

NEW YORK STATE
A S S E M B L Y

SHELDON SILVER, SPEAKER



committee on
Insurance

Joseph D. Morelle, Chairman



Annual
Report 2010



JOSEPH D. MORELLE
Assemblyman 132nd 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, 2010

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

Dear Speaker Silver:

I am pleased to submit the 2010 Annual Report of the Assembly Standing Committee on Insurance. This past year proved to be another challenging, yet rewarding year for the committee.

While 2010 was a big year for health care reform on the federal level, New York State took significant steps towards this end as well. With the help of my fellow colleagues in the Assembly, we were able to establish a rigorous prior approval process within the Insurance Department for individual and small group health insurance plans. The process has already reined in some excessive rate requests and will allow the department of insurance to monitor the use of premium dollars.

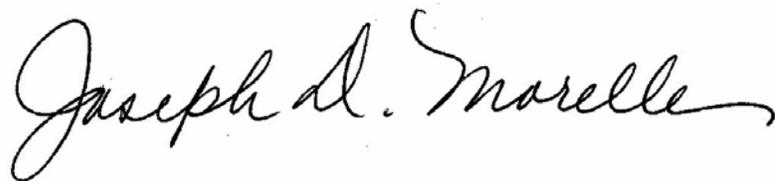
The committee also supported a prohibition on higher tier cost sharing for vital, yet expensive prescription drugs and Ian's Law, prohibiting insurers from discontinuing a class of health insurance policies as a pretext to discontinuing coverage to an individual with high medical costs. Both proposals have since become law.

Additionally, the Assembly and the Senate both unanimously passed legislation requiring health insurance plans to cover the screening, diagnosis and treatment of autism spectrum disorders and establishing a multi-agency group to adopt regulations specifying the minimum coverage. Despite the Governor's veto of this legislation, I will continue to fight on behalf of these individuals and their families so they may get the care that they deserve and need.

In 2011, the Committee will continue to ensure that the New York insurance market remains viable and stable while important consumer protections remain in the hallmark of our State's insurance regulation.

Finally, I want to thank you for your leadership and want to thank Insurance Committee members and staff whose dedication and commitment played a major part in making this a productive year.

Warmest Personal Regards,

A handwritten signature in black ink that reads "Joseph D. Morelle". The signature is written in a cursive style with a long, sweeping tail on the final letter.

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

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Joseph D. Morelle, Chair

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▪ HEALTH INSURANCE ▪

A. Prior Approval of Premium Rates

A.11369 (Rules) / S.8088 (Rules)

Governor Program #278

Chapter 107 of the Laws of 2010

This chapter authorizes the Superintendent of Insurance to approve, disapprove or modify premium proposals for community rated health insurance plans including individual and small groups if he or she finds premiums to be unreasonable, excessive, inadequate, or unfairly discriminatory. In addition, this chapter sets the minimum loss ratios for these plans at 82% of premiums received. This means that insurers must spend at least 82 cents of every premium dollar on legitimate medical claims and refund policyholders any difference.

This chapter also requires insurers to send notice of their proposed rate requests to all affected policyholders and to the Superintendent who will immediately post the notice on the Insurance Department website. Both the website and the notice will contain contact information and give consumers the ability to submit comments and questions, and receive additional information from both their insurer and the Department.

B. Freelance Worker Insurance

A.11131 (Silver) / S.7772 (Breslin)

Chapter 448 of the Laws of 2010

Independent workers such as part-time workers, temps, freelancers and independent contractors have a particularly difficult time finding affordable health insurance because they cannot get coverage on a group basis through their employer. To address this problem, the legislature enacted Chapter 447 of 2009 creating special demonstration authority for the Insurance Department to permit a health insurer owned by a tax-exempt association of independent workers to offer coverage solely to the association's members, without having to serve the employer-based group health insurance market. This demonstration program has since been approved by the Insurance Department.

This particular chapter provides further clarification specifying that any insurer's application must include notice of any membership fees and permitting an eligible association to charge premiums for any initial and ongoing eligibility of the insured. This chapter also includes a domestic child care worker and a person who works full time for a single employer on a temporary basis for no more than eighteen months in the definition of an "independent worker".

C. Tier IV Cost-sharing Prohibition
A.8278-B (Kellner) / S.5000-B (Duane)
Chapter 536 of the Laws of 2010

This chapter prohibits health plans from creating a tier of cost-sharing for prescription drugs that exceeds the cost-sharing of “non-preferred” brand drugs. This will prohibit a “Tier IV” cost-sharing thereby ensuring medically necessary high-cost drugs remain affordable.

D. Ian’s Law
A.9243-B (O’Donnell) / S.6263-C (Schneiderman)
Chapter 398 of the Laws of 2010

Ian Pearl, suffering from muscular dystrophy, required the 24-hour nursing care his insurance carrier initially covered and later discontinued during the process of adopting a new policy. Ian’s Law was enacted to address this issue by prohibiting health plans from discontinuing a class of policies as a pretext to discontinuing coverage for any particular covered individuals.

The chapter also allows policyholders the option, upon discontinuance, to purchase coverage for the treatment of specific serious medical conditions of covered individuals if these individuals received such treatment at any time within twelve months prior to the date of discontinuance. Insurance carriers are required to submit notice to the Superintendent certifying their adherence to the provision of this chapter. Failure to do so may result in the inability of the insurer to discontinue a class of policies.

E. Out-of-Network Dialysis
A.213-C (Markey) / S.1803-C (Breslin)
Chapter 457 of the Laws of 2010

This chapter requires health insurance policies solely covering in-network dialysis treatments to also cover out-of-network treatments when an individual is traveling outside of the service area. In order to qualify for such coverage, the treating physician is required to issue written orders stating that the treatment is medically necessary and the covered person has to advise their insurer at least thirty days in advance (with certain exceptions). The coverage is limited annually to ten out-of-network requests, insurers are not responsible for paying more than the in-network rate for the treatments, and any additional costs are to be paid by the covered person. This chapter provides the freedom to travel for individuals requiring dialysis treatments who were previously constrained because of the inflexibility of their coverage.

F. Prescription Drug Co-payment Parity
A.5653-A (Rosenthal) / S.4786-A (Krueger)
Chapter 487 of the Laws of 2010

This chapter prevents health plans and pharmacies from charging co-payments for drugs in excess of their usual and customary cost and, therefore, prevents consumers from being charged co-payments at a higher cost than the retail price.

G. Health Insurance for Volunteer Firefighters and Ambulance Workers
A.8215 (Destito) / S.5111 (Breslin)
Chapter 71 of the Laws of 2010

This chapter increases health insurance coverage options for volunteer firefighters and ambulance workers. Chapter 331 of the Laws of 2008 allowed volunteer firefighters and ambulance workers to apply for municipal health insurance benefits, with the total cost of participation borne by the volunteer and his or her family. This chapter expands upon Chapter 331 by permitting public corporations to provide health insurance coverage to volunteer firefighters and ambulance workers and authorizes the civil service president to allow certain such individuals to enroll in the New York State Health Insurance Plan (NYSHIP).

H. Third-Party Notification of Termination
A.217 (Latimer) / S.5456 (Diaz)
Chapter 49 of the Laws of 2010

This chapter allows senior citizens to designate a third-party to whom the insurer can transmit notices of non-payment of premiums due or notices of cancellation for non-payment of premiums for health insurance and long-term care policies. This chapter protects seniors from potentially devastating effects of insurance coverage cancellation that may have been easily avoided.

I. Cancer Treatment Compendia
A.10219-A (Jacobs) / S.7408-A (Breslin)
Chapter 357 of the Laws of 2010

This chapter updates authoritative medical reference compendia for off-label anti-cancer drug coverage to reflect the current state of medical and pharmaceutical research. Authorized compendia include The American Hospital Formulary Service-Drug Information, National Comprehensive Cancer Networks Drugs and Biologics Compendium, Thompson Micromedex Drugdex, Elsevier Gold Standard's Clinical Pharmacology, or other authoritative compendia approved by the Federal Secretary of Health and Human Services or the Centers for Medicare and Medicaid Services or recommended by a review article or editorial comment in a major peer reviewed professional journal. The well established updated reference compendia help physicians in their ability to access cutting-edge cancer treatments for their patients and to assure coverage for these treatments.

J. Autism Spectrum Disorder Coverage
A.10372-A (Morelle) / S.7000-B (Breslin)

The Center for Disease Control has estimated that the number of children with autism is 1 in 110 nationwide. This bill would expand upon and clarify covered treatment options and services. This bill would newly define "autism spectrum disorder" by reference to the *Diagnostic and Statistical Manual of Mental Disorders*, a continually revised gold standard reference manual published by the American Psychiatric Association. In addition to strengthening existing provisions, the bill would require individual insurance plans, group plans, and HMOs to cover the screening, diagnosis and treatment of autism spectrum disorder with cost-sharing equal to other covered benefits including treatment provided on a supplemental basis outside of the educational setting if medically necessary.

In order for insurance coverage to continually include innovative new treatments, this bill would require minimum treatment and therapy options to be identified, mandated and regularly updated in regulations promulgated by the Commissioner of Health in consultation with the Superintendent of Insurance, the Commissioner of the Office of Mental Health and the Commissioner of the Office of Mental Retardation and Developmental Disabilities.

This bill would also prohibit the denial of claims for autism services based upon such services having been classified as "educational" or "habilitative" and thus would allow consumers to appeal denials based on medical necessity to an independent medical board.

This bill passed both houses but was vetoed by the Governor due to increased costs to the State and localities unaccounted for in the 2010-2011 Budget.

K. Health Insurance Coverage for Domestic Partners

A.2368-B (O'Donnell) / S.960-B (Johnson C)

This bill would allow employer groups and individuals to request that their health plan provide benefits to qualified domestic partners and would require health insurers to make such coverage available. While current law and regulations permit insurers and HMOs to offer health insurance coverage for domestic partners, many insurers and health plans refuse to provide domestic partner coverage to individuals and smaller employer groups. This bill also includes safeguards to prevent abuses by requiring qualification standards for domestic partners and prohibiting coverage of more than one domestic partner simultaneously.

This bill passed the Assembly and died in the Senate Insurance Committee.

L. Nurse Practitioner Reimbursement Parity

A.6651-A (Gottfried) / S.4490-A (Duane)

This bill would require health plans to provide reimbursement for the services of certified nurse practitioners performed within their lawful scope of practice under applicable practice agreements if such services are otherwise covered under the policy. Applicable cost-sharing may be applied.

This bill passed the Assembly and died in the Senate Insurance Committee.

M. Thirty Day Notice of Termination

A.6647-A (Carrozza) / S.8197 (Parker)

This bill would ensure notice of termination is provided to covered individuals within an employer-sponsored group health insurance plan by requiring employers to annually provide insurers with the names and addresses of all insured individuals and by requiring the insurer to notify each covered individual or union representative by mail thirty days in advance of a termination of benefits. In lieu of the thirty day notice, the bill would permit insurers to contract with other insurers to provide similar coverage.

This bill was reported from the Assembly Insurance Committee and advanced to third reading.

N. *Surgical Nurse First Assistant Reimbursement*

A.5720-C (Cahill) / No Same-as

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, such services would be required to be within the scope of practice of a non-physician surgical first assistant. Nothing would prevent an insurer from requiring services be provided through a network of participating providers.

This bill was reported from the Assembly Insurance Committee and referred to the Assembly Ways & Means Committee.

O. *Cancer Screening Cost Sharing Prohibition*

A.10106-A (Rosenthal) / S.7064-A (Stavisky)

The Center for Disease Control and Prevention recently determined that 191,410 women were diagnosed with and 40,820 women died from breast cancer in 2006. This bill would eliminate copayments for mammography and cervical cytology screenings for individual, group and HMO policies. Similar provisions contained in the Patient Protection and Affordable Care Act of 2010 (federal health care reform) took effect on September 23rd of this year.

This bill was reported from the Assembly Insurance Committee and referred to the Assembly Rules Committee.

P. *Prescription Eye Drop Refills*

A.10229-B (Bing) / S.7001-B (Saland)

Many times prescription eye drops prematurely run out before the end of the prescription period leaving many individuals, especially the elderly, many of whom have glaucoma or other degenerative eye diseases, without coverage for refills. The purpose of this bill is to allow prescription eye drops to be refilled and covered before the expiration of the period of prescribed.

This bill was reported from the Assembly Insurance Committee and referred to the Assembly Rules Committee.

Q. Baby Formula Coverage

A.10450-B (Meng) / S.8326 (Hassell-Thompson)

Advanced baby formulas are often prescribed by physicians to infants 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 thus 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 which provides coverage for prescription drugs must provide at least \$3000 annual coverage for the cost of lawfully prescribed infant and baby formulas which are proven effective as a disease-specific regimen.

This bill passed the Assembly and died to the Senate Rules Committee.

▪ PROPERTY / CASUALTY INSURANCE ▪

A. Fire Insurance Claim Disputes

A.4758-A (Morelle) / S.2088-A (Breslin)

Chapter 25 of the Laws of 2010

This chapter establishes an enforceable court ordered remedy to disputes over the amount of loss for covered fire insurance policies. In the event that an insured or insurer fails to proceed with an appraisal upon demand of the other, this chapter allows either party to apply to the court for an order which would direct compliance. The chapter also requires the court ordered appraisal to be determined as specified in the policy and proceed pursuant to the terms of the policy's appraisal clause, not through arbitration.

B. Self-Service Storage Insurance

A.10908-B (Morelle) / S.7118-A (Breslin)

Chapter 368 of the Laws of 2010

This chapter adds self-service storage companies to the list of limited licenses that may be issued by the Superintendent of Insurance. Oftentimes, renters of storage space wish to purchase insurance coverage to protect their stored personal property. While some consumers have homeowners or renters policies that provide coverage for their stored property, many others lack this coverage. Through the limited license, self-storage companies may now offer such coverage.

Self-storage companies offering coverage are required to: (1) summarize the coverage offered; (2) disclose that the policy may provide a duplication of coverage already provided by the homeowner's insurance policy or other source of coverage; (3) state that the purchase of insurance is not required to rent storage space; and (4) state that the customer may cancel the insurance at any time and any unearned premium will be refunded. Storage companies are also required to conduct training programs for their employees and sales representatives offering insurance. By allowing this form of insurance, consumers have another option to protect their belongings stored at a self-storage site.

C. Sponsored Group Personal Insurance
A.11268-A (Cusick) / S.7773-A (Breslin)
Chapter 544 of the Laws of 2010

This chapter permits officers, directors and employees to create or be members of an employer group, club or association sponsored group policy covering personal excess insurance, personal property floater insurance, renters' insurance, and vintage vehicle insurance, or any combination thereof, insuring sponsor group members. The standards set by this chapter require groups to have at least twenty five members, to have been in existence for at least three years, to have adopted by-laws and a method to enroll and register new members, and create safeguards with respect to cancellation or non-renewal of a group policy. Prohibitions include fictitious sponsor groups and groups formed for the purpose of buying and selling insurance.

D. Boating Liability Insurance Rate Reduction
A.6341-A (Galef) / No Same-as

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.

E. Homeowners Deductible Trigger Standards
A.4847-A (Weisenberg) / No Same-as

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 Insurance to establish uniform standards for these deductible triggers.

This bill passed the Assembly and died in the Senate Insurance Committee.

F. Homeowner's Insurance Discrimination
A.2742 (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 reported from the Assembly Insurance Committee and referred to the Assembly Codes Committee.

G. Floodplains Wave Damages

A.2522 (Pretlow) / No Same-as

Homes in flood plains regions are at risk for damage caused by strong winds or windblown waves, yet many homeowners' insurance policies fail to cover claims arising from such instances. This bill would require insurers insuring property in flood plain regions to include damages to residences, garages, boat docks, restraining walls, boat houses, and break caused by wind or wave action.

This bill was reported from the Assembly Insurance Committee and referred to the Assembly Rules Committee.

H. Discrimination Based on Inquiries

A.3484 (Peoples-Stokes) / S.1194 (Thompson)

This bill would prohibit insurers from reporting inquiries about coverage to any insurance support organization or company that maintains insurance claim history or data. It would also prohibit insurers from refusing to issue or renew a policy, charging a higher premium or assigning to a more expensive affiliate or rating tier any insured or applicant on the basis of any inquiry about a policy to the insurer or previous insurers, or on the basis of insurer reports of such inquiries to any insurance support organization or company that maintains a claims history database.

This bill passed the Assembly and died in the Senate Rules Committee.

I. Public Vessel Insurance

A.4697-B (Schimminger) / S.5203-B (Breslin)

Boat outings on public vessels are increasingly popular New York tourist attractions. It is important such vessels are adequately insured in the event of mishap. This bill would provide that no certificate of inspection or temporary permit shall be issued unless the owner of a 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 if satisfying the requirements for such coverage and must be equal to at least one million dollars per occurrence.

This bill was reported from the Assembly Insurance Committee and referred to the Assembly Codes Committee.

J. Reimbursement for Lost Property

A.5336 (Englebright) / S.2935 (Flanagan)

This bill is intended to protect individuals who have filed legitimate claims for lost property in good faith only to have recovered the item(s) after the claim has been paid out. Despite reporting the recovered property to the insurer and returning the amount of the claim, the claim may be documented and considered in the formulation of higher premium rates for the individual in the future. This causes an incentive not to report the recovery or return the claim payout to insurers resulting in higher premiums for everyone. This bill would prevent insurers from maintaining the original claims record in the event the aforementioned events occur.

This bill was reported from the Assembly Insurance Committee and referred to the Assembly Rules Committee.

K. Risk Based Capital for Mortgage Insurers

A.10712 (Morelle) / S.6270-A (Breslin)

This bill would permit the Superintendent to suspend the current 25 to 1 liability to policyholders surplus requirement for mortgage guaranty insurers for up to two years and an additional two years if the ratio is above 25 to 1 for an entire year during the initial two year suspension.

This bill was reported from the Assembly Insurance Committee and referred to the Assembly Rules Committee.

▪ LIFE INSURANCE ▪

A. Accelerated Death Benefits

A.10876-A (Morelle) / S.7196-A (Klein)

Chapter 563 of the Laws of 2010

This chapter permits life insurance policies to include accelerated death benefits where a portion or all of the benefit can be used during the insured individuals life time to pay for expenses such as nursing home fees and late stage medical care. To exercise this benefit, the individual must have resided in a nursing home for at least three months and be reasonably expected to reside there for the remainder of his or her life.

B. Minimum Participation in Group Policies

A.8545-B (Morelle) / S.6014-B (Breslin)

Chapter 515 of the Laws of 2010

This chapter revises minimum participation requirements of employees in group life and group accident and health insurance contracts from the lesser of 50 enrollees or 50% of employees to the lesser of 5 enrollees or 50% of employees. As a result of this chapter, more employees will potentially benefit from the advantages of insurance offerings through their employers such as payroll deduction, limited underwriting and other efficiencies in administration that can often lead to cheaper insurance premiums.

C. Annuity Standards for Sale to Seniors

A.6088 (Dinowitz) / No Same-as

Annuity sales have dramatically increased over the past decade, especially sales to seniors. While annuities can benefit individuals looking for steady income in retirement, annuities may not always be suitable for each individual. This bill requires individuals licensed to sell annuities to complete annual continuing education on the issue of suitability of annuity and life insurance transactions and requires insurance agents to have an objectively reasonable basis of suitability when recommending annuities to seniors after making a reasonable effort to obtain the necessary information from the client.

This bill was reported from the Assembly Insurance Committee and referred to the Assembly Codes Committee.

▪ AUTO INSURANCE ▪

A. No-fault Insurance Coverage for Intoxicated Drivers

A.11116 (Dinowitz) / S.7845 (Breslin)

Chapter 303 of the Laws of 2010

This chapter remedies statutory obstacles preventing health care providers from receiving compensation for emergency treatment they provide to certain injured persons who are either intoxicated or drug impaired. This chapter prohibits a no-fault insurer from excluding coverage for necessary emergency health services rendered in a general hospital, including ambulance services attendant thereto and related medical screening of a person who was injured as a result of operating a motor vehicle while intoxicated or drug impaired.

B. Report on Auto Insurance Fraud

A.1003-A (Gunther) / S.638-A (Larkin)

Chapter 11 of the Laws of 2010

Within the Metro areas of New York State, automobile insurance is higher in relation to rural, less populated areas of New York State. Some reasons for higher rates of automobile insurance in Metro areas include higher incidents of accidents, theft, and damage. The practice of misrepresenting the place where an automobile is garaged or driven is an inappropriate means of reducing the costs paid for insurance. This chapter requires the Superintendent's annual report on insurance fraud to the Governor and Legislature to now also include an assessment of the incidences of such misrepresentation.

D. Rental Car Discrimination

A.4916 (Pheffer) / S.4651 (Sampson)

Chapter 322 of the Laws of 2010

Many auto insurance policies contain rental car coverage when the insured vehicle is impaired for an extended period of time. This chapter prohibits insurers from requiring the use of a particular rental car company and requires disclosure to the individual, on a separate piece of paper, of the right to choose the rental car company and location.

C. Retrofitted Daytime Running Lamps
A.317 (Magnarelli) / S.764 (DeFrancisco)
Governor's Veto #4, 2010

This bill would give insurers the option to provide an actuarially appropriate reduction in premiums for automobiles retrofitted with daytime running lamps for bodily injury liability, property damage liability, personal injury liability, medical payments and collision coverage. 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. Currently, car owners may only obtain this type of discount if their vehicle has factory installed daytime running lamps.

E. Volunteer Firefighting Auto Coverage
A.8025 (Weisenberg) / S.598 (Marcellino)

This bill would prohibit insurers from denying auto coverage or auto coverage renewal for an individually owned vehicle in instances in which denial is based solely upon the vehicle being used for volunteer firefighting.

This bill passed the Assembly and died in the Senate Insurance Committee.

F. Auto Claim Disputes
A.3348-A (Perry) / No Same-as

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 reported from the Assembly Insurance Committee and referred to the Assembly Rules Committee.

G. Discrimination Against Minimum Auto Insurance
A.4711-A (Espaillat) / No Same-as

This bill would prohibit insurers from rejecting applications, refusing to insure or renew, charging a higher premium, or requiring more premiums up front or on less favorable terms than for otherwise similar risk, solely on the basis that the person previously was insured for or purchased only the mandatory minimum amount of auto insurance.

This bill was reported from the Assembly Insurance Committee and referred to the Assembly Rules Committee.

▪ MISCELLANEOUS ▪

A. Credit Union Share Certificates

A.8557-A (Morelle) / S.3499-A (Breslin)
Chapter 461 of the Laws of 2010

In order to ensure the stability of reserves, insurance companies are restricted in their ability to invest such reserves. Prior to this chapter, credit union share certificates were technically considered a prohibitive investment despite being backed by the full faith and credit of the United States Government. This chapter permits such investments for reserving purposes allowing insurers to diversify their investment portfolios.

B. Municipal Reciprocal Insurer Surety Bonds

A.9471 (Morelle) / S.5110 (Breslin)
Chapter 389 of the Laws of 2010

Public officers are often required by law to obtain full faith and credit surety bonds upon taking office. This chapter permits public officers to obtain surety bonds from municipal reciprocal insurers.

C. Directory Service Insurance

A.10275-A (Morelle) / S.6949-A (Breslin)
Chapter 210 of the Laws of 2010

This chapter permits limited licensing for publishers of commercial directories solely for the issuance of performance guarantees of service contracts entered into by providers of services listed in commercial directories to be offered to consumers for up to \$5000.

D. Separate Account Plan of Operation Approval

A.10038-A (Bing) / S.4767-B (Breslin)
Chapter 441 of the Laws of 2010

This chapter permits the Superintendent to waive the approval of an amended policy form, if the amendment was re-approved by the Department as part of a separate account plan of operation and the amended form is filed with the Department within sixty days after the revised separate account plan is approved. The chapter removes unnecessary impediments to the re-approval process arising from inconsequential changes to policy forms.

*E. Authorization and Licensing of Insurance Lines
A.7129-A (Morelle) / No Same-as*

This bill would add credit, crop and surety insurance to the existing definition of “line of authority.” Additionally, the bill would require entities seeking to provide insurance agent and broker licensing courses for these newly created lines of insurance to file for approval with the Superintendent of Insurance, require independent adjusters to complete pre-licensing and continuing education courses, and permit the licensing of non-resident adjusters on a reciprocal basis. Finally, the bill would grant the Superintendent the authority to require an applicant for a license to submit his or her fingerprints for screening.

This bill was reported from the Assembly Insurance Committee and referred to the Assembly Codes Committee.

*F. Credit Default Swaps
A.10783 (Morelle) / No Same-as*

This bill would provide greater transparency and regulation of certain credit derivatives, particularly credit default swaps by designating them as insurance products and for regulatory purposes. Requirements would include minimum surplus/capital requirements, maintaining contingency, loss, and unearned premium reserve requirements while imposing requirements on the use of collateral, requiring the insured to have a “material interest” in the default of the credit instrument insured and imposing limits on the amount of single and aggregate risk an insurer may assume. The bill would also establish civil penalties and license revocation provisions.

This bill was reported from the Assembly Insurance Committee and referred to the Assembly Codes Committee.

▪ PUBLIC FORUMS ▪

Round Table: No Fault Insurance Reform and Fraud Prevention

The goal of this roundtable was to discuss potential reform of the no-fault insurance industry and to propose viable solutions to certain concerns and issues. Many different groups participated including the Insurance Department, The National Insurance Crime Bureau, the Coalition Against Insurance Fraud, the New York State Trial Lawyers Association, the Professional Insurance Agents of New York, the Medical Society of New York, New York Insurance Association, American Insurance Association, and various members of the insurance industry. Discussions focused on fraud and abuse in the no fault system and solutions that would decrease premiums, enhance consumer protections and provide stronger enforcement. This roundtable provided policy framework for the committee to consider in 2011.

Public Hearing: Financial Guaranty Insurance and the Cost of Raising Public Capital

Municipalities often raise capital to fund public projects by issuing bonds and having those bonds insured in the financial guaranty insurance (FGI) market to lower the cost of their debt service.

Following the development of FGI, the municipal debt markets thrived for many decades until the recent financial crisis. In the wake of these events, many guarantors suspended the writing of new business or went through corporate restructuring. As a result, States and other localities have suffered financially as the cost of raising capital has risen during a time of fiscal difficulty.

The purpose of this hearing was to propose and evaluate policy solutions to these issues including, but not limited to, A.11342-A (Morelle) which would permit financial guaranty insurers to use the net value of a qualified trust as an asset with respect to reserving requirements. This bill may therefore permit the use of new business models with lower costs of capital intended to facilitate the revival of the FGI market and decrease the cost of raising public capital.

▪ OUTLOOK FOR 2011 ▪

In 2011, the Committee will continue its obligation 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 Care Reform Implementation

The Patient Protection and Affordable Care Act (PPACA) was signed into law by President Obama on March 23, 2010. The new law represents a significant reform of the health care system in the United States and includes many significant insurance provisions and enhanced consumer protections such as the elimination of exclusions based on pre-existing conditions, prohibitions on cost sharing for preventative care, extending coverage of young adults under their parents' plans to the age of 26, and prohibiting lifetime limits.

Until the majority of the PPACA provisions take effect, immediate assistance has been provided for those with pre-existing conditions via a temporary high-risk pool. Certain individuals who have been denied health coverage due to a pre-existing medical condition and who have been uninsured for at least six months will be eligible to enroll in the high-risk pool and receive subsidized premiums. The high-risk pool will exist until 2013.

The PPACA also establishes health insurance exchanges to create a central marketplace for individual and small group coverage. The Legislature and Executive are already in the beginning stages of planning the establishment of a New York State health care exchange and the Assembly will continue to work with the Senate and the Governor on this important initiative in 2011.

No Fault Insurance

No-fault insurance fraud is a serious issue that the Assembly Insurance Committee approached in 2010. Stimulated by a productive and meaningful round table meeting on the subject, A.11596 (Morelle), the automobile fraud prevention act of 2010 was created and introduced. The committee will continue to work to develop effective policy addressing these issues and protecting consumers against fraud and abuse in the no-fault system.

Title Insurance

Individuals buying, selling, or refinancing their homes or other real estate generally purchase title insurance guaranteeing clear ownership by the seller of a property that is being sold and insuring buyers and lenders against any claims that may exist on the property. Effective regulation of the title insurance industry protects consumers and ensures the use of fair and equitable business practices. While title insurance corporations are currently regulated under the Insurance Law, title insurance agents are not required to be licensed as insurance agents under the Insurance Law. Our committee will be looking at an array of suggestions to shore up oversight in 2011.

APPENDIX A
2010 SUMMARY SHEET

Summary of Action on all bills
referred to the Insurance Committee

	<u>ASSEMBLY</u> <u>BILLS</u>	<u>SENATE</u> <u>BILLS</u>	<u>TOTAL</u> <u>BILLS</u>
BILLS REPORTED WITH OR WITHOUT AMENDMENT			
TO FLOOR; NOT RETURNING TO COMMITTEE	9	0	9
TO FLOOR; RECOMMITTED AND DIED			
TO WAYS AND MEANS	3	0	3
TO CODES	8	0	8
TO RULES	23	0	23
TO JUDICIARY	0	0	0
TOTAL	43	0	43
BILLS HAVING COMMITTEE REFERENCE CHANGED			
TO <u>CODES</u> COMMITTEE	0	0	0
TO <u>JUDICIARY</u> COMMITTEE	1	0	1
TO _____ COMMITTEE			
TO _____ COMMITTEE			
TOTAL	1	0	1
SENATE BILLS SUBSTITUTED OR RECALLED			
SUBSTITUTED		11	11
RECALLED		1	1
TOTAL		12	12
BILLS DEFEATED IN COMMITTEE	0	0	0
BILLS HELD FOR CONSIDERATION with a roll-call vote	32	0	32
BILLS NEVER REPORTED, HELD IN COMMITTEE	269	18	287
BILLS HAVING ENACTING CLAUSES STRICKEN	6	0	6
MOTIONS TO DISCHARGE LOST			
TOTAL BILLS IN COMMITTEE	351	30	381
TOTAL NUMBER OF COMMITTEE MEETINGS HELD	8		

APPENDIX B
CHAPTERS OF 2010

Chapter #	Bill# and Sponsor	Description
11	A.1003-A (Gunther)	Requires that the report due to the governor and legislative leaders relating to insurance fraud include the incidence of misrepresentation by insureds of the principal place where motor vehicles are garaged and driven
25	A.4758-A (Morelle)	Allows courts to compel parties to submit to the appraisal process as set out in a standard fire policy
49	A.217 (Latimer)	Permits third-party notification prior to termination of long-term care and health insurance for persons 65 and older
71	A.8215 (Destito)	Permits municipal corporations to offer health services and insurance for volunteer firefighters and ambulance companies
210	A.10275-A (Morelle)	Authorizes the issuance of group policies guaranteeing the performance of contracts entered into by providers of services who are listed in commercial directories
303	A.11116 (Dinowitz)	Relates to losses sustained as a result of an injury resulting from operating a motor vehicle while intoxicated
322	A.4916 (Pheffer)	Establishes that insurers providing rental vehicle reimbursement coverage shall not require an insured to utilize a particular rental vehicle company
357	A.10219-A (Jacobs)	Updates the established reference compendia which are used as authoritative sources for use in the determination of off-label drugs and biologicals used in an anticancer chemotherapeutic regimen
368	A.10908-B (Morelle)	Authorizes limited licenses to self-service storage companies for the sale of insurance on personal property stored at the facility
389	A.9471 (Morelle)	Authorizes municipal reciprocal insurers to offer full faith and credit surety bonds for public officers
404	A.10178-A (Morelle)	Relates to the amendment of the subscribers agreements of reciprocal insurers
441	A.10038-A (Bing)	Provides that an approved policy form that has been revised may be issued for delivery in New York state without further approval
448	A.11131 (Silver)	Relates to the definition of an independent worker and requirements for eligible insurer's application

453	A.11555 (Silver)	Relates to the definition of an independent worker for purposes of the health insurance demonstration program for independent workers
457	A.213-C (Markey)	Provides that comprehensive medical insurance policies shall include coverage for regular, non-emergency out-of-network dialysis
461	A.8557-A (Morelle)	Provides that reserve investments of a domestic insurer shall include shares, share certificates and share drafts accounts issued by credit unions not to exceed the amount which are assumed, guaranteed or insured by the US or any agency thereof
487	A.5653-A (Rosenthal)	Prohibits insurers, HMO's and health plans from charging a copayment for a prescription drug which is higher than the usual and customary cost of such drug
515	A.8545-B (Morelle)	Revises certain provisions relating to requisite minimum participation requirements by employees in group life and certain group accident and health insurance contracts
536	A.8278-B (Kellner)	Relates to eliminating cost-sharing, deductibles and co-payments for certain prescription drugs
544	A.11268-A (Cusick)	Enacts provisions providing sponsored group personal insurance and allows such insurance to be written by authorized insurers

APPENDIX C
BILLS THAT PASSED THE ASSEMBLY IN 2010

Bill# and Sponsor	Description
A.213-C (Markey)	Provides that comprehensive medical insurance policies shall include coverage for regular, non-emergency out-of-network dialysis
A.217 (Latimer)	Requires third-party notification prior to termination of long-term care and health insurance for persons 65 and older
A.317 (Magnarelli)	Authorizes insurance premium reductions for non-commercial private passenger vehicles retrofitted with daytime running lamps
A.1003-A (Gunther)	Requires that the report due to the governor and legislative leaders relating to insurance fraud include the incidence of misrepresentation by insureds of the principal place where motor vehicles are garaged and driven
A.2368-B (O'Donnell)	Relates to providing health insurance coverage to domestic partners of insured persons
A.3484 (Peoples-Stokes)	Prohibits insurers from penalizing consumers for making inquiries about their policies
A.4758-A (Morelle)	Allows courts to compel parties to submit to the appraisal process as set out in a standard fire policy regardless of any dispute raised concerning scope of coverage or scope of loss
A.4847-A (Weisenberg)	Provides that the superintendent of insurance shall establish standards for hurricane windstorm deductibles
A.4916 (Pheffer)	Establishes that insurers providing rental vehicle reimbursement coverage shall not require an insured to utilize a particular rental vehicle company
A.5653-A (Rosenthal)	Prohibits insurers, HMO's and health plans from charging a copayment for a prescription drug which is higher than the usual and customary cost of such drug
A.6341-A (Galef)	Allows for a schedule of rates or rating plan for boat liability insurance submitted to the superintendent to provide for an actuarially appropriate reduction in premium charges for any insured who completed a boat safety course approved by the commissioner of parks, recreation and historic preservation
A.6651-A (Gottfried)	Provides for reimbursement for nurse practitioner services under certain policies of health insurance including individual and group accident/health
A.8025 (Weisenberg)	Prohibits insurance companies from refusing to issue or renew an automobile insurance policy when the motor vehicle to be insured is used for fire fighting

A.8215 (Destito)	Permits municipal corporations to offer health services and insurance for volunteer firefighters and ambulance companies
A.8278-B (Kellner)	Relates to eliminating cost-sharing, deductibles and co-payments for certain prescription drugs
A.8545-B (Morelle)	Revises certain provisions relating to requisite minimum participation requirements by employees in group life and certain group accident and health insurance contracts
A.8557-A (Morelle)	Provides that reserve investments of a domestic insurer shall include shares, share certificates and share drafts accounts issued by credit unions not to exceed the amount which are assumed, guaranteed or insured by the US or any agency
A.9243-B (O'Donnell)	Enacts Ian's Law, which provides enhanced consumer protections in the event of an insurer's discontinuance of coverage
A.9471 (Morelle)	Authorizes municipal reciprocal insurers to offer full faith and credit surety bonds for public officers
A.10038-A (Bing)	Provides that an approved policy form that has been revised may continue to be delivered or issued for delivery in New York state without further approval
A.10178-A (Morelle)	Relates to the amendment of the subscribers agreements of reciprocal insurers
A.10219-A (Jacobs)	Updates the established reference compendia which are used as authoritative sources for use in the determination of off-label drugs and biologicals used in an anticancer chemotherapeutic regimen
A.10275-A (Morelle)	Authorizes the issuance of group policies guaranteeing the performance of contracts entered into by providers of services who are listed in commercial directories
A.10372-A (Morelle)	Requires that individual accident and health insurance policies shall provide coverage for screening, diagnosis and treatment of autism spectrum disorder
A.10450-B (Meng)	Requires certain health insurance policies to include coverage for the cost of certain infant and baby formulas
A.10876-A (Morelle)	Prohibits accelerated payment of death benefits or special surrender value pursuant to a life insurance policy because of residency in a nursing home for 3 months or more by the person whose life is insured
A.10908-B (Morelle)	Authorizes limited licenses to self-service storage companies for the sale of insurance on personal property stored at the facility
A.11116 (Dinowitz)	Relates to losses sustained as a result of an injury resulting from operating a motor vehicle while intoxicated

A.11131 (Silver)	Relates to the definition of an independent worker and requirements for an eligible insurer's application
A.11268-A (Cusick)	Enacts provisions providing sponsored group personal insurance and allows such insurance to be written by authorized insurers
A.11555 (Silver)	Relates to the definition of an independent worker for purposes of the health insurance demonstration program for independent workers

APPENDIX D
BILLS REPORTED IN 2010

Bill# and Sponsor	Description
A.213-C (Markey)	Provides that comprehensive medical insurance policies shall include coverage for regular, non-emergency out-of-network dialysis
A.217 (Latimer)	Requires third-party notification prior to termination of long-term care and health insurance for persons 65 and older
A.317 (Magnarelli)	Authorizes insurance premium reductions for non-commercial private passenger vehicles retrofitted with daytime running lamps
A.1003-A (Gunther)	Requires that the report due to the governor and legislative leaders relating to insurance fraud include the incidence of misrepresentation by insureds of the principal place where motor vehicles are garaged and driven
A.1788 (Calhoun)	Relates to providing notice to policyholders between the ages of eighteen and twenty-five
A.2101 (Thiele)	Prohibits discrimination in the issuance of homeowner's insurance policies
A.2238 (Schroeder)	Provides for a review of rating territory definitions for non-business automobile insurance policies
A.2368-B (O'Donnell)	Relates to providing health insurance coverage to domestic partners of insured persons
A.2522 (Pretlow)	Requires insurers insuring property in floodplains to include damages done by wave action or windblown waves
A.2742 (Gantt)	Prohibits discrimination in the issuance of homeowners' insurance policies
A.3348-A (Perry)	Prohibits cancellation, non-renewal or conditioning renewal of automobile insurance when dispute as to pending claim exists
A.3484 (Peoples-Stokes)	Prohibits insurers from penalizing consumers for making inquiries about their policies
A.3890 (Galef)	Authorizes insurance premium reductions for non-commercial private passenger vehicles retrofitted with daytime running lamps
A.4697-B (Schimminger)	Requires public vessels operating in New York state to carry marine protection and indemnity insurance
A.4711-A (Espaillat)	Prohibits insurers from refusing to issue a policy, or charging higher rates to consumers who seek to purchase only the minimum required auto insurance

A.4758-A (Morelle)	Allows courts to compel parties to submit to the appraisal process as set out in a standard fire policy regardless of any dispute raised concerning scope of coverage or scope of loss.
A.4847-A (Weisenberg)	Provides that the superintendent of insurance shall establish standards for hurricane windstorm deductibles
A.4916 (Pheffer)	Establishes that insurers providing rental vehicle reimbursement coverage shall not require an insured to utilize a particular rental vehicle company
A.5336 (Englebright)	Requires the removal from an insured's record of claims any claim made in good faith and paid for lost property which was not lost and the insured reimbursed the insurer for the claim after the lost property is found
A.5653-A (Rosenthal)	Prohibits insurers, HMO's and health plans from charging a copayment for a prescription drug which is higher than the usual and customary cost of such drug
A.5720-C (Cahill)	Requires reimbursement for surgical first assistant services
A.6088 (Dinowitz)	Provides specific standards for the sale of annuity contracts to seniors, prohibits use of certain designations or titles and requires continuing education on appropriate sales of annuities.
A.6341-A (Galef)	Allows for a schedule of rates or rating plan for boat liability insurance submitted to the superintendent to provide for an actuarially appropriate reduction in premium charges for any insured who completed a boat safety course approved by the commissioner of parks, recreation and historic preservation
A.6647-A (Carrozza)	Requires insurers to provide certificate holders with at least thirty days prior written notice of termination of group health insurance coverage
A.6651-A (Gottfried)	Provides for reimbursement for nurse practitioner services under certain policies of health insurance including individual and group accident/health
A.7129-A (Morelle)	Requires independent adjusters to complete pre-licensing and continuing education courses
A.8025 (Weisenberg)	Prohibits insurance companies from refusing to issue or renew an automobile insurance policy when the motor vehicle to be insured is used for fire fighting
A.8215 (Destito)	Permits municipal corporations to offer health services and insurance for volunteer firefighters and ambulance companies
A.8278-B (Kellner)	Relates to eliminating cost-sharing, deductibles and co-payments for certain prescription drugs
A.8545-B (Morelle)	Revises certain provisions relating to requisite minimum participation requirements by employees in group life and certain group accident and health insurance contracts

A.8557-A (Morelle)	Provides that reserve investments of a domestic insurer shall include shares, share certificates and share drafts accounts issued by credit unions not to exceed the amount which are assumed, guaranteed or insured by the US or any agency thereof
A.9243-B (O'Donnell)	Enacts Ian's Law, which provides enhanced consumer protections in the event of an insurer's discontinuance of coverage
A.9471 (Morelle)	Authorizes municipal reciprocal insurers to offer full faith and credit surety bonds for public officers
A.10038-A (Bing)	Provides that an approved policy form that has been revised may continue to be delivered or issued for delivery in New York state without further approval
A.10106-A (Rosenthal)	Removes cancer screening deductibles, copayments and coinsurance
A.10178-A (Morelle)	Relates to the amendment of the subscribers agreements of reciprocal insurers
A.10219-A (Jacobs)	Updates the established reference compendia which are used as authoritative sources for use in the determination of off-label drugs and biologicals used in an anticancer chemotherapeutic regimen
A.10229-B (Bing)	Requires coverage for the authorized refill of any prescription eye drop medication under certain circumstances when such refill is requested prior to expiration of the period of usage
A.10275-A (Morelle)	Authorizes the issuance of group policies guaranteeing the performance of contracts entered into by providers of services who are listed in commercial directories
A.10372-A (Morelle)	Requires that individual accident and health insurance policies shall provide coverage for screening, diagnosis and treatment of autism spectrum disorder
A.10450-B (Meng)	Requires certain health insurance policies to include coverage for the cost of certain infant and baby formulas
A.10636-A (Morelle)	Exempts large commercial insureds from certain rate and policy form requirements
A.10712 (Morelle)	Authorizes the superintendent of insurance to suspend the risk to capital requirement for writing new mortgage guaranty insurance risks
A.10783 (Morelle)	Relates to the regulation of the sale and purchase of credit default swaps as financial guaranty products under the New York State insurance law.

A10876-A (Morelle)	Prohibits accelerated payment of death benefits or special surrender value pursuant to a life insurance policy because of residency in a nursing home for 3 months or more by the person whose life is insured.
A.10908-B (Morelle)	Authorizes limited licenses to self-service storage companies for the sale of insurance on personal property stored at the facility
A.11116 (Dinowitz)	Relates to losses sustained as a result of an injury resulting from operating a motor vehicle while intoxicated
A.11131 (Silver)	Relates to the definition of an independent worker and requirements for an eligible insurer's application
A.11268-A (Cusick)	Enacts provisions providing sponsored group personal insurance and allows such insurance to be written by authorized insurers
A.11342-A (Morelle)	Relates to qualified trusts and qualified reserve credits
A11555 (Silver)	Relates to the definition of an independent worker for purposes of the health insurance demonstration program for independent workers

END OF REPORT