

April 12, 2017

Hon. John A. DeFrancisco  
District 50  
New York State Senate  
RM 416 Capitol  
Albany, NY 12247

**Support for Bill S424/A291-2017 - Fair claim settlement practices**

Dear Senator DeFrancisco,

United Policyholders strongly supports this bill. We write on behalf of the millions of New York business and property owners that take responsibility for their own economic security by buying insurance policies to serve as safety nets. We want people and businesses to do this. We want New Yorkers to invest in buying insurance so they'll have their own financial resources for recovering from disasters and misfortunes and won't have to rely on government aid.

But as things stand now, property insurance policies in New York have less value than in most states. This is because insurers know they face little downside risk in New York for underpaying, denying or delaying the payment of insurance benefits owed to their customers. Only Alabama, Montana, Minnesota and three other states give insurers the advantage that New York gives them: The security of knowing that if they fail to adhere to the state's fair claim handling standards, the claimant generally is powerless to fight back.

This bill is good for the state's economy. It makes New Yorkers' insurance safety nets stronger and more valuable. It does that by giving businesses and individuals the ability to legally enforce – *if need be* – their contractual right to policy benefits after a disaster, accident or loss.

The current regime is unhealthy for insurers, insurance consumers, and the government agencies that now have exclusive jurisdiction to enforce the state's fair insurance claim handling laws. New Yorkers in a sense have the worst of both worlds: Property insurance rates in New York rank 10th highest in the nation<sup>1</sup>, yet the vast majority of policyholders can't afford to hold insurers legally accountable for paying full value on their policies.

S242/A921 will bring New York in line with the vast majority of states. New York is one of the few that don't allow a policyholder to recover attorney fees where they legally prove an insurer has wrongfully withheld benefits owed under an insurance contract.<sup>2</sup>

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As things stand now, the only New Yorkers who can challenge wrongful conduct by an insurer are those who are so morally outraged that they're willing to lose money fighting for the benefits they paid for, and those who are affluent enough to pay a lawyer by the hour. Paying a lawyer by the hour to challenge an insurance company's decisions on a claim in New York *makes no economic sense*. And insurers know that. This bill provides an important economic incentive for fair insurance claim handling.

Insurers and their trade associations will no doubt claim S242/A921 will raise insurance rates, yet there is no evidence to support this contention. (*See How Does Tort Reform Affect Auto Insurance Costs?* Paul Heaton, July 2013).

This bill also benefits New Yorkers by restoring insurance claim appraisals to their original purpose as an efficient (inexpensive and expeditious) process for fairly resolving loss valuation disputes outside of court.

Our support for the bill is strong despite the fact that it contains a cap on punitive damages. Such caps tend to neuter the deterrent value of these awards and UP opposes them. However, the importance of this legislation in New York is so great that our support is unconditional.

#### About United Policyholders

UP is a non-profit 501(c) (3) organization founded in 1991 that is a voice and an information resource for insurance consumers in New York and throughout the U.S. UP's work is divided into three program areas: Roadmap to Recovery™ (disaster recovery and claim help), Roadmap to Preparedness (insurance and financial literacy and disaster preparedness), and Advocacy and Action (advancing pro-consumer laws and public policy through Amicus Briefs and legislation).

UP does not sell insurance or accept funding from insurance companies. UP serves New York residents and business owners, and coordinates on a regular basis with public officials and the Department of Financial Services. We remain a source of guidance and advocacy support for insured New York home and business owners impacted by Superstorm Sandy, and have weighed in on a variety of legislative reform proposals and public policy matters related to insurance in the Empire State during our 25 years in operation.

Sincerely,



Amy Bach, Esq. Executive Director

<sup>1</sup> Source: Insurance Information Institute

<sup>2</sup> See United Policyholders' 50 State Survey at [www.uphelp.org](http://www.uphelp.org).