

New York 2018 Legislative Wrap Up



BIG I

NEW YORK

Message from the Chair of the Board

2018 has been a productive and exciting session, with several important wins for independent agents and brokers.

On December 7th, Governor Cuomo signed Big I NY's bill to simplify the license renewal process for agents and brokers. Now instead of three separate dates, all agent and broker business entity licenses will renew on the same date – June 30th of odd-numbered years. Your Big I NY team developed this legislation with input from our members and championed its passage. The Big I NY members who met with lawmakers, sent messages of support, and joined us in Albany for L Day 2018 were instrumental in this success.

The governor also signed legislation, which Big I NY actively supported, to allow property/casualty and personal lines agents and brokers to take their required pre-licensing courses in a setting other than a classroom. This will make it much easier for agents to complete their coursework.

In November, Big I NY took decisive action to protect our members and their customers from a harmful life insurance regulation. Joined by the Professional Insurance Agents Association of NY, we filed a lawsuit against the Department of Financial Services (DFS), seeking to annul the recently adopted amendment to Regulation 187. This amendment would impose a vague and confusing "best interest" standard on agents and brokers who sell life insurance. We believe this new standard will make life insurance less affordable and more difficult to obtain, while exposing agents and brokers to substantially increased legal risk.

Big I NY also urged the DFS to reverse their recent interpretation that agents/brokers and insurance carriers are considered "third party service providers" of each other under the new cybersecurity regulation. Unfortunately, DFS remains unwilling to reconsider, so Big I NY has made developing compliance tools and resources for members a top priority.

On the Federal level, we celebrated a huge victory by successfully advocating for insurance agents and brokers who are owners or shareholders of a pass-through entity to qualify for the full 20% tax deduction on business income. This is a huge "pocketbook win" for our members!

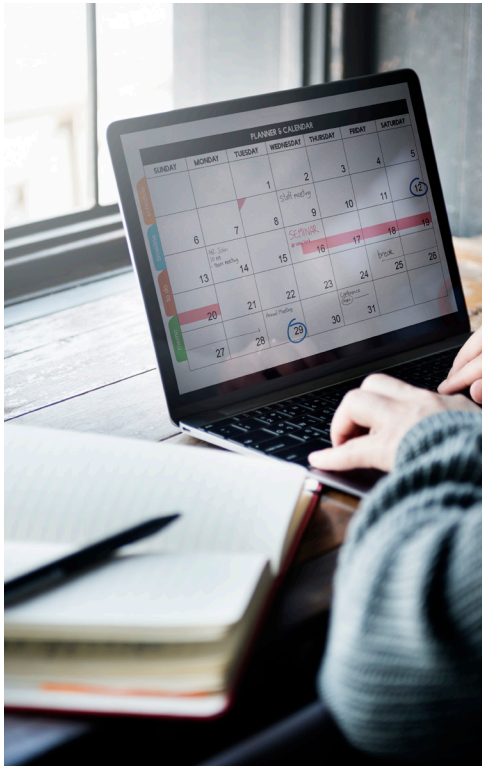
Lastly, we bid a fond farewell to our AVP of Industry Relations, Kathy Weinheimer this year. As a 33-year member of the Big I NY family, she has been instrumental in countless victories for our members. We welcome Scott Hobson, our new Director of Government relations, who will manage our legislative portfolio and work closely with Barrett Associates making our voices heard in Albany. In 2019, there is sure to be no shortage of issues that affect the independent agent and broker community. You can be sure that Big I NY will have your back in Albany and Washington DC, aggressively and tirelessly representing the interests of you and your customers.



A stylized, handwritten signature in black ink, appearing to read "Lou Atti".

Lou Atti, CPCU
Chair of the Board

Key Supported Legislation



LICENSING ISSUES

Business License Renewal Consolidation

Bill Numbers & Status: S.6445-A (Seward) / A.8484-A (Cahill) was signed by the governor

Summary: This bill, developed and championed by Big I NY, establishes June 30th of odd-numbered years as the one common expiration date for all business entity agent and broker licenses. Having one uniform license renewal date will make it much easier for insurance businesses in the state to keep track of their license renewal.

Actions: Big I NY worked to secure sponsorship of this bill and lobby for its passage, including making it a key issue at L Day in March and engaging members to send messages of support to the governor. The bill was signed by Governor Cuomo on December 7th, and will take effect in 2021.

Pre-licensing Modernization

Bill Numbers & Status: S.7634-A (Marchione) / A.9527-A (Woerner) was signed by the governor

Summary: This bill will make it easier for those people who want to be licensed as property/casualty and personal lines insurance agents to complete their required pre-licensing education. It's not always easy to find coursework in a classroom setting, so allowing these people to complete the pre-licensing requirements in another format, such as correspondence work, a course offered over the internet, or a similar institution, will facilitate the licensing of new insurance agents.

Actions: Big I NY joined producer and insurer trade groups in lobbying for passage of this bill. The bill was signed by Governor Cuomo on December 7th, and is effective immediately.



WORKERS' COMP ISSUES

Increase Payroll Threshold for Workplace Safety & Loss Prevention Program

Bill Numbers & Status: S.4369 (Hannon) reported from Senate Labor Committee and committed to Finance Committee
A.1458 (Zebrowski) referred to the Assembly Labor Committee

Summary: Acting on the recommendation of a Big I NY working group examining the Workers Compensation system, Big I NY drafted legislation to increase the payroll threshold to \$1.2 million, which equates to the original \$800,000 in today's dollars. The Workplace Safety & Loss Prevention program was introduced in 1997 by statute to reduce workplace injuries and lower Workers Compensation costs for employers. The program is required for all employers whose annual payroll exceeds \$800,000 with an experience mod of 1.2 or higher. The payroll threshold has not been adjusted over the life of the program. The original intent of the program was to apply to larger employers but with payroll increases over the last 19 years it is now capturing smaller employers.

Actions: Big I NY secured sponsors in both the Senate and the Assembly and the bills were referred to the Labor Committee.



Transportation Network Companies (TNCs)

Summary: The requirement for a group TNC policy to provide that the group policy is primary over a driver's personal auto policy was set to expire on January 1, 2019. Big I NY was concerned that this deadline did not adequately provide insurers with time to revise and implement new policy forms with the proper TNC exclusions.

Action: Big I NY urged the DFS to extend this deadline. The Department proposed a regulation to extend the date to July 1, 2019, and the final regulation was adopted in December.

AUTO ISSUES



SCAFFOLD LAW REFORM

Scaffold Law Reform

Bill Numbers & Status: S.2795 (Gallivan) was referred to the Senate Judiciary Committee
A.2148 (Morelle) was referred to the Assembly Judiciary Committee
A.5624 (McDonald) was referred to the Assembly Judiciary Committee

Summary: Big I NY is a long-standing member and financial supporter of the Scaffold Law Coalition of the Lawsuit Reform Alliance of New York (LRANY), a broad-based coalition of seventy advocacy groups. Scaffold Law reform has been a priority issue for Big I NY and continues to be so. We support legislation to change New York's absolute liability standard to a more equitable comparative negligence standard that is in place in every other state.

Actions: Through letters, editorials and direct lobbying LRANY engaged in a statewide campaign to raise awareness of the Scaffold Law's fiscal impact to state and local governments, including Gov. Cuomo's infrastructure projects. Big I NY also participated in LRANY's Day at the Capitol grassroots lobbying effort in February.



Small Business Regulatory Relief

Bill Numbers & Status: S.4120-B (Akshar) / A.8205 (McDonald)
was vetoed by the governor

Summary: This bill requires all state agencies to allow a first-time small business rule violator the opportunity to cure or take ameliorative action before a penalty is imposed. A small business is defined as one resident in the state, independently owned and operated, not dominant in its field and which employs one hundred or fewer people. This bill would prevent DFS from levying fines and penalties against small insurance agencies that may have simply made a mistake.

Actions: Big I NY joined members of the business community in lobbying for this bill, and urged the governor to sign it.

BUSINESS ISSUES



Stop Loss Extender

Bill Numbers & Status: S.8995 (Seward) / A.11014 (Cook) was delivered to the Governor, awaiting action by December 22nd

Summary: Big I NY supported a bill that would extend for an additional five years the grandfathering of mid-sized groups with 51-100 employees that currently self-fund health benefits with stop loss coverage. Due to changes made in the law to reflect the provisions of the Affordable Care Act, stop loss insurance was prohibited in New York in 2013. Fortunately, during the past two legislative sessions, the law was amended to create a "grandfather period" to allow for stop loss coverage to continue for certain, eligible self-funded, midsized groups.

Actions: Big I NY lobbied in support of this bill and urged the Governor to sign it. The bill has been delivered to Governor Cuomo, and is awaiting action by December 22nd.

HEALTH INSURANCE ISSUES

Key Opposed Legislation



INCREASED FINES & PENALTIES

Increased Fines & Penalties for Insurance Agents

Bill Numbers & Status: S.2009C (Budget bill) passed the Senate without the penalty increase
A.3009C (Budget bill) passed the Assembly without the penalty increase

Summary: The Governor's budget bill contained a proposal to drastically increase penalties for violating the State's insurance law. The proposal would have allowed the Department of Financial Services (DFS) to assess fines up to the greater of:

- \$10,000 per offense (increased from \$1,000 per offense)
- Double the aggregate damages attributable to the violation
- Double the economic gain the individual made from the violation

Actions: Big I NY lobbied extensively against the measure, calling it unwarranted. The final budget bill did not include any increase or change in the current penalties under the Insurance Law. It also left out other proposals that Big I NY opposed, including expanded DFS authority to sue violators of the Insurance Law and the authority to ban people from the insurance business for life.



Single Payer Health Care

Bill Numbers & Status: A.4738-A (Gottfried) passed the Assembly
S.4840-A (Perkins) was referred to the Health Committee

Summary: Big I NY and our member independent insurance agents and brokers fully support the goal of providing quality and affordable health insurance coverage to all New Yorkers. Rather than creating an entirely new system, we believe the state should build on the success of New York State of Health, which today insures more than 4.3 million residents through a variety of public and private programs.

Actions: Big I NY met with lawmakers and key decision makers on this issue, advocating for a more balanced and less costly approach to improving access to healthcare.

SINGLE PAYER HEALTH CARE

Regulatory Issues



REGULATORY ISSUES

Big I NY and PIANY took a decisive step to fight back against overreach by the Department of Financial Services and filed a joint legal challenge to the recently adopted **amendment to Regulation 187**. This amendment, which is of great concern to our members, would impose a vague standard of “best interest” on the sale of life insurance and annuities. The suit seeks to have the amendment voided in full. This new standard is extremely troubling and would significantly alter the agent/broker-customer relationship. The amended regulation would require agents and brokers to obtain detailed financial and risk information about their customers, and then recommend a specific policy based on that data. This would overturn decades of well-established case law which holds agents and brokers have no duty to recommend, and consequently significantly increase the risk of E&O claims.

Cybersecurity Regulation 500 was again addressed, following a new interpretation by the DFS that agents and their insurance companies are to be treated as “third party serviced providers” of each other. Big I NY and allies met with the DFS to highlight our serious concerns with this interpretation, and pushed for the decision to be reversed. Unfortunately, the DFS was unwilling to alter their interpretation. Big I NY is working with producer groups and carrier trades on this issue, and developing resources and guidance for our member to make compliance with the third party service provider provisions as least burdensome as possible.

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

We represent
approximately

3,400

independent business
owners and principals of

1,800

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

13,000

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



www.BigINNY.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 maintains a stable insurance climate.

A recent study (Ernest Goss, Ph.D., 2014) shows that between 2015 and 2018 New York's property and casualty industry will produce **\$153.9 billion** in overall positive economic impacts and support an average of **158,737 jobs** per year between 2015 and 2018. New York's P&C industry will also generate **\$5.4 billion** in state and local taxes between 2015 and 2018.

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. Independent agents and brokers are very sensitive and alert to the problems of the consumer because their entire business is based on dealing with the public daily in a personal client-professional relationship.

As we face new challenges our members have pledged themselves to work even more aggressively with government and other industries to address the many crucial issues which confront us. We look forward to a cooperative effort with our legislators and regulators during the coming year.

meet THE TEAM



SCOTT HOBSON, MPA
Director of
Government Relations



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



LOU ATTI, CPCU
Chair of the Board



PETER V. CARR, JR. **MICHAEL V. BARRETT** **JILL R. MURATORI, ESQ.**
Barrett Associates | Big I NY Retained Lobbying Team