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Statement re: The availability and affordability of homeowners insurance
In New York's coastal areas

To: New York State Senate Insurance Committee

By: Professional Insurance Agents of New York State, Inc.
N. Stephen Ruchman, past president

On: October 9, 2007
Suffolk County Community College
Brentwood, NY

My name is Steve Ruchman, and I am an insurance agent with an agency in Rockville Centre. I am speaking today on behalf of the Professional Insurance Agents of New York State, which I recently served as president.

PIANY appreciates the chance to testify about the problems our members and their clients are having in coastal areas and to offer some recommendations for improvement.

Members tell us that the market for property insurance near the shore continues to be extremely difficult. A survey PIANY conducted this summer tells the story. We are providing the survey results with this testimony, along with responses to similar surveys we did last year. Together, they show changes in the market since January 1, 2006, when Allstate started nonrenewing homeowners in coastal areas.

Last week, PIANY conducted phone interviews with selected Suffolk County members, who confirm that the situation remains difficult for people with homes near the water. Insurance coverage generally can be obtained, but it is not usually available from standard homeowners companies. About half of members in Nassau and Suffolk Counties say they never can place homes close to the water with their regular companies. About half say they sometimes use the New York Property Insurance Underwriting Association to insure these homes, and about eight out of ten say they use excess line companies.

Insurance policies here on Long Island also can require property owners to retain more of the financial risk than policies written elsewhere in the state. Many members have expressed their concerns to PIANY about the effects of windstorm deductibles.

Rather than dwell on the extent of the problem, I would like to use my remaining time to explain PIANY's recommendations. These recommendations were developed based on meetings held in Suffolk and

Nassau Counties late last year and a member survey we conducted earlier this year. We are providing the results of this survey to the Committee.

Basically, our recommendations can be divided into legislative and regulatory actions.

Legislation

Regarding legislation, PIANY urges legislators to approve:

- permanent legal authority for NYPIUA, along with improvements in the property coverage it provides
- stronger protections against nonrenewal of existing homeowners
- an annual notice about the National Flood Insurance Program

As Hurricane Katrina showed, many people still do not carry flood insurance. In any major windstorm along the coast, flooding is bound to occur. This year the Senate passed S.4097-a, to provide an annual notice informing people that homeowners policies don't cover flood damage and explaining how to get coverage from the NFIP. We are grateful to the Senate for this approval and to Long Island Senators Flanagan, Hannon and LaValle for their co-sponsorship. We are working to encourage similar action by the Assembly.

Also, Senator LaValle and Assemblyman Sweeney are sponsoring S.2069/A.2678, a bill that would give the Insurance Department more oversight of nonrenewals. Sometimes this bill is said to be a "cap" on nonrenewals, but it really says that a company would need to get the Insurance Department's approval to nonrenew more than four percent of its homeowners a year in any given territory. We think this is reasonable, at a time when members report more nonrenewals. Currently, the Insurance Department has authority only if a company plans to nonrenew more than 4 percent of its homeowners business for the entire state. Unfortunately, this figure can be quite large, especially if it is used to target a specific area of the state. As the Allstate situation shows, the current formula still can allow significant market disruption to occur without state oversight and intervention.

Finally, PIANY strongly supports permanent legal status for NYPIUA. Although it was formed to protect urban property in times of civil unrest, NYPIUA now has become an important safeguard for many with properties on barrier islands and along the shore. There is a permanent need for this market, and it is senseless to keep NYPIUA on a sunset basis.

Other recommendations regarding NYPIUA include increasing the limits and scope of property coverage that are readily available through NYPIUA and allowing NYPIUA to use hurricane deductibles similar to the ones used by regular homeowners companies. Currently, NYPIUA makes limits of \$600,000 for the dwelling and \$250,000 for contents available through the regular application process. An appeal process that is little-known, even in the insurance community, can secure limits up to \$1.5 million each if certain mitigation steps are taken. The availability of these higher limits should be better publicized.

Unlike regular homeowners policies, NYPIUA's coverage would not pay for the full replacement cost of a ruined home. A legislative change could allow NYPIUA to grant replacement cost coverage, perhaps limiting this offering to owner-occupied residences.

To help offset any increase in NYPIUA's exposure, PIANY thinks it is reasonable to let NYPIUA use hurricane deductibles similar to those used by standard homeowners carriers. However, PIANY also believes the whole issue of windstorm deductibles should be looked into. The current crazy-quilt of deductible terms should gradually be standardized, while policyholders should be offered a chance to buy back smaller deductibles for an increased premium.

Regulatory action

PIANY recommends an examination of the current deductibles, which the Insurance Department displays on its Web site: <http://www.ins.state.ny.us/homeown/pdf/awinddedd.pdf> . Most agents are concerned primarily with the difference in "triggers." Insurers should be required to re-file their deductible plans to use a common trigger. Consider the impact of not addressing the current situation. If we have a hurricane, some people could be responsible to pay \$35,000, \$50,000, even \$75,000 out of pocket, while their next door neighbor's deductible was not triggered by the same event.

People also should have a choice of buying back part or all of their deductible for an increased premium. Some can afford a high level of self-insured retention; while others would face financial ruin and the loss of a home. As part of this whole process, we think deductibles on the same terms should be permitted for NYPIUA. As a residual market, NYPIUA should not be in a position of offering superior terms (in this case, no wind deductibles) over the voluntary market.

Regarding the Coastal Market Assistance Program, our survey found that only about one out of ten members is using CMAP to place coastal risks. This is true even though every homeowner who is nonrenewed is supposed to receive a notice about CMAP. The main problems with the current CMAP are:

Lack of understanding about how the program works, including among agents and agency staff

Not enough companies are participating

Agents are wary of coverage gaps that can occur with CMAP wrap-around policies

CMAP was a more successful program back in the 1990's when more companies were participating, and more were willing to write their normal homeowner policies for their agents, while waiving their distance-to-shore requirements to obtain CMAP credits. Today we have fewer companies in the program. Also, agents are sensitive to the problems with combining wrap-around policies with the NYPIUA coverage, because this approach can leave gaps in coverage. Wrap-arounds issued on the HO-4 model are more prone to this problem than the

HO-3 model; and the HO-4 approach has become more prevalent.

We will continue to work with the Insurance Department to try to improve the effectiveness of CMAP, including an analysis of reasons more companies are not participating and how coverage gaps could be solved. One interesting bill, on which PIANY has no formal position, was introduced quite late in the regular session. This is S.6266/A.9280, also by Senator LaValle and Assemblyman Sweeney. It would provide incentives to write wrap-around policies and liberalize NYPIUA coverage to address the potential for gaps to occur.

I mentioned earlier that our members are making increasing use of the unauthorized market to write coastal homeowners. The Excess Line Association of New York tracks these figures and we use their data to track growth trends. The absolute number of such policies is not large, but year-over-year growth is considerable. The attached charts show total activity and year-over year growth. New policy transactions are running about two and one-half times what they were last year.

Given the increased role of the excess line market and the lack of comparable coverage in the admitted market for coastal homeowners, PIANY believes that the Regulation 41 “export list” should be amended to add:

- coastal homeowners insurance
- comprehensive personal liability (CPL) insurance

Truly “coastal” homes should be added to the Regulation 41 “export list” to simplify the process of obtaining excess line homeowners policies for people who need and want them. Also, members say CPL coverage no longer is available in the licensed market on a stand-alone basis. It is an essential coverage for those who find property insurance through NYPIUA.

Regarding what would persuade more homeowners companies to write more in coastal areas—the carriers say their number one incentive is adequate pricing. We have not surveyed members about cost trends; however, it makes sense to ask whether there is a pricing level for coastal homes that could exist below that of the unauthorized market and yet would encourage regulated companies to write new business. It seems clear that inadequate pricing was one factor in the growth of Allstate’s market share and then its dramatic retrenchment. Rate adequacy that respects capital risk and the cost of reinsurance could be the key to a healthier, more stable market in the long run. We support action by the Insurance Department to accommodate this market reality for the state’s existing carriers as well as new entrants to the market.

PIANY also has reviewed with interest the information that has been made available about a proposed regulation to required insurers to create a catastrophe reserve fund. We have long supported a change in federal tax policy that would permit insurers to create

their own individual tax-deferred catastrophe reserves to cover low-frequency, high-severity disasters. We favor accounting changes that would recognize the industry's need to set aside reserves to cover these events. We are eager to learn more about this proposal and the extent to which it might provide a tax shelter for such reserves.

Regarding a single, state-created central catastrophe fund, PIANY has always advised caution. First, New York has a bad track record of raiding insurance-related funds to cover state budget shortfalls. Second, we doubt how effective a single-state fund could be in accumulating the

amounts that would be needed to pay claims from a truly devastating hurricane. We have advocated that New York consider establishing such a fund only in the context of a federal plan, where New York would be assuming responsibility only for a specific layer of catastrophe loss, with higher levels assumed at the regional and national level.

This concludes PIANY's statement. I will be glad to answer any questions you may have