



LEGISLATIVE POSITION

Professional Insurance Agents of New York State Inc.

25 Chamberlain St.
P.O. Box 997
Glenmont, NY
12077-0997
(518) 434-3111

**LEGISLATIVE
REPRESENTATIVE**

Thomas Lutz

**ASSISTANT
EXECUTIVE DIRECTOR
for Government/Industry
Affairs**

Ellen D. Kiehl, Ph.D., CAE

**EXECUTIVE
DIRECTOR**

Kenneth Bessette

Homeowners' policies to provide coverage for remediating the consequences of spills or leaks from heating oil tanks.

PIANY opposes amendments to the law that will have the unintended effect of restricting an already tight homeowners' insurance market.

Memo in opposition to:

S.1252 - by Senator Trunzo
A.2777 - by M. of A. Weisenberg

AN ACT to amend the navigation law, in relation to claims against insurers for oil spills from underground heating oil tanks.

PIANY opposes this legislation on behalf of its members and their clients. These bills would mandate that the consequences of an oil spill or leakage from an insured's heating oil tank, in most situations, shall constitute property damage and shall be insurable within the meaning of the general liability portions of homeowners' policies issued in New York.

Insurers that issue homeowners policies in New York are not currently required by statute to provide the coverage these bills seek to create. Although there are undeniably significant consequences of leaks and spills from oil tanks, whether above ground or underground, there are better ways to approach the problem than the requirements contained within these bills.

These bills seek to amend section 190 of the Navigation Law to require insurance companies to cover the attendant costs of remedying the consequences of an oil spill or leakage from an insured's underground heating oil tank. Insurance companies would also be required to cover the costs of remedying the consequences of a spill or leakage from an insured's above ground heating oil tank if the damage is not the result of the failure of the insured to reasonably inspect or to hire someone to inspect the tank when the opportunity to do so exists.

-more-

It is already difficult to obtain homeowners insurance in New York, particularly in areas such as Long Island. Homeowners insurance is expensive, and the cost of such insurance will certainly increase if these bills pass. If these requirements are imposed upon the state's insurers, it may very well cause some insurers to stop writing homeowners policies altogether. The citizens of the State need appropriate homeowners insurance, and although these bills seek to ensure oil tank leaks and spills are remedied in a timely fashion, the unintended effect will be that many homeowners will not be able to obtain insurance at a price they can afford.

It is well known that underground oil tanks have an estimated lifetime of approximately thirty years. Allowing homeowners to ignore a responsibility that comes with owning houses, that is, to ensure that the house and everything that comes with it is safe and operational, is simply wrong. As for underground tanks, insurance is intended to provide coverage for leaks and spills that are accidental, not those that can be avoided by taking the necessary action.

It would be better to consider other, more responsible approaches to the problems associated with oil tank leaks and spills. For instance, the Legislature could enact a statute that would require underground oil tanks to be inspected once they reach a certain age, as is currently required for underground gasoline tanks at service stations. Alternatively, a cap can be placed on the amount of damages an insurer can be required to pay, which is the current practice in other states.

PIANY urges lawmakers to vote against these bills in order to help avoid a crisis in homeowners' insurance availability and affordability.

6/04