              | 0                             | 16                           |
| TO WAYS AND MEANS   | 5                               | 0                             | 5                            |
| TO CODES  | 12                              | 0                             | 12                           |
| TO RULES  | 10                              | 0                             | 10                           |
| TO JUDICIARY  |                                 |                               |                              |
| TOTAL   | 43                              | 0                             | 43                           |
| <b>BILLS HAVING COMMITTEE REFERENCE CHANGED</b>           |                                 |                               |                              |
| TO <u>Consumer Affairs</u> COMMITTEE                      | 1                               | 0                             | 1                            |
| TO <u>Health</u> COMMITTEE                                | 1                               | 0                             | 1                            |
| TOTAL   | 2                               | 0                             | 2                            |
| <b>SENATE BILLS SUBSTITUTED OR RECALLED</b>               |                                 |                               |                              |
| SUBSTITUTED   |                                 | 8                             | 8                            |
| RECALLED  |                                 | 2                             | 2                            |
| TOTAL   |                                 | 10                            | 10                           |
| <b>BILLS DEFEATED IN COMMITTEE</b>                        |                                 |                               |                              |
|   | 0                               | 0                             | 0                            |
| <b>BILLS HELD FOR CONSIDERATION with a roll-call vote</b> |                                 |                               |                              |
|   | 33                              | 0                             | 33                           |
| <b>BILLS NEVER REPORTED, HELD IN COMMITTEE</b>            |                                 |                               |                              |
|   | 274                             | 17                            | 291                          |
| <b>BILLS HAVING ENACTING CLAUSES STRICKEN</b>             |                                 |                               |                              |
|   | 13                              | 0                             | 13                           |
| <b>MOTIONS TO DISCHARGE LOST</b>                          |                                 |                               |                              |
|   | 0                               | 0                             | 0                            |
| <b>TOTAL BILLS IN COMMITTEE</b>                           |                                 |                               |                              |
|   | 365                             | 27                            | 392                          |
| <b>TOTAL NUMBER OF COMMITTEE MEETINGS HELD</b>            |                                 |                               |                              |
|   | 9                               |                               |                              |

APPENDIX B  
CHAPTERS OF 2012

| Bill/Sponsor                        | Description  | Action      |
|-------------------------------------|--|-------------|
| A.8903 Morelle<br>S.6131 Skelos     | Clarifies that companies that write financial guaranty insurance are prohibited from using qualified financial contracts during insolvency proceedings.  | Chapter 4   |
| A.8900 Silver<br>S.6126 Skelos      | Clarifies that any network mail order pharmacy or non-retail pharmacy must provide the same coverage for prescription fertility drugs for an in-network non-mail order retail pharmacy.  | Chapter 10  |
| A.8904 Heastie<br>S.6054-A Maziarz  | Clarifies that individuals may purchase prescription drugs at an in-network non-mail order retail pharmacy at the same cost-sharing as the insurer has established with in-network mail order and non-retail specialty pharmacies. | Chapter 11  |
| A.8906 V. Lopez<br>S.6055 Lanza     | Clarifies that coverage for orally administered anti-cancer medications must be at least as favorable to the insured as coverage for intravenous cancer chemotherapy treatments.   | Chapter 12  |
| A.9225 Silver<br>S.6841 Hannon      | Extends, until December 31, 2014, the health insurance program for independent contractors and individuals who are self-employed, work part-time, or obtain temporary work.  | Chapter 31  |
| A.8627-B Gunther<br>S.2874-B Seward | Amends the requirements for property/casualty insurance cooperative directors by reducing the minimum number of directors and requiring that at least one be a resident of the territory in which the cooperative does business.   | Chapter 126 |

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|---|--|-------------|
| A.10391-A Quart<br>S.6710-A Seward        | Combines the annual reports for the former Insurance and Banking Departments and adds an additional risk-based capital requirement on insurers.  | Chapter 173 |
| A.8168-A Morelle<br>S.5040-A Seward       | Allows Soil and Water Conservation Districts to join Municipal Cooperative Health Benefit Plans.   | Chapter 191 |
| A.9607 Morelle<br>S.6507-A Seward         | Increases the aggregate cap on liabilities for life insurers under the Life Insurance Guaranty Corporation in certain circumstances.   | Chapter 217 |
| A.10160 Wright<br>S.6978 Seward           | Extends provisions relating to loss cost filings by workers' compensation rate service organizations (RSOs) and provides for the temporary continuation in office of incumbent members of a RSO's governing board. | Chapter 237 |
| A.10577 Morelle<br>S.7314-A Seward        | Allows certain major universities to self-fund their student health benefit plans.   | Chapter 246 |
| A.397-A Gunther<br>S.5850-A<br>Marcellino | Requires insurers that cover a physical or well care visit once in a 365 day period to cover one such visit per calendar year.   | Chapter 273 |
| A.9702-A Hevesi<br>S.6812-A Seward        | Increases the maximum rebate amount property and casualty insurers may provide to applicants from fifteen to twenty-five dollars and permit life insurers to provide rebates of up to the same maximum value.      | Chapter 291 |
| A.9946-B Morelle<br>S.7071-B Hannon       | Governs when an insurer can deny a hospital claim on administrative grounds and allow hospitals to resubmit claims when the insurer reduces payment due to downcoding.   | Chapter 297 |

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|--------------------------------------|---|-------------|
| A.7193-A Cook<br>S.3801-A Lavalle    | Requires health insurers to cover breast reconstruction surgery after a partial mastectomy.   | Chapter 302 |
| A.9675-B Morelle<br>S.6740-B Seward  | Establishes a health insurance pilot program for early retirees of a New York company.  | Chapter 362 |
| A.10532 Morelle<br>S.7306-B Seward   | Would update the statutes related to derivative transactions and require that the transaction be conducted with an entity that has an investment grade rating and that the transaction be fully collateralized. | Chapter 398 |
| A.3782-A Morelle<br>S.4040-A Seward  | Expands the definition of service contracts to include contracts made by a supplier or seller of cracks in a windshield and for the removal of dents from a motor vehicle.                                      | Chapter 409 |
| A.9711-B Morelle<br>S.6810-B Seward  | Allows HMOs to offer to certain municipalities a group high deductible health plan in conjunction with a health savings account.  | Chapter 440 |
| A.6435-A Morelle<br>S.2704-A Seward  | Allows the Superintendent of Financial Services to issue licenses to new applicants for a term of up to 30 months.  | Chapter 442 |
| A.10432 Lavine<br>S.7514-A Martins   | Would extend certain statutes relating to medical malpractice insurance from 2014 to 2016.  | Chapter 489 |
| A.10090-B Morelle<br>S.7312-B Seward | Would require that ambulance crews and volunteer firefighters, while acting within the scope of their duties, are covered by the ambulance or fire company's SUM coverage policy.                               | Chapter 495 |

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| A.9845-B Morelle<br>A.6943-A Seward | Would require life insurers to periodically check the federal Social Security Administration's Death Master File to identify potential matches with its policyholders, complete good faith efforts to locate policyholders and confirm any deaths, and pay out any benefits owed. | Chapter 496 |
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APPENDIX C  
BILLS THAT WERE REPORTED IN 2012

| Bill/Sponsor                            | Description   | Final Action                           |
|---|---|--|
| A.397-A Gunther<br>S.5850-A Marcellino  | Would require insurers that cover a physical or well care visit once in a 365 day period to cover one such visit per calendar year.   | Chapter 273                            |
| A.825 Gantt<br>No Same As               | Would prohibit discrimination in the issuance of homeowners' insurance policies.  | Referred to the Codes Committee        |
| A.1921 Peoples-Stokes<br>No Same As     | Would prohibit discrimination in the issuance of certain insurance policies based upon inquiries in which loss or damage is revealed.   | Advanced to the Third Reading Calendar |
| A.2204-A Zebrowski<br>No Same As        | Would expand the description of unfair insurance claim settlement practices.  | Advanced to the Third Reading Calendar |
| A.2744-A Perry<br>S.7603 Alesi          | Would prohibit the cancellation, non-renewal or conditional renewal of automobile insurance policies when a dispute as to pending claims exists.  | Advanced to the Third Reading Calendar |
| A.3283-A Weisenberg<br>S.3387-A LaValle | Would require the Superintendent of Financial Services to establish uniform trigger standards for hurricane windstorm deductibles.  | Passed Assembly                        |
| A.3387-C Cymbrowitz<br>No Same As       | Would require insurers to provide domestic violence victims with the option of designating alternative contact information.   | Advanced to the Third Reading Calendar |
| A.3507-A Glick<br>S.3092-B Robach       | Would prohibit insurers that provide homeowner's insurance coverage from refusing to issue or renew a policy or from increasing premiums due to the breed of dog owned by the policyholder. | Passed Assembly                        |

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| A.3729-A Weprin<br>S.7802 Robach        | Would require the disclosure of conflicts of interest with regards to repairs of real property and require independent adjusters to meet the same continuing education requirements as public adjusters. | Passed Assembly                        |
| A.3782-A Morelle<br>S.4040-A Seward     | Would expand the definition of service contracts to include contracts made by a supplier or seller of cracks in a windshield and for the removal of dents from a motor vehicle.                          | Chapter 409                            |
| A.4057 Magnarelli<br>S.4175 DeFrancisco | Would authorize insurance premium reductions for non-commercial private passenger vehicles retrofitted with daytime running lamps.   | Passed Assembly                        |
| A.4456-A Castro<br>No Same As           | Would prohibit health insurers from causing a disruption in health care services by requiring the use of a specific primary care provider.   | Referred to the Codes Committee        |
| A.4492 Meng<br>S.3270 Hassell-Thompson  | Would require certain health insurance policies to include coverage for the cost of certain infant and baby formulas.  | Referred to the Codes Committee        |
| A.4601 Englebright<br>S.4689 Flanagan   | Would require the removal of certain information relating to lost property claims from an insured's record of claims.  | Advanced to the Third Reading Calendar |
| A.6346-D Heastie<br>No Same As          | Would permit an insurer to rescind or retroactively cancel a policy in certain circumstances.  | Referred to the Rules Committee        |
| A.6435-A Morelle<br>S.2704-A Seward     | Would allow the Superintendent of Financial Services to issue licenses to new applicants for a term of up to 30 months.  | Chapter 442                            |

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|---------------------------------------|---|--|
| A.6452 Galef<br>S.7199 Carlucci       | Would require an actuarially appropriate reduction in premium charges for any insured who completes a boat safety course approved by the Commissioner of Parks, Recreation and Historic Preservation.                                 | Passed Assembly                        |
| A.6699-A<br>Schimminger<br>No Same As | Would require public vessels operating on the navigable waters of the state to carry marine protection and indemnity insurance and would establish new provisions of law relating thereto.  | Advanced to the Third Reading Calendar |
| A.7193-A Cook<br>S.3801-A Lavallo     | Would require health insurers to cover breast reconstruction surgery after a partial mastectomy.  | Chapter 302                            |
| A.8168-A Morelle<br>S.5040-A Seward   | Would allow Soil and Water Conservation Districts to join Municipal Cooperative Health Benefit Plans.   | Chapter 191                            |
| A.8627-B Gunther<br>S.2874-B Seward   | Would amend the requirements for property/casualty insurance cooperative directors by reducing the minimum number of directors and requiring that at least one be a resident of the territory in which the cooperative does business. | Chapter 126                            |
| A.8900 Silver<br>S.6126 Skelos        | Clarifies that any network mail order pharmacy or non-retail pharmacy must provide the same coverage for prescription fertility drugs for an in-network non-mail order retail pharmacy.   | Chapter 10                             |
| A.8903 Morelle<br>S.6131 Skelos       | Clarifies that companies that write financial guaranty insurance are specifically not allowed to use qualified financial contracts during insolvency proceedings.   | Chapter 4                              |

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| A.8904 Heastie<br>S.6054-A Maziarz  | Clarifies that individuals may purchase prescription drugs at an in-network non-mail order retail pharmacy at the same cost as the insurer has established with the in-network mail order and non-retail specialty pharmacies. | Chapter 11  |
| A.8906 V. Lopez<br>S.6055 Lanza     | Clarifies that coverage for orally administered anticancer medications must be at least as favorable to the insured as coverage for intravenous cancer chemotherapy treatments.  | Chapter 12  |
| A.9225 Silver<br>S.6841 Hannon      | Extends, until December 31, 2014, the health insurance program for independent contractors and individuals who are self-employed, work part-time, or obtain temporary work.  | Chapter 31  |
| A.9313 Braunstein<br>S.6463 Libous  | Would require wireless communications retailers who sell insurance to disclose whether they receive a commission from the equipment vendor and exempts them from other disclosure requirements.                                | Veto 187    |
| A.9607 Morelle<br>S.6507-A Seward   | Would increase the aggregate cap on liabilities for life insurers under the Life Insurance Guaranty Corporation in certain circumstances.  | Chapter 217 |
| A.9675-B Morelle<br>S.6740-B Seward | Would establish a health insurance pilot program for early retirees of an established New York company.  | Chapter 362 |
| A.9702-A Hevesi<br>S.6812-A Seward  | Would increase the maximum rebate amount property and casualty insurers may provide to applicants from fifteen to twenty-five dollars and permit life insurers to provide rebates up to the same maximum value.                | Chapter 291 |

|                                      |   |  |
|--------------------------------------|---|--|
| A.9711-B Morelle<br>S.6810-B Seward  | Would allow HMOs to offer to certain municipalities a group high deductible health plan in conjunction with a health savings account.   | Chapter 440                            |
| A.9783 Morelle<br>S.6808 Seward      | Would allow the formation of domestic excess line insurance companies to write excess line insurance within New York State.   | Referred to the Ways & Means Committee |
| A.9845-B Morelle<br>A.6943-A Seward  | Would require life insurers to periodically check the federal Social Security Administration's Death Master File to identify potential matches with its policyholders, complete good faith efforts to locate policyholders and confirm any deaths, and pay out any benefits owed. | Chapter 496                            |
| A.9946-B Morelle<br>S.7071-B Hannon  | Would govern when an insurer can deny a hospital claim on administrative grounds and allow hospitals to resubmit claims when the insurer reduces payment due to downcoding.   | Chapter 297                            |
| A.10090-B Morelle<br>S.7312-B Seward | Would require that ambulance crews and volunteer firefighters, while acting within the scope of their duties, are covered by the ambulance or fire company's SUM coverage policy.   | Chapter 495                            |
| A.10160 Wright<br>S.6978 Seward      | Would extend provisions relating to loss cost filings by workers' compensation rate service organizations (RSOs) and provide for the temporary continuation in office of incumbent members of a RSO's governing board.  | Chapter 237                            |
| A.10178 Lavine<br>S.4138-B Little    | Would require reimbursement for surgical first assistant services.  | Referred to the Ways & Means Committee |
| A.10318-A Cook<br>No Same As         | Would allow auto insurers to reduce an insured's deductible to zero.  | Passed Assembly                        |

|                                    |  |             |
|------------------------------------|--|-------------|
| A.10391-A Quart<br>S.6710-A Seward | Would combine the annual reports for the former Insurance and Banking Departments and add an additional risk-based capital requirement on insurers.  | Chapter 173 |
| A.10432 Lavine<br>S.7514-A Martins | Would extend certain statutes relating to medical malpractice insurance from 2014 to 2016.   | Chapter 489 |
| A.10532 Morelle<br>S.7306-B Seward | Would update the statutes related to derivative transactions and require that the transaction be conducted with an entity that has an investment grade rating and that the transaction be fully collateralized.  | Chapter 398 |
| A.10577 Morelle<br>S.7314-A Seward | Would allow certain major universities to self-fund their student health benefit plans.  | Chapter 246 |
| A.10784 Morelle<br>S.7787 Seward   | Would require SUM coverage to be purchased in the same amount as the insured's bodily injury coverage unless the insured rejects such coverage or selects lower coverage amounts. Would also allow the Department of Financial Services to decertify fraudulent providers of medical equipment under the no-fault law. | Veto 179    |

END OF REPORT