



# LEGISLATIVE POSITION

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### **PIANY opposes a standalone, state-based catastrophe fund**

**Memo in opposition to:** Various bills taking different approaches, including  
S.3800; S.1883/A.4011; S.3187/A.5118; S.2520

PIANY members are exceedingly concerned about the lack of capacity by traditional residential property insurers to underwrite property insurance risks in coastal areas of the state, and resulting availability problems that our members report. We support the general concept of a public/private approach. This would necessarily involve the federal government at very high levels of loss and provide favorable tax treatment so traditional insurers could reserve correctly for low-frequency, high-severity events. Further, we believe substantial loss mitigation efforts should be undertaken as an integral part of any such plan.

State-level funding plans also might eventually be a part of this overall scheme. That said, we caution lawmakers who may be considering a strictly state-based catastrophe funding mechanism against taking this step before a federally approved framework is in place.

We believe such a stand-alone, state-level fund would create a false sense of security, yet could fail to provide adequate cash in the event of a major hurricane or man-made disaster (some of these bills include funds for terrorist attacks). PIANY believes only the federal government has the means to set up an adequate funding mechanism for the type of major catastrophe loss that could occur in New York or any similar jurisdiction.

New York should be prepared to consider a state-level fund only in the context of qualifying for a pre-existing federal plan that might require states to establish corresponding, lower-level funds to gain eligibility for the federal backstop. Several proposals of this sort have been introduced in Congress over the years including H.R.3355, which passed the U.S. House of Representatives Nov. 8, 2008. However, no such plan has been approved to date.

New York has been among the leaders in attempting to attract new private capital into funding catastrophe risk. How would its overtures to capital markets be affected by a plan that essentially places the state foursquare in the reinsurance business? What would be the effect on insurers' existing reinsurance contracts and future reinsurance negotiations? What about New York's dismal track record of (mis)appropriating funds that supposedly were dedicated to insurance purposes, when the state budget needed reinforcements?

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Lawmakers also should look at alternative proposals that might improve insurers' ability to beef up their reserves against low-frequency, high-severity losses like major hurricanes. For example, the Insurance Department is considering a Catastrophe Reserve Fund requirement that would provide for insurers to salt away a portion of their annual premiums, specifically that portion the state allows them to charge based on a property's heightened catastrophe risk. New York lawmakers also should urge the state's congressional delegation to enact federal tax changes that would allow tax-deferred treatment for such reserves.

**In short, we believe the downsides to the various state catastrophe funding proposals are many, and that they would have potentially ruinous consequences to insurers and the consumers who rely on them.** All these bills leap in one abrupt step to adopt an untried approach that would cut off consideration of better alternatives. State policymakers who seriously are interested in exploring solutions to New York's catastrophe risk would do well to scrap existing single-state catastrophe fund proposals and undertake a major study of the various perils that could result in catastrophic loss and how each can be managed and insured most effectively.

For these reasons, we urge lawmakers not to support any particular New York or regional catastrophe funding bill at this time.