



**United Policyholders**  
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June 5, 2015

Senator John DeFrancisco  
District 50, New York State Senate

**VIA EMAIL:** [jdefranc@nysenate.gov](mailto:jdefranc@nysenate.gov)

**Support for Bill S29A-2015 - Fair claim settlement practices**

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Executive Director

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Washington State

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**Programs**

*Advocacy in Action*

*Roadmap to Preparedness™*

*Roadmap to Recovery™*

Dear Senator DeFrancisco,

United Policyholders writes in strong support of this bill. <sup>1</sup> 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 far less downside risk in New York for underpaying, denying or delaying the payment of insurance benefits. 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 thus 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>2</sup>, yet policyholders can't hold insurers legally accountable for paying full value on their policies.

S29A 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>3</sup>

1. With one exception: We oppose arbitrary caps on punitive damages. The punitive damages remedy only works as a deterrent to misconduct where courts are permitted to render awards tied to the evidence of the defendant's net worth and conduct in each individual case. Caps introduce a predictable maximum downside that neuters the deterrent value of these awards.

June 5, 2015

Page 1 of 2

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.

Interests that would prefer not to be subject to the accountability our tort system engenders will no doubt claim S29A 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.

#### 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 all 50 states. Donations and foundation grants support the organization's work. UP does not sell insurance or accept funding from insurance companies.

UP coordinates with the New York Department of Financial Services and has been actively supporting the Superstorm Sandy recovery effort on Long Island.

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 legislative advocacy).

Sincerely

A handwritten signature in black ink, appearing to read "Amy Bach". The signature is fluid and cursive, with a long horizontal stroke at the end.

Amy Bach, Esq.  
Executive Director

<sup>2</sup> Source: Insurance Information Institute

<sup>3</sup> See United Policyholders' 50 State Survey at [uphelp.org](http://uphelp.org)