

**United Policyholders**

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April 22, 2014

Hon. James L. Seward, Chair  
New York State Senate Insurance Committee  
172 State Street, Room 430, Capitol  
Albany, NY 12247

Re: SB 2315 SUPPORT

Dear Senator Seward:

We are writing to convey our support for SB 2315 (DeFrancisco) and its Assembly counterpart AB 453 (Dinowitz). The goal of this common sense bill is to maintain current rules that facilitate the timely submission of insurance claims but establish an exception to those rules where the fact that a claim was late filed does not substantially prejudice an insurer's interests.

There are very harsh consequences for an insured that has paid premiums for protection but whose claim is denied based on late notice – especially where that late notice was due to factors beyond their control, as often is the case. Given the purpose of insurance, this measure is consistent with the longstanding principle that indemnity in case of a loss is to be effectuated where possible.

Under SB 2315, an insurer can deny coverage for a claim when an insured fails to give timely notice and where it can show it has suffered substantial prejudice as a result of the of the delayed notice. An insurer that cannot make the required showing must abide by its contractual responsibilities with regard to adjusting and paying the claim.

Insurers operating in the state of New York repeatedly take advantage of provisions they've written into their contracts to reject claims and avoid liability for covered losses without any showing that the late notice caused them any prejudice whatsoever. There is no legal or equitable justification for allowing this to continue.

The better rule, adopted by many jurisdictions and embedded in decades of common law, is the "notice-prejudice" rule. Under the "notice-prejudice" rule, insurers must show that a policyholder's failure to give timely notice resulted in substantial prejudice of the insurer's interest. SB 2315 is merely the "notice-prejudice" rule in statute.

Thank you for your consideration of both SB 2315 and this letter in support.

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Sincerely,

A handwritten signature in black ink that reads "Amy Bach". The signature is written in a cursive style with a long, sweeping underline.

Amy Bach, Esq.  
Executive Director

cc:  
Hon. John DeFrancisco  
Alison Cooper, Committee Director