



March 10, 2006

Superintendent Howard Mills  
State of New York Department of Insurance  
25 Beaver Street  
New York, NY 10004

**PROFESSIONAL  
INSURANCE  
AGENTS**

Re: Hearing on homeowners insurance market Feb. 27, 2006

Please accept these comments as an addendum to the testimony delivered by N. Steven Ruchman in response to feedback PIANY has received since delivering our statement.

We have heard from a number of members located in Suffolk County who want PIANY to relate to the Insurance Department their sense that the market in Suffolk County is by no means healthy or competitive. Results of the membership survey (attached), which we presented as part of our testimony, show that the respondents from Suffolk County, by every measurement, are under more pressure—experiencing more loss of markets, less market appetite by remaining carriers, and higher usage of both excess line markets and the New York Property Insurance Underwriting Association. However, the members who have contacted us believe that our testimony and survey results do not tell the complete story regarding the fragility of their homeowners market and the everyday difficulties they face finding coverage for prospective clients.

“Yes,” one member says (and I am paraphrasing a more lengthy discussion), “most people can find coverage of one sort or another, but it generally is inferior coverage, at a higher price. Moreover, our markets impose far more underwriting restrictions than in other areas—they seem to look for ways to disqualify a homeowner from coverage. If an offer is made, generally the price is much higher than for a comparable home elsewhere.”

I am writing to ask the Department to look at the impact of Allstate’s actions on Suffolk County in particular as well as the other areas mentioned in subsection (o) of Section 3425, as effective until June 30, 2006. This section requires a plan of orderly withdrawal from a homeowners market to be filed and approved in certain cases.

I would ask the Department to seek, legislatively, not only an extension of the June 30 sunset date for these provisions—actually, we believe that they should become permanent—but also a strengthening of the provisions to (in our opinion) more accurately reflect legislative intent of the original statute. We at PIANY were actively involved in the original drafting of this section. Never, however, did we (or, we believe, the drafters of this language) envision that a market action the magnitude of Allstate’s could be undertaken without triggering the requirement that a plan be submitted and approved.

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As you know, the statute places particular emphasis on coastal areas, as listed, as well as areas in which the NYPIUA had grown during the early 1990's. These areas are specified in Circular Letter 10 (1996) and include Suffolk County (as well as Nassau County, Queens, Staten Island and Westchester). Review of any required plan by the Superintendent must include an assessment of the impact in such areas. However, without a plan, how are such areas to be protected?

A weakness of the statute is that it could be open to the interpretation that a market withdrawal is to be measured as a percentage of a company's book statewide—even if the company's actual nonrenewals are targeted in a more limited area, as here.

Given the statute's special treatment of certain areas, in our opinion the Department would not be acting beyond the scope of its authority, nor unreasonably, in interpreting the statute to limit the withdrawal (percentage) test to the actual area in which nonrenewals are or will be occurring. Until the Legislature can act, possibly clarifying and strengthening Section 3425(o) to better address a market withdrawal by a carrier writing a huge share of the homeowners market, like Allstate, we hope the Department will consider such an interpretation regarding this company's actions, as they have been publicly described.

I am enclosing some drafting ideas we have developed and will be sharing with legislative offices for their consideration as the sunset date approaches. It would be a tremendous boost if the Department could make this type of amendment a part of its legislative agenda. The first drafting idea would reduce the number and percentage thresholds for triggering the requirement that an insurer file a withdrawal plan for approval, both on a one-year and on a five-year basis. The second drafting idea would apply such threshold tests both statewide and in any given county.

Sincerely,



J. Carlos "Shawn" Viaña  
PIANY President

Enc.: PIANY homeowners market membership survey results 2/06

## DRAFTING IDEA #1

Section 3425(o)(2)(C): The superintendent shall promulgate rules and regulations to establish standards for the definition of “materially reduce its volume of policies” as used in this paragraph. Such definition shall require that a plan be filed with the superintendent if the insurer plans to reduce the net number of homeowners insurance policies as defined in subsection (a) of section twenty-three hundred fifty-one of this chapter by [twenty] FIVE percent or more, or plans to reduce the net number of such policies it writes by five hundred, whichever is greater, within a five year period of time; provided, however, that if an insurer is not otherwise required to file a plan pursuant to this subparagraph, a plan shall be filed if the insurer plans to reduce the net number of such policies it has in force in a twelve month period by [four] TWO percent or more or the net number of such policies it writes by one hundred, whichever is greater.

## DRAFTING IDEA #2:

Section 3425(o)(2)(A) An insurer that writes homeowners insurance policies as defined in subsection (a) of section two thousand three hundred fifty-one of this chapter, who intends to materially reduce its volume of such policies written IN THIS STATE, OR IN ANY COUNTY OF THIS STATE, shall submit to the superintendent, at least sixty days in advance of implementing such actions, a plan for the orderly reduction of the number of policies written. Such plan shall: (i) describe the contemplated actions; (ii) set forth the reasons for such actions; (iii) describe the measures such insurer intends to take in order to minimize market disruption; and (iv) provide such other information as the superintendent may require.

Section 3425(o)(2)(C): The superintendent shall promulgate rules and regulations to establish standards for the definition of “materially reduce its volume of policies” as used in this paragraph. Such definition shall require that a plan be filed with the superintendent if the insurer plans to reduce the net number of homeowners insurance policies as defined in subsection (a) of section twenty-three hundred fifty-one of this chapter by twenty percent or more IN THIS STATE OR IN ANY COUNTY OF THIS STATE, or plans to reduce the net number of such policies it writes by five hundred IN THIS STATE OR IN ANY COUNTY OF THIS STATE, whichever is greater, within a five year period of time; provided, however, that if an insurer is not otherwise required to file a plan pursuant to this subparagraph, a plan shall be filed if the insurer plans to reduce the net number of such policies it has in force IN THIS STATE OR IN ANY COUNTY OF THIS STATE in a twelve month period by four percent or more or the net number of such policies it writes by one hundred, whichever is greater.

**PIANY 60-Second Survey  
on Homeowners Market**

2/14/06

	<b>Nassau</b>	<b>Suffolk</b>	<b>NYC</b>	<b>Westchester</b>	
<b>Number responding</b>	18	16	23	9	
<b>Availability score</b>	3.7	4.0	3.6	3.1	
<b>Number of cos. writing new bus.</b>	3.3	2.9	3.5	5.1	
<b>(Compared to last yr.)</b>					
<b>HO markets are:</b>					
<b>more competitive</b>	3	3	7	4	
<b>less competitive</b>	8	9	13	1	
<b>same competition</b>	1	0	2	1	
<b>more numerous</b>	2	1	2	2	
<b>less numerous</b>	8	10	8	2	
<b>same number</b>	1	0	2	1	
<b>Can place coastal HO with regular companies</b>					
<b>always/almost always</b>	1	0	0	1	
<b>usually</b>	1	2	3	1	
<b>sometimes</b>	11	5	13	7	
<b>never</b>	5	8	6	1	
<b>For new HO 'close to water'— ever use NYPIUA?</b>					
<b>no</b>	12	5	13	7	
<b>yes</b>	6	8	10	2	
<b>ever use E/S Lines?</b>					
<b>no</b>	4	4	11	5	
<b>yes</b>	13	11	10	4	
<b>Other companies saying about Allstate?</b>					
<b>want their business</b>	2	1	5	6	
<b>don't plan to stop writing new</b>	9	7	12	5	
<b>nervous, wait &amp; see</b>	5	6	4	3	
<b>plan similar action</b>	1	3	1	1	
<b>Encompass agent?</b>	3	4	1	4	
<b>Allstate agent?</b>	0	0	1	0	



**PIANY 60-second Fax-back survey**

**Fax-back to PIANY, (888) 225-6935**

**Homeowners market conditions: Eight downstate counties**

**1. Where is your principal agency office located?**

- Nassau             Manhattan             Staten Island             Bronx
- Suffolk             Brooklyn             Queens             Westchester County

**2. Rate market availability for coastal homeowners in your agency on a scale of 1 to 5, where 1 is "highly competitive" and 5 means "unavailable, except in the residual market." Circle the appropriate number. If you write NO coastal homeowners, circle N/A.**

1 = highly competitive                      5 = unavailable  
(except residual market)

Coastal HO            1    2    3    4    5                      N/A

**3. As of today, how many companies let your agency write new homeowners business (count insurer groups as one company): \_\_\_\_\_**

**4. Compared to one year ago, are your homeowners markets:**

- more competitive             more numerous
- less competitive             less numerous

**5. New homeowners 'close to the water'—can you place it with one or more of your regular homeowners companies:**

- always/almost always             sometimes
- usually             never

**6. New homeowners 'close to the water'—do you ever use NYPIUA?**

No    Yes    (If yes, describe when): \_\_\_\_\_

**7. New homeowners 'close to the water'—do you ever use excess/surplus lines?**

No    Yes    (If yes, describe when): \_\_\_\_\_

**8. What do your companies say about Allstate/Encompass' actions?**

- want to pick up these companies' homeowners business
- don't plan to stop writing new business for us
- nervous about the situation, will wait and see
- plan to do something similar (no new/more nonrenewals)

**9. In 2005, was your agency authorized to write new homeowners business for:**

- Encompass            yes    no
- Allstate            yes    no

**10. Comments:** \_\_\_\_\_

**Fax-back to (888) 225-6935**