LEGISLATIVE 
POSITION PAPER 
2020 SESSION
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 1,750 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.

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., 2017) shows that over the 5-year period 2016 - 2020, New York’s property & casualty industry will generate $202.9 billion in economic impacts and support 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.

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

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GRASSROOTS & MEMBER Engagement

Big I NY members are passionate and powerful advocates for their businesses and customers. In 2019, member agents across the state played a crucial role in advancing beneficial legislation and were decisive in blocking harmful proposals. Members met with lawmakers at Independent Agents Advocacy Day in Albany and our National Legislative Conference in Washington, DC, hosted local legislative breakfast events, met with lawmakers in their district offices, attended fundraisers, wrote letters to the editor, and made hundreds of phone calls to legislative offices.

In 2020, we’re ramping up our grassroots efforts with the creation of the “Group of 100” (G100). 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@BigI NY.org.
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.

Passed “Storm Chasers” Bill
Legislation to protect consumers from abusive practices by unscrupulous roofing contractors (S.1405 Carlucci/A.7531 Buttenschon), often referred to as “storm chasers”. This critical legislation includes numerous safeguards to protect homeowners from fraud and abuse.

Passed Small Business Regulatory Relief
Two Big I NY supported bills will reduce regulatory burdens on small agencies and their small business customers.
• A.7540-B (Kaplan)/S.5815-C (McDonald) provides a cure period for small businesses to correct a first-time violation, rather than be required to pay a substantial fine.
• A.842 (Simotas)/S.5812 (Kaplan) requires state agencies to consider how proposed rules would affect small businesses, including the minimum time needed to comply with any new regulations.

Blocked Harmful Liability Expansion Bill
Big I NY launched an aggressive campaign to oppose a bill which would have created a broad and vaguely-defined range of “unfair, abusive, or deceptive business practices,” imposed a minimum of $1,000 in damages plus actual damages, provided attorneys’ fees, and authorized class action lawsuits by any person, organization, or business even where no public harm occurred. This legislation is extremely troubling to independent agencies, as it would substantially increase legal exposure, as well as increasing the cost of insurance for business customers.

Blocked Lead Paint Exclusion Ban Bill
This legislation (S.5183 Ramos/A.6062 Ryan) would ban the use of lead paint exclusions in habitational coverage for rental properties. While well intentioned, we fear this legislation would devastate the market for habitational coverage, resulting in substantial cost increases for renters and a crisis of availability. Member agents made dozens of calls and sent emails to Senate leadership expressing concern about the bill. Ultimately, the bill passed the Assembly, but was not brought to a vote in the Senate before session adjourned.

Advanced Anti-Arson Application Repeal
In 2019 Big I NY was instrumental in the passage of legislation in the Assembly (A.1167 Rosenthal) to repeal the burdensome and outdated anti-arson application required for property fire or explosion coverage in NYC. The bill advanced to the floor in the Senate (S.5126 Sanders) but unfortunately was not brought to a vote before session adjourned.
Big I New York Supports Increasing the Payroll Threshold for Employers Subject to the Workplace Safety and Loss Prevention Program

The Workplace Safety and Loss Prevention Program was created in 1997 by statute to reduce workplace injuries and lower Workers’ Compensation costs for larger employers.

The 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. Notifications are sent out by the Rating Board several times a year as determined by the Board. 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.

Over the last 20 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.

Big I New York developed legislation to reflect this updated payroll threshold. The legislation also would allow for annual adjustments to the threshold based on the Employment Cost Index.

Action Needed:

Big I New York supports in legislation, A.3547 (Zebrowski) and S.4757 (Brooks), to amend the Workers Compensation Law to change the payroll threshold for employer participation in the Workplace Safety and Loss Prevention Program from $800,000 to $1.2 million.

Big I New York Supports the Elimination of the 30-Day Notice of Withdrawal From the NYSIF.

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.

Action Needed:

Big I NY supports legislation, S.3516 (Breslin) and A.4350 (Zebrowski), to level the playing field in the Workers Compensation space by eliminating or shortening the 30-day notice requirement.
Big I New York Opposes Legislation to Allow Private Lawsuits for “Unfair, Deceptive, and Abusive” Business Practices

This legislation would effectuate 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.

Action Needed:

Big I New York strongly opposes S.2407-C (Comrie) and A.679-C (Niou)
Big I New York Supports Legislation to Reform Insurance Law 3411 Relating to Auto Physical Damage Inspections

Section 3411 of the Insurance Law requires that all motor vehicles must be inspected before comprehensive or collision coverage can be provided. This requirement has outlived its usefulness because of technological advances and should be reformed or repealed.

This law was put in place 25 years ago, to reduce fraudulent physical damage claims. Since that time, technological advances and new fraud fighting tools have rendered this requirement 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 such as CARCO. 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 S.801 (Lanza) / A.2809 (Zebrowski) that repeals Insurance Law 3411 to allow insurance companies to determine when a vehicle photo inspection is required.

Big I NY Supports Legislation to Protect Consumers From “Bait and Switch” 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 unfair and misleading to consumers.

Action Needed:
Big I New York supports legislation, S.3641 (Breslin) and A.7901 (Cahill), which would require insurers to verify a customer’s MVR before binding coverage.
Big I New York Opposes Legislation That Would Create a Single Payer Health System in New York

New York lawmakers are currently considering legislation, S.3577 (Rivera) and A.5248 (Gottfried) that would create a single payer health system. Big I New York believes that any alternative to our current system should build upon New York’s existing strengths and not recreate a whole new system that likely will be too costly and unsustainable. A government-run single payer system would be prohibitively expensive and would disrupt other insurance coverage, including existing Medicare coverage for seniors and existing employer-sponsored health insurance coverage.

Action Needed:

Big I New York opposes legislation that would create a single payer health system in New York. 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 will also support measures that will bring down the high costs of health care.
Big I New York Supports Repeal of New York’s Anti-Arson Application Requirement in Its Entirety

Recent legislation scaled back the current law to remove cities with a population of less than $1 million (as of a 1970 census). The law now only applies to the City of New York.

In the late 1970s there was an increase in arson activity in some major cities. This prompted the Legislature to create Section 3403 of the Insurance Law which directed the insurance superintendent to develop an “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. Many policyholders simply forget or fail to complete the form in time, forcing the company to cancel the policy unnecessarily.

The anti-arson 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.

Action Needed:
We support A.1167 (D. Rosenthal) and S.5126 (Sanders) which would repeal the anti-arson application.

Big I New York Opposes a Prohibition of Lead Paint Exposure Exclusions

Recent legislation, S.5183 (Ramos) and A.6062 (Ryan) 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 enormously costly and difficult to prove where exposure occurred. If insurers are required to cover such claims, they will significantly 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. This proposal will harm the state’s efforts to expand affordable housing opportunities.

Action Needed:
We oppose legislation to prohibit the use of lead paint coverage exclusions.
Big I NY Supports Excess Line “Diligent Effort” and Affidavit Reform

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 S.769-A (Breslin) and A.8842-A (Hunter), which would simplify and streamline the affidavit process, and exempt commercial lines insurance transactions placed by wholesale insurance brokers from the requirement to obtain three separate declinations.
Big I New York Opposes the “New York Privacy Act”

Legislation currently under consideration would implement major changes to the laws governing data privacy which would be enormously burdensome and difficult for independent agencies to comply with.

The legislation would require companies to act as “information fiduciaries” and hold them liable for a wide range of possible harms that may occur from the misuse or transfer of that data, including indirect financial loss, psychological harm, anxiety, embarrassment, fear, or significant inconvenience or expenditure of time, to name a few.

The legislation also creates a private right of action and allows for attorney’s fees for prevailing plaintiffs. This would expose businesses to enormous liability risk and associated cost increases for insurance coverage and compliance.

The proposed legislation is unwarranted, as all businesses are already subject to the reasonable data security protection requirement under the NYS SHIELD Act, and all DFS-regulated entities and individuals are further subject the 23 NYCRR 500, the most stringent cybersecurity regulation in the country. The NYS Privacy Act will create massive compliance challenges for small agencies, and raise the cost of doing business in the state.

Action Needed:

Big I New York strongly opposes S.5642 (Thomas) and A.8526 (L. Rosenthal).