

BIG I
NEW YORK

**LEGISLATIVE
POSITION PAPER**
— 2023 SESSION —



Founded in 1882, Big I
New York is the oldest
and largest producer
association in
New York State.

We represent

Over 1,500
independent insurance
agency locations in the
State of New York,
comprising more than

12,000
individuals who sell and
service the personal and
business insurance needs
of consumers

**GOVERNMENT RELATIONS
DEPARTMENT**
5784 Widewaters Pkwy
1st Floor
DeWitt, NY 13214

p: 315.432.4212
e: shobson@biginy.org

The insurance industry has been an important component of the New York economy for decades with its economic significance growing steadily each year. It is imperative that New York maintain a stable and healthy insurance market.

Over the 5-year period 2016 - 2020, New York's property & casualty industry generated an estimated **\$202.9 billion** in economic impacts and supported more than **152,000 jobs** annually across the state. New York's property & casualty industry produced an estimated **\$5.4 billion** in state and local collections. (Ernest Goss, Ph.D., 2017)

Our members are uniquely positioned as an integral part of their communities to assist on a broad range of economic development, tax, insurance, and other business issues that impact the consumers in New York. At every step in the insurance journey, independent agents and brokers are advocates for their customers.

meet **THE TEAM**



SCOTT HOBSON, MPA
AVP of
Government Relations



LISA K. LOUNSBURY,
CAE, AAI, AIS
President & CEO



NICK MASTERPOLE
Chair of the Board

GRASSROOTS & MEMBER *Engagement*

Big I NY members are passionate and powerful advocates for their businesses and customers. In 2022, member agents played a crucial role in advancing beneficial legislation and were decisive in blocking harmful proposals. Members met with state and federal lawmakers virtually during our Independent Agents Advocacy week, Legislative Breakfast events in Central New York and Buffalo, and National Legislative Conference in Washington, DC. Big I members also hosted political fundraisers for our Independent Agents Political Action Committee and attended in-district fundraisers for state candidates who understand the importance of our industry.

In 2022, the “Group of 100” (G100) was instrumental in supporting our legislative and political campaigns. This select group of member agents is composed of our most engaged volunteers, charged with advancing our legislative goals by building strong relationships with local lawmakers, engaging in legislative and political advocacy, and raising funds for our political action committees.

To submit an application to join the G100, visit www.biginy.org/G100 or email Scott Hobson at SHobson@BigINY.org.

Our members
are champions
for independent
agencies and their
customers across
the state. Big I NY
agents are crucial
to our legislative
success.



www.BigINY.org

LEGISLATIVE Accomplishments

Thanks to the tireless work of our legislative team, ongoing support from our member agents, and cooperative effort from the Legislature, Big I New York has been successful in achieving a number of critical changes needed in our industry in recent years.

Signature of Excess Lines Affidavit Reform:

Governor Hochul signed into law a Big I NY priority bill that will reduce paperwork burdens on brokers placing coverage in the excess market and allow them to better serve their customers. The bill streamlines the affidavits that brokers must submit upon placing excess coverage. Prior to the bill's signature, the form required a total of twenty-one data elements in total for three declinations. The new law removes name of declining representative, affiliation of the representative, and reason for the declination from the affidavits.

Photo Inspection Reform Bill Passes Senate and Assembly:

In 2022, our bill to allow insurance carriers to waive pre-insurance photo inspections (S.6028/A.6877) made historic progress, passing both houses of the legislature for the first time ever. Big I NY agents came out in force, making phone calls, attending legislative meetings, publishing letters to the editor, sending over 1,500 emails, and obtaining 2,000 petition signatures. Disappointingly, Governor Hochul vetoed the bill; however, in her veto message she acknowledged the photo inspection regulation should be modernized and committed to work with the legislature to pass a bill in 2023. The passage of this legislation remains a top priority.

Wrongful Death Expansion Bill Vetoed:

Big I NY, along with a broad coalition of business, healthcare, municipal, and insurance groups, opposed a sweeping expansion of the state's wrongful death statute. The bill would have resulted in double-digit premium increases and significant costs to taxpayers and local governments. Governor Hochul vetoed this bill in January 2023.

Argued Against Regulation 187 "Best Interest" Standard in NY's Highest Court:

In September 2022, we presented oral arguments before the NYS Court of Appeals, against first amendment to Regulation 187, which we contended was unconstitutionally vague and challenging for agents to comply with. The regulation requires agents consider only the "customer's best interest" when selling life insurance and annuities. The court ultimately ruled in favor of the state, overturning the Appellate Court's unanimous ruling that the regulation is unconstitutional. While not the outcome we hoped for, we are proud to have stood up for our members and their customers and not let an unfair regulation go unchallenged.





AUTO INSURANCE ISSUES

Simplify the Coverage Process by Making the Auto Photo Inspection Requirement Voluntary

Section 3411 of the Insurance Law requires that all motor vehicles must be inspected before comprehensive or collision coverage can be provided. While this provision was effective when it was first implemented over a quarter century ago, new fraud fighting tools have rendered this requirement virtually useless. Insurance companies no longer rely on these inspections and the reports are rarely, if ever used. The reports require a photo inspection that is conducted by either the agent or broker or a third party vendor. The photo requirement is inconvenient for policyholders who must bring their vehicle to a location for the photos. It is also an additional burden and business expense on the agent or broker who must take the photo. If a third party is used, there is an additional cost to the insurer associated with the report. The cost of these mandatory inspection reports is passed on to drivers in the form of higher premiums. Not only do drivers have to pay higher premiums but a driver can inadvertently lose physical damage coverage if the inspection is not completed within a time period specified in the law.

Action Needed: Big I New York supports legislation to allow insurance carriers to waive pre-insurance photo inspections. *S.5889 (Breslin)/A.3172-A (Zebrowski)*

Ensure drivers are adequately protected by increasing the minimum auto insurance limits

New York's current minimum limits of \$25,000 bodily injury per person/ \$50,000 bodily injury per accident and \$10,000 property damage per accident have not been raised in a quarter century, and are now woefully inadequate. The limits have not kept pace with significant increases in the cost of medical care and vehicle repair. Insufficient coverage can often leave victims of a car accident on the hook for their own medical costs and repair bills once the at-fault driver's low coverage is exhausted.

Action Needed: Big I NY supports better protecting New York drivers by raising the minimum limits to \$50,000/\$100,000 bodily injury and \$50,000 property damage.

Protect Consumers from Misleading Pricing Practices

Currently, certain insurance carriers will bind auto coverage based on an initial quote and questionnaire. The insurer later runs the insured's motor vehicle record (MVR), typically resulting in a higher premium. This practice is misleading to consumers.

Action Needed: Big I New York supports legislation to require insurers to verify a customer's MVR before binding coverage. *S.5764-B (Breslin)/A.4668-B (Weprin)*





WORKERS COMPENSATION

Reduce Burdens on Small Businesses by Indexing the Payroll Threshold for the Workplace Safety and Loss Prevention Program

The Workplace Safety and Loss Prevention Program, is required for all employers whose most recent annual payroll is in excess of \$800,000 and whose most recent experience rating exceeds the level of 1.2. Employers who meet these criteria are notified by the New York Compensation Insurance Rating Board of the need to undergo a Workplace Safety and Loss Prevention Consultation and evaluation. Employers must pay a fee for the consultation, which if conducted by the Department of Labor is \$350 a day. Any remedial action recommended by the consultant must be implemented by the employer within six months.

The program was created in 1997, and over the last 25 years, payrolls have increased substantially. The law, which was originally intended to apply to larger employers, is now capturing smaller ones because the payroll threshold has not been adjusted. While Big I New York supports compulsory safety and loss prevention programs, it believes that the \$800,000 payroll threshold needs to be adjusted to reflect today's payroll costs. Based upon the Employment Cost Index published by the U.S. Bureau of Labor Statistics, a payroll threshold of \$800,000 in 1997 would equate today to approximately \$1.2 million.

Action Needed: Big I New York supports legislation to raise the payroll threshold and allow for annual adjustments based on the Employment Cost Index. *A.1076 (Zebrowski)*

Make it Easier for Businesses to Obtain the Best Coverage by Eliminating the 30-Day Notice of Withdrawal Requirement

The New York State Insurance Fund (NYSIF) is the state's largest writer of Workers Compensation policies. Currently, policyholders must provide the NYSIF with 30 days of advance written notice before canceling a policy. This requirement makes it difficult for small businesses to obtain more competitive coverage, and should be repealed to level the playing field in the Workers Compensation market.

Action Needed: Big I NY supports the elimination of the 30-day notice requirement. *S.2834 (Breslin) / A.3061 (Zebrowski)*





Protect Businesses from Lawsuit Abuse Resulting from Lawsuits for “Unfair, Deceptive, and Abusive” Business Practices

Pending legislation proposes an unprecedented and sweeping expansion of the General Business Law to: prohibit broadly and subjectively defined “unfair,” “deceptive,” or “abusive” acts; expand the private right of action to include an organization, business, or any other group of individuals otherwise organized; provide attorneys’ fees and statutory damages of \$2,000 per offense in addition to actual damages; authorize private class action lawsuits for violations of the statute; and permit lawsuits even where there is no underlying consumer-oriented or public impact. This legislation would cause serious harm to independent insurance agencies, brokerages, producers, and the customers they serve. The expansive and subjective nature of what constitutes prohibited acts, coupled with guaranteed minimum damages of \$2,000 per offense (per class member in a class action), tips the playing field perilously and creates powerful incentives for insurers and businesses to settle lawsuits, even if the underlying claims are dubious. This would harm businesses directly through higher litigation risk and compliance costs, as well as driving up the cost of commercial coverage.

Action Needed: Big I New York opposes a sweeping private right of action for “Unfair, Deceptive, and Abusive” business practices. *S.795 (Comrie) / A.7138 (Weinstein)*

TORT LIABILITY





Protect Consumer Choice in Health Insurance

New York lawmakers are currently considering legislation to enact a single payer health system, which would ban most private health insurance. We believe a government-run single payer system would be prohibitively expensive, would reduce consumer choice, and would disrupt other insurance coverage, including existing Medicare coverage for seniors and existing employer-sponsored health insurance coverage. We will continue to work cooperatively with the industry and policymakers to build upon the current strengths in the system and maintain a competitive and vibrant marketplace that will provide quality coverage at an affordable price. We are also supportive measures that will bring down the high costs of health care.

Action Needed: Big I New York opposes legislation that would create a single payer health system in New York. *S.7590 (Rivera) / A.7897 (Paulin)*

HEALTH INSURANCE



www.BigINY.org



PROPERTY INSURANCE ISSUES

Streamline the Commercial Property Insurance Process by Eliminating the Anti-Arson Application

Section 3403 of the Insurance Law requires the completion of “anti-arson application” for people seeking property insurance for fire or explosion to complete. If a policyholder fails to complete this application, which is required upon initial application for insurance and on each subsequent renewal of the policy, the insurer must cancel the policy. Since technology has advanced the application has outlived its usefulness. Insurance companies today are required by law to have fraud prevention plans, which are filed with the State, on how they detect, investigate, and prevent fraudulent activities. These fraud prevention plans are far more effective than the anti-arson application form which simply asks a series of questions. The law is just a paperwork burden for policyholders who risk losing coverage if the paperwork is not completed. Recent legislation scaled back the current law to remove cities with a population of less than 1 million.

Action Needed: Big I New York supports the statewide elimination of the anti-arson application.

Ensure the Continued Availability of Affordable Rental Property Coverage by Preserving Lead Paint Exposure Exclusions

Pending legislation would prohibit admitted insurers from excluding coverage for losses due to lead paint exposure from rental property liability coverage. While well intentioned, this proposal would have serious unintended consequences that would harm the very people whom it aims to help. Lead paint exposure injuries may involve lifelong harm and ongoing care needs, which are often difficult to prove where exposure occurred. If insurers are required to cover such claims, they will likely raise premiums and/or exit the admitted market. The corresponding increase in cost and loss of availability of residential property coverage will be passed along to renters – those who are often least able to afford increases in the cost of living.

Action Needed: Big I NY opposes legislation to ban the use of lead paint coverage exclusions. S.88 (Ryan) / A.1687 (Rivera)





Make it Easier to Obtain the Most Appropriate Coverage by Reforming the “Diligent Effort” Requirement

New York’s excess line market is critical to providing insurance for risks that are not underwritten by admitted carriers – such as those which are unique, volatile, or lack loss history. Current law requires brokers to obtain three declinations from admitted carriers before an excess line policy can be obtained, and a detailed affidavit must be filed for each declination. New York is one of only ten states that require the filing of declination information.

The current system is burdensome and time consuming, and can lead to delays which are detrimental to prospective policyholders.

Action Needed: Big I NY supports legislation to exempt commercial lines insurance transactions placed by wholesale insurance brokers from the requirement to obtain three separate declinations. *S.5896 (Breslin) / A.5253 (Hunter)*

EXCESS LINES ISSUES



www.BigINNY.org