



**New York State Joint Budget Hearing on Economic Development  
Testimony of Kristina Baldwin  
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American Property Casualty Insurance Association**

The American Property Casualty Insurance Association (APCIA) strongly supports the provisions in the Governor's proposed executive budget focused on tackling cost drivers impacting auto insurance premiums in New York State, including proposals to fight the rampant insurance fraud that plagues auto insurance in New York as well as proposals to promote fairness in auto accident lawsuits.

However, APCIA has concerns with some of the other insurance related proposals included in the Governor's proposed budget pertaining to homeowners and property insurance.

APCIA is the leading national trade association representing home, auto, and business insurers of all sizes and structures, including 581 property casualty insurers doing business in New York. Our mission is to promote and protect the viability of competitive private insurance markets for the benefit of consumers and insurers.

**Auto Insurance Provisions**

APCIA strongly supports the provisions in the Governor's proposed executive budget focused on tackling cost drivers impacting auto insurance premiums in New York State, including proposals to fight the rampant insurance fraud that plagues auto insurance in New York as well as proposals to promote fairness in auto accident lawsuits.

Fraud and abuse have long plagued auto insurance in New York and the Governor's proposed executive budget would include important provisions to get tough on auto insurance fraud by increasing resources to detect and prosecute auto insurance fraud, ensuring that all parties participating or organizing staged accidents would be subject to criminal penalties, and ensuring that insurers have time to detect and investigate fraud.

Auto insurance fraud in New York often involves sophisticated and organized schemes which add costs to insurance and imperil the safety of New York drivers. The fraud involves runners recruiting individuals to participate in staged accidents, crooked medical providers who bill for unnecessary or fictitious treatments, and lawyers who proceed to file lawsuits to attempt to secure large pain and suffering awards.

The Governor's proposals to ensure that those participating in these schemes are investigated and penalized are important provisions which would not only reduce costs which drive insurance premiums but would also increase the safety of New Yorkers.

The Governor also includes important provisions to promote fairness in auto accident lawsuits and reduce costs. The Governor proposes common sense caps on non-economic damages for those who are engaging in unlawful behavior at the time of an accident (driving without insurance, while under the influence, or while committing a felony). Drivers engaging in unlawful behavior that creates a safety risk for other New York drivers should not be eligible for a jackpot verdict for non-economic damages.

Similarly, the Governor's proposals would increase fairness by reforming comparative fault laws to stop those who are primarily at fault for an accident from recovering non-economic damages. This would bring New York's law in line with the majority of states and would discourage questionable claims and unreasonable demands where the plaintiff's own conduct was the major contributor to the loss. Over 30 states currently use some form of modified comparative negligence, while only 12 states still use pure comparative negligence, like New York's current law which allows recovery for non-economic damages even when the plaintiff is 99% at fault. It is important to remember that these provisions would apply only to actions for non-economic damages, such as pain and suffering or emotional distress. If these provisions were enacted, at-fault plaintiffs would still be able to recover for medical bills, lost wages and other economic damages.

The Governor also proposes to tighten the serious injury threshold to ensure that only plaintiffs with truly serious injuries, as determined through objective criteria, would be eligible to seek damages for pain and suffering, emotional distress and other non-economic damages. The current vague and subjective nature of the serious injury threshold results in significant litigation which increases costs and strains judicial resources. The standard can result in inconsistent determinations on the issue which continue to drive personal injury lawyers to bring cases in the hopes of securing a jackpot verdict or settlement – with 1/3 of the award going to the lawyer. It is important to remember that the main driver leading to the adoption of the no-fault law in 1973 was to ensure prompt payment of economic damages and reduce the barrage of auto accident lawsuits that were straining the courts and driving up auto insurance premiums. The vague nature of the current serious injury threshold has not accomplished this result. On the contrary, it has resulted in a flood of lawsuits and significant litigation as to whether an injury meets the serious injury definition. Tightening the definition would reduce litigation, promote predictability, and reduce costs.

Again, like the Governor's other proposals, It is important to remember that the serious injury threshold only determines whether recovery can be sought for pain and suffering, emotional distress and other non-economic damages. Plaintiffs would still be able to recover for medical bills, loss wages, and other reasonable and necessary expenses for

everyone injured in an auto accident (without having to meet the serious injury threshold).

## **Homeowners and Property Insurance Provisions**

APCIA understands and shares concerns about homeowners and property insurance affordability. Addressing affordability concerns must, however, focus on reducing cost drivers which lead to rising premiums. Adopting measures to artificially suppress premiums or require premium discounts where they may not be warranted will not address costs and may result in significant unintended consequences. Homeowners insurance rates in New York are currently below the national average, although they are higher in New York City and coastal New York due to the higher risks associated with these areas. Homeowners insurance is typically only roughly 6 ½% of overall homeownership costs including mortgage payments, maintenance, taxes, and utilities. But property insurance losses and corresponding rates have increased over the last five years nationwide and in New York.

Property insurance losses are escalating for three reasons:

- 1) Macroeconomic pressures – Increases in disaster insurance losses roughly parallel the increases in replacing buildings in the United States. Economic growth, 40-year record inflation, and inflation in building materials and labor that have been roughly 50% higher than the consumer price index are the top cost drivers. While inflation is now slowing, tariffs and restrictive immigration policy are continuing to pressure building costs.
- 2) Climate change – Weather severity is increasing. From 1980 to 2003, New York never experienced more than 3-billion-dollar weather events in a year. In 2024, New York had ten natural disasters that each caused over a billion dollars in inflation adjusted losses.
- 3) Legal system abuse and regulatory costs -- New York City has the highest residential construction costs in the nation in part because it has the second highest litigation costs per capita in the nation. Regulatory costs are also extremely high in New York, with the New York Department of Financial Services reviewing every single insurer request for a rate or filing change, taking an average of 285 days per filing (the highest in the nation) to ensure they are not excessive, inadequate, or unfairly discriminatory.

Proposals to address homeowners and property insurance affordability must address these costs. Measures attempting to artificially reduce premiums without addressing costs could have serious unintended consequences potentially impacting insurance availability.

## **Homeowners Insurance Benchmark Loss Ratio**

Among the homeowners and property insurance provisions included in the Governor's proposed budget, APCIA has serious concerns with the Part CC provisions in the Transportation, Economic Development and Environmental Conservation Bill providing for the establishment of a homeowners loss ratio benchmark and requiring insurers to refile rates if they do not meet the loss ratio benchmark for two years. We are concerned that the provisions could have a serious negative impact on the health of the homeowners insurance market in New York State.

Key Concerns:

- 1) Existing rate regulation is sufficient to protect consumers.
  - a. The NY Department of Financial Services (DFS) thoroughly reviews homeowner insurance rates to ensure they are not excessive, inadequate, or unfairly discriminatory. DFS is considered to have strong oversight over rate filings.
- 2) Proposal does not adequately consider capital adequacy of insurers and long-term trends.
  - a. Two profitable years does not make a trend or indicate excess pricing for homeowners' insurance. There are many instances of weather events wiping out years of insurer profits in the United States. **New York is second only to Miami in being vulnerable to a hurricane exceeding \$100 billion in losses, which APCIA estimates would wipe out 69 years of homeowners insurance return on net worth.**<sup>1</sup>
  - b. Rebuilding surplus following significantly unprofitable year(s) is critical to consumer stability. Profitability gains in those years are not windfalls—they are the rebuilding of essential financial strength that enables insurers to stay in high-risk regions. For instance, New York homeowners was relatively profitable in 2010 and 2011 with combined ratios of 87.4% and 97.4% respectively. The 2012 combined ratio exceeded 120% which wiped away the 2010 and 2011 profits.
- 3) The potential to have to refile rates brings uncertainty for insurers and could disrupt the market.
  - a. New York has a higher-than-average cost of doing business and significant coastline exposure. Despite these factors, New York currently has a well-functioning homeowners' market with premiums that fall within the national average and rates that while have increased, are well below the increases in other states. The potential to have to refile rates and the associated uncertainty that requirement may cause could threaten the stability of the New York homeowners market.

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<sup>1</sup> KCC White Paper: The \$100 Billion Hurricane – How and where it Can Happen, August 2025.

- 4) The current death spiral in the California homeowners insurance market is a cautionary warning. The California Department of Insurance suppressed homeowners insurance rates; following the now estimated \$80 billion wildfire losses in Southern California last January, homeowners insurance surplus was badly depleted and most insurers have been unable to offer sustainable coverage in high-risk areas, leaving many if not most new homeowners only able to obtain coverage from the bare bones government FAIR Plan or the non-admitted market.

### **Mandatory Premium Discounts for Homeowners and Commercial Property Insurance**

APCIA has concerns with the provisions requiring numerous mandatory premium discounts in Part DD of the Governor's proposed Transportation, Economic Development and Environmental Conservation Bill. While APCIA does not oppose actuarially appropriate premium discounts for measures that have been verified to statistically reduce losses, the discounts required by the Part DD provisions raise a number of concerns. It is important to remember that if a premium discount is mandated and it does not actually reduce losses, it will result in policyholders who do not receive the discount paying more to offset the inappropriate discount received by some policyholders.

Below are some of the concerns with the mandatory premium discount provisions:

- How does the insurer confirm that the loss prevention measure actually exists and is being used properly? For example, requiring a discount for a fire extinguisher will not be appropriate if the property owner doesn't actually obtain the fire extinguisher and inspect it periodically to ensure that it is in working order or doesn't know how to use the device. Verification measures, including possibly third-party verification frameworks, may be necessary which will add costs and administrative burdens.
- Usually, discounts are provided for loss mitigation measures that EXCEED code requirements. The Part DD provisions would require a discount for roof replacements and improvements if the "insurable property is certified to be constructed in accordance with any building code applicable in this state or New York City, as amended from time to time, or such other standards as approved by the superintendent." Merely meeting code requirements should not qualify a property for a premium discount. In other states, premium discounts for roof improvements require certification that the roof meets FORTIFIED roof standards established by the Insurance Institute for Business and Home Safety (IBHS). FORTIFIED Standards go beyond typical building codes to deliver improved performance during severe weather. FORTIFIED is a nationally recognized building method based on over 20 years of scientific research and testing by IBHS. Requiring a premium discount merely because a roof meets code requirements is inappropriate and will only result in cost shifting to other policyholders who do not receive the discount.

- Mandating premium discounts without supporting data may undermine actuarial soundness caused by requiring insurers to offer reductions even where credible NY specific loss mitigation evidence is limited or inconsistent.

## **Conclusion**

APCIA understands and shares concerns about insurance affordability both with respect to auto insurance and property insurance. Addressing affordability concerns must, however, focus on reducing cost drivers which lead to rising premiums. The Governor's proposals relating to auto insurance make important strides in this regard by including proposals to fight the rampant insurance fraud that plagues auto insurance in New York as well as proposals to promote fairness in auto accident lawsuits. On the property insurance side, APCIA has concerns that some of the proposals, while well intentioned, may have unintended negative consequences and APCIA looks forward to working with the Governor and the legislature to arrive at provisions that will help NY policyholders by reducing the cost drivers impacting insurance premiums for both auto and property insurance.