



**TESTIMONY OF  
NEW YORK STATE INSURANCE DEPARTMENT**

**BEFORE  
U.S. HOUSE COMMITTEE ON FINANCIAL SERVICES**

**SEPTEMBER 26, 2001**

**TESTIMONY BY GREGORY V. SERIO  
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## I. INTRODUCTION

In 1860, the original seal of the New York State Insurance Department – “Alter Alterius Onera Portate” or “Bear ye one another’s Burdens” – eloquently expressed the fundamental public interest that is the very essence of insurance. At no time in the history of this country has that phrase been more important – or more reassuring. While none of us will ever be the same as a result of the events of September 11<sup>th</sup>, I have no doubt that insurance will be one of the life preservers that keeps us afloat.

Insurance touches all of our lives in a multitude of ways. It is an essential element in everyday life that secures our standard of living and the stability of our families as well as our property rights. All Americans feel the protecting arm of some form of insurance and find great solace that, when adversity strikes, their insurance policy is there to help them with their financial recovery.

On September 11<sup>th</sup> a disaster struck that neither our country nor the insurance industry had dared to contemplate. In its aftermath the industry and its regulators have faced a daunting challenge that cuts across virtually all lines of insurance in an unprecedented manner. It has been estimated that the insurance industry provides between 70 and 95 % of the recovery dollars that are provided for victims and communities struck by a natural disaster – in this unnatural disaster the risk and the burden on the industry might grow even larger.

For the New York State Insurance Department (“Department”) this challenge was made even more difficult by the proximity of the Department’s downtown Manhattan office to “Ground Zero” as well as the personal loss of one of our own – former Superintendent Neil D. Levin.

When Governor Pataki nominated me for the position of Superintendent on April 10<sup>th</sup> of this year, I began the process of succeeding Neil who led the Department for over four years. Neil left to become the Executive Director of the Port Authority of New York and New Jersey and he was excited about the new challenges he would be facing in this position. Sadly, Neil was attending a meeting at Windows on the World on the 107<sup>th</sup> floor of Tower One on September 11<sup>th</sup>. Personally, I lost a valued colleague and a good friend on that day – I will miss Neil’s guidance and insight regarding the rapid changes in financial services regulation. But, I am comforted with the knowledge that the vision and leadership that Neil brought to the Department, including the creation of our Capital Markets Bureau, have not only improved our regulation of the insurance industry but have served as the foundation we have used to respond to this crisis. The Department’s response to this disaster, in so many ways, is Neil Levin’s true legacy.

## **II. THE DEVASTATION**

The attack on the World Trade Center’s (“WTC”) twin towers impacted virtually all lines of insurance – property, life, business interruption, health, workers’ compensation, and liability are some of the many insurance products that have and will be impacted. Total insured losses

will include the destruction of the WTC towers and other WTC properties; business and personal property of tenants and their employees; workers' compensation for injured workers; claims for lost business income; the cost of establishing alternative, temporary operations at off-site locations; loss of life; and liability for negligent acts. The most recent total loss estimates have ranged from \$30 billion to \$58 billion on a combined basis for all lines of insurance. This estimate is well above Hurricane Andrew's total loss of approximately \$20 billion, and is almost certain to increase.

I cite loss estimates with respect to this disaster with a degree of trepidation. Historically, early estimates of catastrophic losses have been low with substantial revisions upward as more information becomes available. In addition, I would characterize our present status as information gathering and early assessment. I would, therefore caution the committee to not rely on these estimates as the final word of the Department with respect to the disaster.

### *Property Coverage*

Property insurance policies generally cover damage from fire, explosion, smoke, or other property or liability losses that occur. Such insurance policies may exclude war, but this is generally defined as an action by a sovereign nation. In light of increased global terrorism, some commercial insurance policies may have exclusions for damage caused by terrorist attacks.

The Department's research and discussions with the individual insurers, have determined that these exclusions are not applicable to this disaster and/or that the exclusions will not be invoked to avoid payment in this instance.

It is estimated that the WTC complex itself was worth between \$5 billion and \$5.5 billion. The owner, the Port Authority of New York and New Jersey, had, pursuant to a 99-year lease, recently rented the majority of the complex to a real estate consortium called WTC Partners. The total available insurance coverage is yet to be determined, but, clearly, early indications are that insurers will be reimbursing claimants for a large percentage of this property loss and that limits in property policies may be reached.

Several buildings surrounding the WTC are also total losses either because they collapsed along with or in the immediate aftermath of the collapse of the WTC towers. There is also substantial property damage to many of the surrounding buildings. I would note, however, that this is a dynamic situation as access to the area is still restricted and inspections of some sites still need to be completed. The buildings that have collapsed include One WTC, Two WTC, Five WTC, and Seven WTC. Other buildings that have major damage or partial collapses include One Liberty Plaza, Four WTC, Six WTC, One World Financial Center, Two World Financial Center, Three World Financial Center, the Federal Building, 140 West Street, East River Savings Bank and the Millennium Hotel.

It is a fundamental concept of insurance for insurers to spread the risk of adverse events among number of reinsurers. All indicators are that all losses resulting from the disaster were shared by a large number of reinsurers.

### *Homeowners Property Coverage and Additional Living Expenses*

Homeowners, condominium and cooperative apartment owners residing in the vicinity of the WTC complex have suffered damage to their homes or apartments. Others in the evacuated area, while not having direct damage to their buildings or apartment's contents, have been forced to find alternative housing and will incur other costs.

Damage to buildings is in many cases evident but remains to be completely assessed. Physical damage to apartment complexes such as Battery Park City and those north of the WTC on neighboring Greenwich Street may be significant. Condominium and cooperative owners share in the losses to the building. They, as well as apartment renters, may have damage to personal property and contents. The true measure of such losses will not be known until the occupants are allowed back into their homes and insurance adjusters can assess the damage. The area impacted included 9,000 residents of Battery Park City, all of whom suffered damage to their residences and/or were forced to evacuate their homes for weeks after the disaster.

Coverage is available in the standard homeowners, condominium, co-op and tenants policies for Additional Living Expenses. Where there is a loss from a covered peril which makes that part of the premises where the insured resides unfit to live in, the policies provide coverage for Additional Living Expense. This means that any reasonable necessary increase in living expenses incurred by the insured to maintain a normal standard of living for the household will be covered.

Furthermore, many in the area that were forced to evacuate because of the order of a civil authority, are covered for the Additional Living Expenses as described above for no more than two weeks, even if there is no actual damage to the premises. Payment will be for the shortest time required to repair or replace the damage or, if the insured permanently relocates, the shortest time required for the household to settle elsewhere.

### *Workers' Compensation Coverage*

Any employee injured on the job -- except firefighters and police officers -- will benefit from mandatory workers' compensation coverage. Workers' compensation claims have been estimated to be as high as \$5 billion. This \$5 billion estimate, indeed any estimate, is extremely preliminary since a maximum payout or maximum benefit per-claim will depend on many variables, such as the number of dependents and their ages. Under New York law the family of a worker killed on the job is entitled to \$10,000 for funeral expenses. A surviving spouse would be entitled to up to \$400 a week for the rest of his/her life, unless they remarry, in which case, the benefit is cut off after two years. Surviving children will receive up to \$400 a week until the age of 21, but the benefit would continue under certain exceptions, such as if the surviving child is in school or is disabled.

New York's Workers' Compensation law defines any injury in the workplace as arising out of and occurring during employment. The law would also provide workers' compensation coverage for employees fleeing imminent peril in the workplace and employees commuting to work at the time provided that they worked in the WTC complex. New York City's police and

fire departments have their own compensation system with benefits that will be accorded pursuant to that system. Accidental Death Benefits and Accidental Disability benefits available to the heroic members of our City's police and fire departments are as follows:

*Accidental Death Benefit* - If death results as the result of an accident in the performance of duty, a life annuity to the spouse of ½ the member's final salary, but in no case less than ½ the full salary of a full grade firefighter or police officer.

*Accidental Disability* - 75% of final salary plus the return of the member's accumulated contributions paid in a lump sum. In addition Tier 1 members receive an annuity based on 1/60 of average salary earned in the period after completing the 20 or 25 years minimum service.

The Department has a key role in ensuring the ability of the New York City pension funds to pay these claims. Since the disaster, the Department has been closely monitoring the funds to ensure expedited payments.

#### *Business Interruption Coverage*

Business owners within the WTC complex may have Business Interruption Coverage for business income losses caused by physical damage to property at their premises. Business owners in the surrounding areas also may have such coverage. This coverage can mean the difference between staying in business and not staying in business for many small businesses that do not have the financial strength to withstand multiple weeks without customers. In the large

area west of Broadway and south of 14<sup>th</sup> street and then Canal Street in lower Manhattan (the restricted zone), many of the businesses, while not physically damaged by the destruction, were unable to reopen due to access restrictions imposed under civil authority. The standard form in New York for Business Interruption Coverage also provides for reimbursement for loss of business income suffered as a result of actions taken by civil authorities that prevent access to the insured's premises. The standard form provides coverage for up to three weeks after the first seventy-two hours after the action by the civil authorities, but those coverages may vary.

Many businesses in the surrounding areas also may have experienced business income losses that were unrelated to the denial of access by the civil authorities or occurred after the civil authority restrictions were lifted. Unfortunately, the standard form of Business Interruption Coverage in New York requires that the business suffer direct physical damage to property at the insured's premises in order to trigger coverage. Losses caused directly or indirectly by the interruption of utility services are also excluded by the standard policy but can be purchased as additional coverage. It is not known at this time how many businesses purchased such endorsements or how many claims will be made under this coverage.

It should be noted that many businesses will not have obtained coverage under the standard form and that there are several other available coverages aside from the standard form, which may provide coverage to the affected businesses. Each situation must be addressed on a case by case basis. It is clear, however, that many businesses will not be protected by the safety net afforded by Business Interruption Coverage or Civil Authority Insurance.

### *Liability Coverage*

As a general matter, Liability Coverage provides protection for negligent acts or omissions. The full extent and nature of liability arising out of the disaster can not be determined at present due to the long-tail nature of such exposure. The inevitable lawsuits have yet to be filed and experience has shown that such lawsuits can take years to reach any resolution. Multiple parties including the Port Authority, WTC Partners, United and American Airlines, individual business and building management, as well as state and federal governments will likely face lawsuits for acts or omissions that resulted in damages, injuries or death. The property/casualty insurance industry will bear the lion's share of the cost of defending these lawsuits as well as the payment of damages. Some industry experts have estimated that the liability costs could constitute one-third of the industry total for reimbursement of all damages arising out of the disaster.

It should be noted that, in New York, punitive damages, if awarded, are generally not covered pursuant to a contract of insurance. Whether such damages will, or can, be awarded in connection with the disaster is yet to be determined.

### *Life Insurance Coverage*

The stress of this disaster on the property insurance industry was exacerbated by the dramatic loss of life and the significant exposure imposed on the life insurance industry. Those killed in the disaster were covered by the same kinds of policies all Americans use: both

individual and group policies. Individual policies are typically obtained according to individual circumstance. Group coverage typically is generally obtained as part of an employee's benefits package. Many employers provided coverage with death benefit protection equal to a worker's salary or twice their salary. The total claims that will be presented as a result of the disaster can not be determined at the present time although industry analysts have estimated life insurance claims will total \$4-\$6 billion.

Fortunately, the life insurance industry in New York is financially strong and diverse, with \$3.1 trillion in assets and liquid reserves ready to respond to this tragedy. To put the life insurance industry's exposure from the September 11<sup>th</sup> terrorist attacks into perspective: in the year 2000, the life insurance industry nationally paid a total of \$44.1 billion dollars in death benefits on 3.8 million life insurance policies. Put another way: on average, the life insurance industry paid death benefits on nearly 10,500 life policy claims nationally every day last year.

A key issue with respect to life insurance relates to proof of claim. A death certificate is normally used in submitting a claim for life insurance benefits. Due to the circumstances surrounding the disaster there will, in many instances, be difficulty in securing the necessary death certificate. The Department has worked with the life insurance industry to overcome this difficulty by providing for a standardized affidavit to be used in lieu of a death certificate. This affidavit will streamline the payment process for consumers in their time of need. (See Appendix I)

The latest claim estimates are well within the capacity of the life insurance industry. However, it is still too early to determine the ultimate death claim exposure. In addition to not knowing the actual number of victims involved, the amount and different types of life coverage (individual, group, COLI, accidental death, etc.) on each victim and the amount and collectability of reinsurance is unknown.

#### *Health & Disability Insurance Coverage*

The impact on the health insurance market will be significantly less than that felt by the property/casualty and life insurance industries. Although a great number of people were injured in the WTC tragedy, many of the health claims will be covered by workers' compensation. For the claims falling outside of workers' compensation, the Department does not believe that any one insurer will bear an unusually high financial burden.

The total number of health insurance and disability claimants are not known with any certainty at this time. The Department believes, however, that there will be relatively few when compared with the property/casualty and life claimants. We expect the disaster to have little impact on premium rates and availability of health insurance and disability insurance in New York State. The approximately 30 HMOs that operate in New York State are active participants in the individual, small group and large group health insurance markets and there are well in excess of 100 insurers that offer long term and/or short term disability insurance on an individual and group basis. The latter type of coverages are readily available throughout New York State with many options for varying degrees and levels of coverage.

## *Reinsurance*

The reinsurance market is, in many ways, the life blood of the insurance market. The spreading and diversification of risks in all lines of insurance is critical to continued availability and affordability. Based on all of my conversations and analysis conducted by the Department, including conversations with Lloyd's, the reinsurance industry has the asset base and the liquidity to pay claims. I am also assured that the reinsurance industry will not invoke exclusions in an effort to avoid obligations. Without question, we expect that the disaster will cause hardening in the reinsurance market. This hardening will be the result of the drain in capital that the disaster will cause as well as the perceived increase in exposure to terrorist related activity. This could be seen in increasing insurance costs, the insertion of terrorism exclusions in reinsurance treaties and, ultimately, difficulty in obtaining certain types of coverage. The aviation market has been the first to see these effects and others are sure to follow.

### **III. THE DEPARTMENT RESPONDS**

The Department's main office, located in New York City's financial district, was evacuated and closed following the WTC disaster. The Department's senior staff operated out of offices in midtown Manhattan, and other functions were transferred to its offices in Albany from September 11<sup>th</sup> through September 16<sup>th</sup>. While the date and horrors associated with September 11<sup>th</sup> will be forever etched in our minds, the Department will also remember another date – September 17<sup>th</sup>. It was on September 17<sup>th</sup>, less than one week after the disaster, that the

Department re-opened its Manhattan office. On that day, more than half of the Department staff voluntarily reported to work in our downtown Manhattan offices, located just blocks from the disaster. The Department's ability to continue to protect the public and to ensure the solvency of the industry was the result of prudent disaster preparedness planning undertaken well before September 11<sup>th</sup> under the leadership of Governor Pataki and a strong commitment by all Department employees to the agency's mission.

In the immediate aftermath of the disaster Governor Pataki directed all state agencies to ease the burdens on all of those personally affected by the tragic event. The Department immediately began assessing how best to facilitate industry response to the affected area, assure the timely payment of claims without dispute, and determine what, if any, solvency implications for insurers might arise.

Under the leadership of Governor Pataki and Mayor Giuliani, coordination among the various public and private sectors began instantly, particularly the New York City's Office of Emergency Management ("OEM") and New York's State Emergency Management Organization ("SEMO"). The Insurance Department was front-and-center in the unified response to this disaster.

#### *Insurance Emergency Operations Center*

In early 2001 the Department announced the development of the Insurance Emergency Operations Center (IEOC) to be linked via a multitude of communications channels to the New York State Emergency Management Operations Center in Albany in the event of a disaster. The

IEOC enables the insurance community to provide earlier evaluations of damages arising from such events and to accelerate the payment of claims of disaster victims.

The IEOC was activated within one hour of the disaster and within 24 hours senior executives from 15 major insurance companies were seated in our war room in Albany. The IEOC command center was staffed in Albany by agency personnel and representatives of the largest homeowner and commercial property underwriters in the Greater New York Metropolitan Area. The team began compiling information from the insurance community across the State that included gathering damage assessments and coordinating response efforts. The team expanded operations and continued to provide real-time information to the State in accordance with the IEOC plan. In addition, the team facilitated the provision of claims estimates and the payment of claims as they were presented to individual companies. Videoconferencing and remote satellite video links from the field connected SEMO, the Department's command center and the Office of the Director of State Operations within the Governor's Office.

The IEOC also acts as an information clearinghouse for consumers. Because senior managers from major insurance companies are housed in one room as members of the IEOC, the Department is able to get responses to consumer questions directly from the industry. Conversely, the Department is able to share with the industry concerns and questions that are being received on the dedicated toll-free disaster hotline in order for the industry to better serve the public. Up to the minute Situation Reports from the "bunker" at SEMO were also disbursed via the Department's Web site and confidential information was provided on the "password protected" area of the Web for the insurance companies.

These Situation Reports included the following categories of information:

- Buildings destroyed/damaged
- Building inspections
- Utilities
- Transportation/roadways
- Disaster worker authorization
- Adjuster access
- Records of deceased
- Restricted neighborhoods
- Field office locations
- Catastrophe team/vehicle locations
- Disaster areas defined
- Air quality/worker safety
- Damaged vehicles
- Public information sources
- Shelters, temporary housing locations
- Press releases/notices from Officials
- Claims counts from NY State Insurance Department
- Permits, Licenses, Credentialing
- Reports from NY State Insurance Department

The IEOC was the first critical step in responding to the disaster.

### *Capital Markets (Solvency Concerns)*

Ensuring the solvency and claims-paying ability of our insurers is one of the primary focuses of the Department. With the expanding reach of the capital markets over the past decade, the ability to assess the impact of the capital markets on insurers is critical to carrying out this key function. The Department is one of the few insurance regulators in the country to have a Capital Markets Bureau devoted solely to monitoring and assessing the impact of the capital markets on the insurance industry. The Bureau contains experts in financial risk assessment and management. All members of the Bureau have extensive knowledge of the capital markets drawn from years of experience at leading Wall Street broker-dealers and investment banks. Members of the Bureau work seamlessly with examiners in each of the Department's regulatory bureaus (i.e., property, life and health) to monitor the liquidity and solvency of insurers.

The Bureau was critical in the Department's efforts to assess the impact of the disaster, and the resultant economic fallout, on the financial condition of the insurance industry. On Thursday, September 13, 2001, members of the Bureau, along with their counterparts from the regulatory bureaus, met with outside financial advisors to map out a strategy for assessing the impact of the disaster. Working from lists of the largest writers in the New York metropolitan area the Bureau was able to narrow the focus of their investigation to approximately 10 property, 16 life and 13 reinsurers that would bear the largest losses. Loss and claim information at this early stage was virtually non-existent so the Bureau focused on the impact on these companies of a dramatic downturn in the scheduled Monday opening of the capital markets. Utilizing both

private and publicly available information the Bureau developed various scenarios including various combinations of a 15% downturn in equities, a 30% downturn in equities, a decrease in value of bonds in NAIC classes 2-6 of 8% or 16%, and a 4% or 8% increase in the value of bonds in NAIC class 1. The Bureau also used publicly available information to determine possible claims exposure from the disaster.

This analysis had three purposes. First, the Bureau was able to assess the impact of changes in the capital markets on the overall value of the assets held by each company thereby impacting each company's capital, surplus, and reserves. Second, by reviewing each portfolio the Bureau was able to determine the liquidity of the assets held by each company and, therefore, the ability of each company to pay claims on a timely basis. Finally, the Bureau determined the impact of dramatic changes in the capital markets on the Risk Based Capital Ratio of each company. The Risk Based Capital Ratio formula is used universally by state insurance regulators to determine whether a company has the amount of required capital necessary to maintain solvency based on the inherent risks in the insurer's operations.

The hard work of the Bureau throughout the week following the disaster meant that the Department was well prepared to not only assess the impact on each company of negative information regarding increasing claims and downturns in the capital markets but, also, to properly manage and gauge the torrent of information coming out of the rating agencies and financial analysts. Information regarding the capital markets was readily available and could be incorporated into our models as the situation developed. Some selective information regarding the claims and liabilities of individual companies also became available through public releases

or private telephone calls. We have found that gathering information with respect to claims and liabilities, however, to be more difficult.

Over the past week the Bureau, working with the pertinent regulatory bureau, has drafted short questionnaires to be sent to insurers designed to elicit information regarding the claims and liabilities of each company. (See Appendix II)

Our ongoing preliminary analyses, however, have been reassuring with respect to the overall health of the insurance industry and its ability to weather these difficult times. The average asset allocation of P&C insurers (licensed in New York State) is 27% in stocks, 47% in NAIC Class 1 bonds, and 6% in NAIC 2-6 bonds. The value of these assets has fallen an estimated 2% since the WTC disaster, on average. Due to a different asset composition (4% in stocks, 58% in NAIC Class 1 bonds, and 19% in NAIC Class 2-6 bonds) for life insurance companies, the market impact of the past weeks' events was negligible; the rise in value of NAIC 1 bonds, due to a fall in interest rates, compensates for the loss in other asset classes. For some individual companies (with larger holdings in equities and high-yield bonds) the market impact is more negative. Combined with the claims from the WTC disaster, their capital levels may fall to a level which causes enhanced monitoring by the department, but in no event do we now foresee a scenario that is likely to lead to insolvency.

## *Outreach to the Industry*

As the Department evacuated its offices in lower Manhattan, disaster preparedness plans had already begun in the Department's Albany offices in upstate New York. As outlined above, the IEOC served as the primary connection between the Department and the industry in assessing the impact of the disaster on the industry and on affected individuals. It soon became apparent, however, that the scope and nature of the disaster required frequent high-level communications.

Outreach commenced with a survey of the CEO's of major insurance institutions that afternoon. In particular, I focused on our licensees that were most directly impacted by the disaster through loss of their offices. Key among these entities was Empire Blue Cross Blue Shield - the largest health insurer in New York. Empire Blue Cross Blue Shield had its headquarters in the WTC. The Department has kept in close contact with Empire regarding the status of employees and business operations. Our latest information is that all but 9 of the 1,847 Empire employees are safe. Senior management has been relocated to their Melville, Long Island office. Operations and Services have been transitioned to alternate locations. All electronic claims are being processed and cash flow is sufficient at this time. Paper claims submitted from September 7-11 were destroyed and must be resubmitted. All other paper claims are being handled in Empire's Albany office.

I also reached out to Marsh USA and Aon, two of this nation's largest brokerage firms. While the human cost has been unacceptably high, I was pleased that both companies' disaster preparedness plans allowed them to continue operations. Other insurance entities that had

operations located in WTC Towers One or Two include: AIG Aviation Brokerage, Allstate, Continental Insurance, Fireman's Fund, Guy Carpenter, Hartford Steam Boiler, Kemper, MetLife, SCOR U.S. Corporation and Seabury and Smith. The Department has undertaken efforts, in conjunction with the New York City and New York State Economic Development Offices, to assist insurance entities dislocated by the disaster in finding necessary space so as to continue their operations.

My staff and I then proceeded to arrange conference calls, meetings, and individual telephone calls with senior level personnel at all impacted insurance and reinsurance entities. Calls were arranged with property and life reinsurers, property and life insurers, Lloyds, as well as the insurance brokerage community. Companies contacted in these initial 48 hours included American International Group, Swiss Re, Chubb, Allianz, Traveler's, Allstate, State Farm, Metropolitan Life, and a group of all major property/casualty domestic reinsurers.

In undertaking these communications I had three objectives. First, I wanted to open the lines of communication between the Department and each impacted insurance entity relating specifically to the disaster. Second, I wanted to determine the financial impact on each insurance entity and obtain a general sense of the ability of the industry to pay the expected claims. Finally, I wanted to have the opportunity to remind each individual company, and the industry collectively, of their obligation to the consumer and the expectation of the Department that they would pay claims expeditiously and without raising non-applicable exclusions. Over the two weeks since the disaster I have repeated this process, both on an individual and a group basis so that, as I sit before you today, I can say that the message that I first received—that the industry is

financially sound, to weather this disaster and committed to meeting all of its obligations relating to it—is as strong and clear today as it was on September 11.

The response from the industry has been, in one word, extraordinary. Each and every company that I spoke with indicated that they had the solvency and the liquidity to withstand the claims that would result from the disaster. In addition, they all indicated that they would not be relying on any “act of war” or “terrorism” exclusion to avoid paying claims even if such an exclusion would otherwise be applicable to the disaster. The Department’s experience has shown that the companies are, indeed, honoring their commitments.

The Department has also worked with the industry on initiatives designed to speed the provision of health care to victims injured in the disaster while on-the-job without the necessity of following traditional workers’ compensation claims processes. In addition, the Department has issued over 125 temporary Adjuster licenses to speed the payment of claims by insurers. In this effort I am pleased to report that the Department reached new heights of efficiency. Thanks to the use of the internet, the vast majority of these licenses were issued within one-hour of the application being received. This is important to consumers because adjusters are critical to companies being able to ascertain the extent of the damage and, ultimately, to pay claims.

### *Industry Directives*

The Department also issued a number of directives to the industry. Circular Letters were mailed and posted to the Web site in the ordinary Circular Letter sections and in the special

World Trade Center Disaster Information section to ensure that the industry and consumers could easily access pertinent information. The Department issued the following Circular Letters and directives:

- In compliance with Circular Letter #11, issued May 10, 2001, insurers are required to submit “Disaster Loss Data” reports immediately after an incident. The first report was due September 17 and updated reports are required every two days. Included in the reports are total claims, average dollar value per claim, and total dollar value of claims on both commercial and personal lines. The IEOC collects these reports by both fax and e-mail and I am kept apprised of the contents of the reports on a real-time basis. Information from the reports is transmitted to emergency managers so that they can assess the mix of insured and uninsured losses. (See Appendix III)
- Circular Letter #26, issued on September 12<sup>th</sup>, directed all authorized insurers to be mindful of the difficulties faced by residents and businesses in the disaster area. The Circular Letter reminded insurers that the Superintendent had the ability to exercise his emergency authority to declare a moratorium precluding the termination or suspension of policies or other adjustments to cancellations and non-renewals. While I have not deemed such emergency action to be necessary, I will invoke such power when, and if, it becomes necessary to protect the public from losing necessary insurance coverage. (See Appendix IV)

- Circular Letter #29, issued on September 22<sup>nd</sup>, ensured the continuity of health insurance coverage for reservists and their families called to active duty in the protection of our country. Health insurers were reminded that they must continue to provide coverage for the dependents of reservists, at the option of the reservist, and that they must provide for a continuation of coverage, without penalty, once the reservist returns from active duty. (See Appendix V)
- Circular Letter #28, issued on September 24<sup>th</sup>, requires all insurers to pay death claims, even in the absence of a death certificate, provided that the claimant provides a standardized affidavit in lieu of the death certificate. The issuance of this Circular Letter became necessary in the instant disaster because of the delays in identifying victims of the disaster and the resulting delays in issuance of the death certificate. (See Appendix VI)

### *Consumer Services*

Immediately following the tragic events on September 11<sup>th</sup> the Department activated additional consumer service centers and hotlines to assist those impacted by the WTC tragedies. The additional services were designed to assist families with questions about their insurance coverage, the process of filing insurance claims and ensuring that claims are paid in a timely fashion. We remain committed to helping in any way we can to ease the burden of this terrible tragedy.

On Wednesday, September 12<sup>th</sup> a dedicated toll-free disaster hotline was made available to assist all New Yorkers and the insurance community with questions on claims, procedures, and general insurance concerns. The hotline is staffed by Consumer Services Representatives from the Department and available seven days a week between the hours of 8 a.m. and 8 p.m. at 1-800-339-1759. In addition, the Department's Web Site [www.ins.state.ny.us](http://www.ins.state.ny.us) is updated on a daily basis to provide the insurance community and the public with up-to-date information on insurance-related issues and contact numbers. Furthermore, the Department's executive, frauds, and consumer services bureaus are operating on a 7-day schedule and Department representatives are at the state's IEOC on a 24-hour a day basis.

In addition to the Albany and New York offices that are available to serve the people of New York State, we opened additional offices to offer personal walk-in services to residents of the Westchester and Long Island areas that may have been impacted by the disaster. These satellite offices act as claim assistance centers to provide those impacted by the disaster with direct contact with, and the assistance of, Department personnel. Department staff are available to answer questions regarding claims, procedures and all disaster-related insurance questions seven days a week from 8am – 8pm at the following locations:

**Manhattan**

Pier 94

54th Street and 12th Ave.

Cubicle A-15

**Westchester County**

75 South Broadway (across from the Westchester Mall)

White Plains

Only Open from Monday – Friday

**Nassau County**

NYS Insurance Department Office

200 Old Country Road

Mineola

516-248-5886

**Suffolk County**

Suffolk State Office Building

250 Veterans Memorial Highway, 1st. Floor

Hauppauge, New York 11788

In addition to Department staff, representatives from insurance companies are available at Pier 94 in NYC. These company representatives assist New Yorkers as they begin to file claims as a result of the disaster and can issue checks to consumers immediately. Having insurance company representatives representing all lines of insurance as well as consumer service representatives from the Department provides affected New Yorkers with quick and easy access to insurance companies. This center is an effort to ensure the expedited payment of claims.

The Department worked closely with the insurance community to deploy Catastrophe Vehicles in downtown Manhattan. The insurance company “CAT Vans” serve as mobile insurance claim offices that can provide immediate assistance to policyholders, including cutting checks on site.

In fact, only a few days after the disaster I was able to visit many of the CAT Vehicles to offer thanks for the prompt response into the area and to help to garner an effective location for the van. Each van contains computers, onboard databases with necessary policyholder information, photocopiers, fax machines, printers and additional equipment imperative for processing claims instantly. The vans are outfitted with satellite technology through high-speed data communications. This equipment enables the companies to provide service to customers anywhere, and at anytime, without depending on phone lines, towers, or other telecommunication services that may be unavailable during a catastrophe. Generators allow the vehicles to operate in areas without electricity.

At present, insurance companies with CAT locations in Manhattan are as follows:

ALLSTATE INSURANCE COMPANY

SP Parking Corp.

735 6th Avenue, between 24th & 25th Street

STATE FARM

Parking lot of 310 West Broadway

TRAVELERS

388 Greenwich Street

ZURICH AMERICAN

East Side Marriott. (between 48th-49th on Lexington). Zurich is in the process of obtaining office space nearer to "ground zero".

In addition, 72 insurers have provided the Department with Catastrophe Center Hotlines and additional information on claims processing which can be accessed through our Web site. It is also important to note that countless insurers have taken out full-page messages in New York newspapers to announce toll-free numbers.

To date, I am encouraged by the industry's response and the responsible judgment they are exercising in making determinations regarding claims made against policies insuring those impacted by the disaster. We want to assure insurance consumers that we will continue to assist them in their claims and we will continue to encourage the industry to continue to respond in good faith by making timely claims payments.

As a final matter, the Department has been called upon to assist in facilitating the payment of claims pursuant to the Federal Public Service Officers Death Benefits program. The program provides benefits of up to \$150,000 to the families of police officers and firefighters

killed in the line of duty. The Department will work with the Fire Department and United States Department of Justice to assure that the families of these heroes receive their benefits in a timely manner.

### **III. CURRENT STATE OF AFFAIRS**

While 15 days has elapsed since that day, the financial impact of the disaster is still evolving. Because of access restrictions at the site, insurance adjusters have been unable to enter the affected area to begin the evaluation process. In the meantime, the Department created an industry task force consisting of nine members including a representative from the Disaster Coalition (member of the IEOC), the Department's Special Counsel to the Frauds Bureau, a Federal Emergency Management Agency's inspection coordinator, a representative from Property Claims Service and adjusters from five of the major insurers affected by this catastrophe.

On September 22<sup>nd</sup>, the task force was led through the restricted site for a six-hour walk-thru which resulted in the creation of an assessment report. The assessment report, designed by the industry inspectors that participated in the walk-thru, will be shared with the industry, CAT teams and company executives. Additionally, during the walk-thru, photos were taken and interviews with building managers were conducted. Providing access to the site for this task force and the resulting assessment report will result in more efficient claims processing and payment.

While these assessment reports will assist in the efforts of the insurance industry to provide regulators with information regarding claims and losses, reliable numbers may not be known for some time. It is important to realize that lower Manhattan is a crime scene. This alone makes it difficult to determine the true extent of the losses.

As outlined above, our preliminary analyses indicate that the insurance and reinsurance industry, as a whole, have sufficient assets and liquidity to handle claims arising out of the disaster. We also have no reason to believe that the companies will invoke exclusions. There has been much talk in the media of “terrorism” and “act of war” exclusions. We have had no indication from the industry that such exclusions will be invoked. In fact, a number of insurers have stated that they either do not have such exclusions in their policies or that they would not invoke them even if applicable.

The Department is also undertaking a review of the New York City Firefighters Retirement Fund, which is regulated by the Department, for the purposes of assisting the fund’s managers in estimating the impact on the fund of such a significantly large loss of life among the ranks of firefighters.

#### **IV. CONCLUSION**

In closing, I must state that the Department has been overwhelmed by the response of our fellow state insurance regulators. On a conference call just three days after the disaster, numerous insurance regulators offered us everything from human resources to systems support.

What helped the most, however, was the knowledge that there were other insurance regulators across the country pulling for us and praying for the victims of this senseless tragedy.

Thank you, Mr. Chairman, for the opportunity to appear before this Panel today. I hope my message, which was a simple one, has been received. The Department believes that we have responded to this event in a professional, expedient and compassionate manner. We believe that the insurance industry has acted with their contractual and moral obligations to policyholders, and we believe that our response demonstrates the validity and strength of the state system of insurance regulation.

But we are a long way from the conclusion of this sad chapter in our history. It will take the combined efforts of the public and private sector before the true healing can begin. Thank you.

# **APPENDICES**

<b>APPENDIX I</b>	<b>Sample Life Affidavit in Lieu of Death Certificate</b>
<b>APPENDIX II</b>	<b>Sample Questionnaire for Insurers</b>
<b>APPENDIX III</b>	<b>Circular Letter #11</b>
<b>APPENDIX IV</b>	<b>Circular Letter #26</b>
<b>APPENDIX V</b>	<b>Circular Letter #29</b>
<b>APPENDIX VI</b>	<b>Circular Letter #28</b>

**Affidavit in Lieu of Death Certificate**

**Appendix I**

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ ) S.S.:

I, \_\_\_\_\_, currently residing at \_\_\_\_\_,

(telephone number: \_\_\_\_\_), being first duly sworn, do hereby depose and say as follows:

1. That I am the \_\_\_\_\_ of the Insured,  
(Relationship to the Insured)

\_\_\_\_\_  
(Name of the Insured)

2. That the insured was either employed in the World Trade Center or the Pentagon, or was in such buildings or in their immediate vicinity when the events of September 11, 2001, occurred; or was a crew member or passenger on any of the airline flights involved in the disasters on that date; or was a police officer, firefighter, emergency medical service provider, or rescue volunteer at one of those building sites on that date.

3. That I affirm that I have not seen or heard from the Insured since September 11, 2001, and that barring his or her death, he or she would have been in contact with me or someone else.

4. That I affirm that I am unable to secure a death certificate for the Insured from the Chief Medical Examiner or other appropriate authority at this time.

5. That I understand that the \_\_\_\_\_  
(Name of Insurer)  
may secure further information to verify or corroborate my statements herein, relating to these disasters.

6. That I affirm that the statements made herein are true and I make this affidavit under penalties of perjury.

\_\_\_\_\_  
AFFIANT

Subscribed and sworn to before me  
This \_\_\_\_\_ day of \_\_\_\_\_, 2001.

\_\_\_\_\_  
NOTARY

# **DISASTER LOSS DATA-**

**Appendix II**

**CATASTROPHE LOSS #**

**DATE:**

**COMPANY NAME:**

**CONTACT NAME:**

**PHONE:**

**COUNTY NAME:**

## **CLAIMS INFORMATION:**

**COMMERCIAL:**

**PERSONAL:**

TOTAL CLAIMS:

TOTAL CLAIMS:

AVERAGE DOLLAR  
VALUE PER CLAIM:

AVERAGE DOLLAR  
VALUE PER CLAIM:

TOTAL DOLLAR VALUE  
OF ALL CLAIMS:

TOTAL DOLLAR VALUE  
OF ALL CLAIMS:

## **ADJUSTERS IN AREA:**

DRAFTING AUTHORITY:  
DOLLAR LIMIT:

## **OTHER CONSIDERATIONS:**

## **AREAS HARDEST HIT:**

### Appendix III

STATE OF NEW YORK  
INSURANCE DEPARTMENT  
AGENCY BUILDING ONE  
EMPIRE STATE PLAZA  
ALBANY, NY 12257

**Circular Letter No. 11 (2001)**  
**May 10, 2001**

To: All Property/Casualty Insurers Licensed to Do Business in New York State

Re: New York State Insurance Disaster Coalition

In keeping with New York Governor George E. Pataki's mandate to anticipate potential problems for the citizens of New York State, this Circular Letter is intended to identify and organize specific Insurance Department and insurance industry resources to serve victims of natural disasters and other state emergencies. (This letter supercedes Circular Letter 1996-5)

When an emergency or disaster situation occurs, this Department is looked upon to provide the Governor and the State Emergency Management Office (SEMO) with critical information regarding the amount and extent of property losses, as well as other damage assessments. Based on this information the Governor determines whether and when to request a federal disaster declaration and how to prioritize the deployment of state assets.

The insurance community has been identified as a key resource to providing early assessments of damages arising from disasters. Insurers play an important role in quantifying the magnitude of losses - insured and uninsured - and determining both the degree and duration of insurer response to losses. Accordingly, all licensed property/casualty insurers are requested to assist this Department in obtaining the information needed to accomplish the above objective – both before and after disasters strike.

Furthermore, a "New York State Insurance Disaster Response Plan" has been developed by a public-private disaster coalition under the joint direction of the New York Department of Insurance, State Emergency Management Office, and the Institute for Business & Home Safety. The plan provides complete instructions for insurance disaster responders and can be found in the Emergency Disaster Information section of the Insurance Department's web site at [www.ins.state.ny.us/disaster.htm](http://www.ins.state.ny.us/disaster.htm). Insurance company catastrophe team leaders should be notified of the availability and content of this site.

The success of the New York State Insurance Disaster Response Plan and fulfillment of its critical mission require knowledgeable personnel operating in a partnering environment and within the larger incident command structure. Incorporation of the Insurance Disaster Response Plan into individual company catastrophe plans and a cooperative NYSID/Industry process of continuing evaluation and change are critical to this process, and therefore must be institutionalized.

In order to expedite New York's response time to catastrophes and facilitate the recovery of those who have insured losses, this plan provides the opportunity to forge a new private/public disaster planning team that will result in a comprehensive strategy for cooperation, communication and the leveraging of resources. The Insurance Department urges all property/casualty insurers to read the attached circular letter and participate in the Insurance Disaster Coalition. Broad range participation is essential.

Acknowledgment of this letter and instructions should be sent no later than June 1, 2001 to  
Paul Orkwis, Principal Insurance Examiner  
New York State Insurance Department  
Agency Building 1  
Empire State Plaza

Albany, NY 12257  
[Orkwis@ins.state.ny.us](mailto:Orkwis@ins.state.ny.us)

Acknowledgement should include the respondent's full name and title, company name, telephone number and email address. Any questions concerning this letter may be directed to Mr. Orkwis at (518) 474-9837, or by e-mail.

Very truly yours,

---

Gregory V. Serio  
Superintendent

Attach.

## A. PRE-DISASTER DATA/INFORMATION SURVEY

Accurate, timely and consistent information is of critical importance to the State Emergency Management Office during disasters. To ensure that insurance industry information is readily available during disasters, effective the date of this Circular Letter, the Department requests the following information be provided by insurers:

- Annual Report -- All licensed property/casualty insurers provide to the Department's Market Section of the Property Bureau an annual report listing - by New York county - property exposure information, as of December 31, for personal lines (non-auto) and commercial lines (non-auto) for each licensed member within an insurance company group.

This information is to be provided for the following categories: total building and contents insurance in force for the lines indicated and total number of policies. Each insurer must provide the information by New York county by completing the reporting diskette.

The report for the year 2001 is due within sixty (60) days after the publication of this letter, and due thereafter each year on April 1. It is the responsibility of the insurer to honor this annual reporting deadline. The prescribed method for submitting reports can be found in the Department's web site at [www.ins.state.ny.us/disaster.htm](http://www.ins.state.ny.us/disaster.htm).

- Insurance Company Disaster Liaisons – On or before June 15, 2001, each licensed property insurer shall provide to the Department's Consumer Services Bureau the name of the designated disaster liaison(s), along with that person's telephone and cell phone number(s) (for during business and after business hours), email address and/or pager number, if applicable. Any change in the liaison(s) and/or contact information should be reported immediately to the Consumer Services Bureau. (Appendix B.)
- Communications Network -- Insurance industry representatives of the NYS Insurance Disaster Coalition are requested to provide the Department with Internet links of not-for-profit web sites that are beneficial to the public before, during and after a disaster.
- Insurance Company Disaster Plan – In a subsequent communiqué, the NYS Department of Insurance will be issuing an electronic template for insurers to complete and submit a copy of their Disaster Response Plan. Upon receipt of that notification, insurers will be asked to submit their plan to the Consumer Services Bureau within sixty (60) days.

This plan will ask for such information as: How will the company handle the increase in the number of claims? Will the claims be handled by the local office structure, or through the establishment of a catastrophe claims office/center? Will the company 'import' claim representatives and adjusters from other areas? How will the company train its staff in emergency procedures and New York-specific insurance coverages? How will the company distribute catastrophe claims information, or communicate generally, with its policyholders?

In addition, each insurer will be asked to provide the name and contact information for the person designated to coordinate catastrophe loss response and activity in the State of New York, as well as to name that person's back up. Contact information should include work and cell phone numbers, email addresses, and after hours contact numbers.

Any changes to this plan are to be reported to the Consumer Services Bureau by June 1 of each subsequent year.

All pre-disaster information may be sent by U.S. mail to the Department's Albany Consumer Services Bureau, attention Paul Orkwis, or by email to [porkwis@ins.state.ny.us](mailto:porkwis@ins.state.ny.us).

## POST-DISASTER DATA/INFORMATION

Insurers are requested to notify the Department whenever they activate, or may activate, their Hurricane / Windstorm Deductible as a result of a certain storm or event. When available, they may use the Disaster Coalition e-mail address ([nys\\_insurance\\_disaster\\_coalition@ins.state.ny.us](mailto:nys_insurance_disaster_coalition@ins.state.ny.us)); or they may notify the Department via facsimile, at (518) 486-1503, attention Salvatore Castiglione or Paul Orkwis.

### **B. Insurance Adjuster Temporary Permits**

Section 2108(n) of the Insurance Law provides that:

“...the superintendent, in order to facilitate the settlement of claims under insurance contracts involving widespread property losses arising out of a conflagration or catastrophe common to all such losses, may issue a temporary permit for a term not exceeding one hundred twenty days to any person whether he be a resident of this state or a non-resident, to act as an independent adjuster on behalf of an authorized insurer, provided any insurer shall execute and file in the office of the superintendent a written application for the permit in the form prescribed by the superintendent, which application shall contain information as he may require and shall certify that the person named therein to be designated in on the temporary permit is qualified by experience and training to adjust claims arising under insurance contracts issued by the insurer. The superintendent may in his discretion renew such permit for an additional term or terms as may be necessary to adjust such claims.”

Attached is a copy of the Temporary Adjuster Permit Application. (Appendix C-1, C-2.) Using this application will enable licensed insurers to certify that the application is submitted for the purposes identified in the law.

The Permit application calls for information regarding the occurrence that necessitates the temporary permit. This enables insurers to apply for temporary permits earlier, rather than waiting for a disaster declaration as was previously required.

Completed application(s) should be sent by facsimile to the Department's Licensing Services Bureau at (518) 474-5048, where it will be reviewed and acted upon immediately. Temporary permit(s) will be faxed to the insurer submitting the application(s).

This temporary licensing procedure will facilitate prompt services to those citizens suffering losses. Permit applications may also be downloaded from the Department's web site listed above for completion and submission to the Licensing Services Bureau. In the very near future, insurers will be able complete and submit these applications over the Internet and receive approval likewise.

### **C. Insurance Company Disaster Liaisons**

Upon the Department's activation by SEMO due to a State Emergency Disaster situation (as defined by the SEMO Disaster Emergency Activation Levels listed below), a representative from the Department's Consumer Services Bureau may activate designated Insurance Disaster Liaisons representing the ten largest underwriters in the emergency or disaster areas. Participating companies will be determined based on the above Pre-Disaster Reports.

Subsequently, Liaisons should be prepared to participate in the State's Disaster Response Plan as follows:

- A teleconference will be held following the occurrence of a natural disaster – prior to the activation of the Department of Insurance Emergency Operations Center (IEOC) – to discuss the disaster and activation plans.
- Upon the activation of the IEOC by SEMO, Insurance Disaster Liaisons or their designees will be expected to staff the IEOC at either of its two locations: Empire State Plaza, Agency Building One, Albany, NY; or 25 Beaver Street, NY, NY.
- Consumer Services Bureau will provide a fully equipped IEOC for Liaisons' use at either of the aforementioned locations. Included are data ports and telephone lines, along with electronic and videoconferencing links to the SEMO emergency operations center.
- The Consumer Services Bureau will continue to coordinate communications among company and association contacts through ongoing teleconference calls to plan staffing of the IEOC for the actual or threatening (as in the case of hurricanes) emergency; individually discuss with each insurer's liaison the company's catastrophe operations; individually review each insurer's response plans; and discuss catastrophe operations and emerging issues.
- Liaisons may be expected to remain on duty at the IEOC for as long as SEMO's Emergency Operations Center remains at Level 4 or higher activation.

## **D. Liaison Duties and Responsibilities**

### **E.**

- Liaisons should have a qualified back up. Both will preferably be a member of the insurer's catastrophe team, or a manager-level employee, who are familiar with company protocols and have access to critical information.
- Provide coverage data and loss statistics by New York county that summarizes commercial and personal lines separately.
- Transmit information on the disaster from the insurance industry to emergency response officials and also back to other industry representatives.
- Should be authorized and knowledgeable in company internal information systems and sources, and authorized to access such systems so that applicable, timely information can be provided to SEMO via the Insurance Department.

### **Emergency Operation Center Hours of Operation**

Normal hours of operation when Liaisons will be on duty are 7:00 a.m. to 6:00 p.m., or for such time periods as necessary to assist with the effective management of the disaster. Depending on the level of the disaster this may be a seven-day a week commitment.

### **Coverage Data and Loss Statistics**

In the ensuing days after a disaster, Liaisons will be required to provide specific statistics from each licensed insurer. These statistics will be periodically updated on an as needed basis, but not less than monthly.

Reports will be consolidated by CSB staff for submission to SEMO and the Governor's office only.

- Commercial insurance data -- to include figures for the total number of losses and total claim amount (paid and/or reserved) by New York county.
- Personal insurance data -- to include figures for total number of losses and total claim amounts (paid and/or reserved) under the categories of homeowners, automobile, other and National Flood Insurance Program - Write Your Own by New York county.
- Number of available adjusters.
- Other aspects of catastrophe claim operations and customer service issues. (Appendix D)

## **F. Confidentiality**

All of the above reports and statistics are to be compiled and summarized by Insurance Department personnel for internal Department use. Reports submitted to SEMO and the Governor will be on an aggregate basis with no individual company information identified in those reports.

Insurance Department personnel will be advised by Insurance Department management that all such information provided by publicly-traded insurers must be kept strictly confidential; that such information may be material, non-public information; and that trading in securities on the basis of material, non-public information is prohibited under the federal securities law.

At the time of submission, insurers should request an exception from disclosure under Section 89(5) of the Public Officers Law (Freedom of Information Law- FOIL) for any information or reports they submit to the Insurance Department that they believe are trade secrets or commercial information which, if disclosed, would cause substantial injury to their competitive position.

In the event that a request is received by the Department for the release of information pursuant to FOIL and the insurer requested an exception from disclosure upon submission, the insurer will be notified and given the opportunity to respond to the Department in accordance with FOIL and Regulation 71 (11 NYCRR 241.6).

## **G. Access to Disaster Areas**

In order to facilitate the settlement of claims and gathering of loss information, law enforcement officials working in designated emergency areas will recognize a license issued by this Department to adjusters, agents, and brokers. Insurance company personnel will be recognized by their company ID and photo ID. Law enforcement officials will grant access to emergency areas to those personnel who possess and display appropriate documentation – after SEMO determines that the emergency area is safe for non-emergency personnel.

### **A. Insurance Personnel Identification**

A picture identification document, such as a driver's license or company photo ID tag, should be displayed on the adjuster's person along with the NYS Insurance Department Temporary Adjuster Permit. Agents and brokers will be identified via their agent or brokers license along with their photo ID. All other insurance company personnel will be identified via their insurance company ID or a photo ID.

Law enforcement officials will also recognize a document issued by an insurer to a regular salaried employee designated by that insurer to adjust losses on its behalf in the disaster area. Again, these individuals must display a photo identification document as well.

Names and identifying information for persons receiving temporary permits will be made available to law enforcement officials through SEMO. IEOC personnel will be responsible for notifying SEMO representatives when access to an emergency area that has been declared safe is not granted to an authorized adjuster. Adjusters will request assistance from the IEOC in these instances.

**EMERGENCY ACTIVATION LEVELS:  
NY STATE EMERGENCY MANAGEMENT OFFICE (SEMO)**

The following Emergency Activation Levels have been established for the operation of the New York State Emergency Operations Center (EOC):

**LEVEL 1**

Normal operations during business hours: 9:00 a.m. to 5:00 p.m. with after-hours calls handled by the State Emergency Coordination Center.

**LEVEL 2**

This level triggered by weather warnings, identified threats from man-made sources, and emerging local events. SEMO and relevant agencies on standby 24-hours daily. SEMO staff on campus to assist State Emergency Coordination Center staff with local inquiries for technical support.

**LEVEL 3**

This level triggered when local community or region requests state assistance. Depending on the extent of the state affected, relevant agency's report to the EOC and a State Disaster Declaration is considered. SEMO staff on campus 8:00 a.m. to 6:00 p.m. daily. Select staff available 24-hours daily to assist State Emergency Coordination Center staff with local inquiries for technical support and state resource assistance. All Disaster Preparedness Commission (DPC) Agencies on 24-hour alert.

**LEVEL 4**

This level triggered by declaration of State Disaster. Relevant state agencies reside at EOC during working hours and after hours, as necessary. All other Disaster Preparedness Commission (DPC) Agencies on-call status for 24-hours daily. Information gathered for possible FEMA Federal Disaster Assistance request. Decision-level SEMO staff at EOC 24-hours daily.

**LEVEL 5**

This level triggered when event exceeds statewide capacity; significant federal resources mobilized. All DPC agencies active at EOC; center staffed 24-hours daily. SEMO staff 12-hour shifts, seven days a week.

## APPENDIX A

### Pre Disaster Survey General Instructions

This survey can be completed by downloading the various files in Lotus 123 or Microsoft Excel from the Department's Web Site located at <http://www.ins.state.ny.us/disaster.htm>.

Each version of the survey (Lotus 123<sup>®</sup> or Microsoft Excel<sup>®</sup>) contains three files:

1. "Readme" – this file contains instructions on how to complete the two required report files. The report files request data on a countywide basis for:

Amount of Insurance In-force (Gross Exposure)  
Number of Policies In-force

2. "CommRpt" - contains a table for entering the required information covering the commercial property portion of the premiums, reported on Page 15 of the New York Annual Statement, for the following lines:

01 - Fire  
02.1 - Allied Lines  
02.2 - Multiple Peril Crop  
02.3 - Federal Flood  
03 - Farmowners Multiple Peril  
05.1 - Commercial Multiple Peril (Non-Liability Portion)  
12 - Earthquake

3. "PersRpt" - contains a table for entering the required information covering the personal property portion of the premiums, reported on Page 15 of the New York Annual Statement, for the following lines:

01 - Fire  
02.1 - Allied Lines  
02.3 - Federal Flood  
03 - Farmowners Multiple Peril  
04 - Homeowners Multiple Peril  
12 - Earthquake

Those insurers unable to download the files from the Web Site may submit the attached sheet to request a diskette by US Mail, or by an e-mail message addressed to [vmazzare@ins.state.ny.us](mailto:vmazzare@ins.state.ny.us) to request the files by return e-mail.

Responses must be submitted to the Department in an electronic format. Hardcopy survey responses are not required and any hardcopy survey responses submitted without the required diskette will not be processed. Survey responses should be accurately completed in accordance with the instructions and returned within **60 days** after publication of the Circular Letter:

New York State Insurance Department  
Property Bureau - 2nd Floor  
25 Beaver Street  
New York, NY 10004  
Attn: Vincent Mazzarella

As an alternative, you may also submit the file through the Internet by attaching it to e-mail addressed to [vmazzare@ins.state.ny.us](mailto:vmazzare@ins.state.ny.us).

Questions as to the content of the survey (coverages, etc.) may be directed to:

Ms. Lucy Cilione  
Principal Insurance Examiner  
Phone: (212) 480-5501  
E-mail: [lcilione@ins.state.ny.us](mailto:lcilione@ins.state.ny.us)

Any questions as to the technical aspects of the diskette filing may be directed to:

Mr. Vincent Mazzarella  
Senior Insurance Examiner  
Phone: (212) 480-5590  
E-mail: [vmazzare@ins.state.ny.us](mailto:vmazzare@ins.state.ny.us)

Your cooperation in furnishing timely and accurate responses is essential to the success of this endeavor and is appreciated by the Department and the people of New York.

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**B. DISKETTE ORDER FORM**

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Enter the following information:

<b>Insurer</b>	
Name	
Address	
City	
State	
Zip code	

<b>Contact Person</b>	
Salutation (Mr., Ms., etc.)	
Last name	
First, MI	
Address - (if different from insurer)	
City	
State	
Zip code	
Telephone #	
E-mail address	

Diskette format requested (check one)

Lotus 123<sup>®</sup> [  ]

Microsoft Excel [  ]

®

NEW YORK STATE INSURANCE DEPARTMENT  
INSTRUCTIONS  
FOR COMPLETION OF SPECIAL REPORT DISKETTE  
(EXCEL VERSION)

1. The "CommRep.xls" an "PersRep.xls" files contain the table for entering information on Commercial and Personal Property Lines, respectively, required to complete this Special Report.
2. It is strongly recommended that you immediately back-up the "CommRep.xls" an "PersRep.xls" files to your hard drive before inputting any data.
3. Please rename the "CommRep.xls" file, by saving it with the five-digit NAIC number of the reporting insurer, followed by the letter "C". For example, if your NAIC number is 12345, you would save the file as "12345C.xls." Similarly, rename the "PersRep.xls" file, by saving it with the five-digit NAIC number of the reporting insurer, followed by the letter "P". Therefore, if your NAIC number is 12345 you would save the file as "12345P.xls." Create as many files and use as many diskettes as necessary to complete reports on all of the entities in your reporting group.
4. After naming and saving the file(s), open one spreadsheet file, and before entering any other data, complete the General Information section. In the highlighted blue cells enter your company's name, NAIC and group number, etc. You should enter information only in the cells highlighted in blue, all other cells in the file are protected, and no entries should be made into them.
- 5. DO NOT CHANGE THE POSITION OR CONTENT OF ANY CELLS ON THIS DISKETTE.**
6. In the next section - Data Required - Your Company Name, NAIC and Group # will be filled-in automatically if you have properly completed "Step 4". In this section (Data Required) you are instructed as to the lines of business that must be included in the data reported (those instructions are repeated below in bold typeface). Please note, when completing the Personal Lines file (PersRep.xls) you should:

**Include data on the total building and contents in-force, to reflect the personal lines portion of policies related to the premiums reported on Page 15 of the New York Annual Statement, for the following lines:**

- 01 - Fire**
- 02.1 - Allied Lines**
- 02.3 - Federal Flood**
- 03 - Farmowners Multiple Peril**
- 04 - Homeowners Multiple Peril**
- 12 - Earthquake**

Please note, when completing the Commercial Lines file (CommRep.xls) you should:

**Include data on the total building and contents in-force, to reflect the personal lines portion of policies related to the premiums reported on Page 15 of the New York Annual Statement, for the following lines:**

- 01 - Fire**
- 02.1 - Allied Lines**
- 02.2 - Multiple Peril Crop**
- 02.3 - Federal Flood**
- 03 - Farmowners Multiple Peril**
- 05.1 - Commercial Multiple Peril (Non-Liability Portion)**
- 12 – Earthquake**

Also, in this section (for both the Personal and Commercial Lines Files) you will find the main data entry table. The table contains three columns:

- County
- Amount of Insurance In-force (Gross Exposure)
- Number of Policies In-force

The first column, labeled County, has been completed by the Department. This column contains a listing of all the counties in New York State. In the next two columns, highlighted in blue--indicating they are to be completed by you,--the insurer-- you must provide: the Amount of Insurance in Force (the dollar value of your Gross Exposure); and the Number of Policies In-force in each of the counties listed, for all of the respective coverages noted above.

7. The final section of the file (Section 3) contains the Affirmation. The name of the Responsible Corporate Officer should be entered in the blue highlighted space provided. Next, the affirmation should be printed following the instructions in step (8) below. Then, the printed affirmation must be signed by the Responsible Corporate Officer. A separate affirmation must be submitted for each reporting company.

8. The table below contains the range names which will help you to print the various parts of this survey for your records. The Affirmation is the only printed document you should submit to the Department. Use the appropriate range name to select the desired print items, then print as you normally would.

To Print	Hit	Select Range
Section I General Information	F5 (GoTo)	Info
Section II Data Required	F5 (GoTo)	TABLE
Section III Affirmation	F5 (GoTo)	Affirm

9. When saving the files to a diskette, for submission to the Department, please be certain you have used your five-digit NAIC# and the proper letter suffix discussed in step (3) above. **If you have no data to report:**

You are not required to submit Excel report files for entities having no data to report. Instead, in a cover letter, state which company or companies have nothing to report. Give the Name, NAIC number, and Group number of each company and indicate which reports (Commercial and/or Personal Lines) are not being filed electronically.

10. Please label your diskette in the following manner:

- NYSID - Emergency Response Task Force Report
- Company or Group Name(s)
- Company NAIC Number(s)
- Group Number

11. Diskettes should be addressed to:

NEW YORK STATE INSURANCE DEPARTMENT  
25 BEAVER STREET  
NEW YORK, NY 10004

Attn.: Vincent Mazarella, Senior Examiner  
MARS Unit, 2nd Floor

12. If you experience technical difficulties in using this diskette, please contact Vincent Mazarella by phone at (212) 480-5590, or by e-mail at [vmazzare@ins.state.ny.us](mailto:vmazzare@ins.state.ny.us)

## Appendix IV

STATE OF NEW YORK  
INSURANCE DEPARTMENT  
AGENCY BUILDING ONE  
EMPIRE STATE PLAZA  
ALBANY, NY 12257

**Circular Letter No. 26 (2001)**  
**September 12, 2001**

**To: All Authorized Insurers**

**Re: Claims Handling and Cancellation/Non-Renewal of Policies in the New York Metropolitan Area**

The loss of life and property at the World Trade Center complex, and the resulting emergency response, has caused considerable hardship and has disrupted the lives of thousands of residents and businesses in the New York Metropolitan Area. The long process of recovery has just begun, but it will be several weeks -- if not months -- before all of the damage can be assessed and the situation returned to some level of normalcy.

Insurers should be mindful of the difficulties the residents and businesses of this area have endured and will continue to endure in the near future. In particular, adjusters and underwriters should exercise care and responsible judgment in making determinations regarding claims, cancellations and non-renewals of policies insuring those impacted by this loss.

Pursuant to Insurance Law Section 3425(p) the Superintendent may declare a moratorium precluding termination of policies, or suspend or otherwise adjust the provisions relating to their cancellation or non-renewal, in areas of the State that have been declared by the President or the Governor to be in a state of emergency due to disaster or catastrophe.

The cooperation of all insurers in this matter will assist the Superintendent in his assessment of the situation, and in determining whether or not it will be necessary to exercise the emergency authority granted by Section 3425(p).

Very truly yours,

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Gregory V. Serio  
Superintendent of Insurance

STATE OF NEW YORK  
INSURANCE DEPARTMENT  
AGENCY BUILDING ONE  
EMPIRE STATE PLAZA  
ALBANY, NY 12257

**Appendix V**

**Circular Letter No. 29 (2001)  
September 22, 2001**

**TO: All Insurers Authorized to Write Accident and Health Insurance in New York State, Including Article 43 Corporations and Health Maintenance Organizations**

**RE: New York Insurance Law Protections for Members of the Reserves Called to Active Duty**

**STATUTORY REFERENCES: Insurance Law Sections 3216(c)(13), (14); 3221(n), (o); 4304(i), (j); and 4305(g), (h)**

On September 14, 2001, President Bush issued an Executive Order authorizing activation of members of the United States Military Reserves to active duty. The purpose of this Circular Letter is to remind insurers, Article 43 Corporations and Health Maintenance Organizations (HMOs) of their obligations under the New York Insurance Law to afford such military personnel special rights of conversion, continuation and suspension of health insurance coverage. These protections are in addition to the rights of continuation and conversion otherwise available pursuant to the Insurance Law.

**I. Individual Coverage Issued Pursuant to Sections 3216 or 4304 of the Insurance Law.**

Members of the Reserves, including the National Guard, who hold individual health insurance policies, and who enter active duty or have their active duty extended, are afforded supplemental rights to suspend their coverage during such period of active duty. Commercial insurers should consult Section 3216(c)(13) and (14) of the Insurance Law for the details of these rights. Article 43 Corporations and HMOs should consult Section 4304(i) and (j) of the Insurance Law. In general, the law provides for the following:

1. Upon written request, Reservists are entitled to have coverage suspended during a period of active duty. Furthermore, insurers, Article 43 Corporations and HMOs must refund any unearned premiums for the period of such suspension.

2. Upon termination of active duty Reservists are entitled to resume their coverage. The Reservist must make a written request to resume the coverage and remit the required premium within sixty days of termination of active duty. The resumption of coverage must be with no limitations or conditions imposed as a result of such active duty. However, limitations may be imposed with respect to conditions that arose during active duty and are determined by the Secretary of Veterans Affairs to have been incurred in the line of duty. In addition, if there was a waiting period in place at the time of call to active duty which had not been satisfied, the waiting period balance may be imposed.

3. Resumption of suspended coverage must be retroactive to the date of termination of active duty.

## II. Group Coverage Issued Pursuant to Sections 3221 or 4305 of the Insurance Law.

Members of the Reserves, including the National Guard, who are covered under group policies, and who enter active duty or have their active duty extended, are afforded supplemental rights to continue, convert and/or suspend their coverage. Commercial insurers should consult Sections 3221(n) and (o) of the Insurance Law for the details of these rights. Article 43 Corporations and HMOs should consult Sections 4305(g) and (h) of the Insurance Law. In general, the law provides for the following:

1. A Reservist called to active duty may elect to continue his or her group coverage, including family coverage, by making a written request and paying to the group policyholder up to 100% of the premium for the coverage.
2. If a Reservist does not elect continuation rights, group coverage is suspended while the Reservist is on active duty. (It should be noted that an employer may treat Reservists as active employees to maintain coverage under the employer's group plan.)
3. If a Reservist elects continuation of coverage, or if coverage is suspended, and the Reservist dies while on active duty, the surviving spouse and children are entitled to conversion rights. Conversion rights are also available to children upon reaching age limitations for dependent status. Furthermore, conversion rights are also available upon divorce or annulment if occurring while on active duty.
4. Continuation is not available for those who become covered or could be covered by Medicare or other group coverage (except for that available to active duty members of the uniformed services).
5. Reservists who return to work after active duty are entitled to resume participation under the employer's plan without the imposition of limitations or conditions. However, limitations may be imposed with respect to conditions that arose during active duty and are determined by the Secretary of Veterans Affairs to have been incurred in the line of duty. In addition, if there was a waiting period in place at the time of call to active duty which had not been satisfied, the waiting period balance may be imposed.
6. For Reservists who opted for suspension of group coverage and return to employment, coverage is retroactive to the effective date of termination of active duty.
7. For Reservists who do not return to employment upon return to civilian status, the Reservist is entitled to the standard conversion and continuation rights provided by Sections 3221(e) and (m) or 4305(d) and (e) of the Insurance Law.

Please direct all inquiries concerning this Circular Letter to Thomas Fusco, Associate Insurance Attorney, Health Bureau, New York State Insurance Department, Agency Building 1, Empire State Plaza, Albany New York 12257 or by e-mail at [tfusco@ins.state.ny.us](mailto:tfusco@ins.state.ny.us).

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Charles S. Henricks  
Co-Chief, Health Bureau

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Thomas C. Zyra  
Co-Chief, Health Bureau

STATE OF NEW YORK  
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**Appendix VI**

Circular Letter No. 28 (2001)  
September 24, 2001

TO: All licensed life insurers, fraternal benefit societies, employee welfare funds, retirement systems, governmental supplemental annuity funds, and reinsurers (Insurers)

RE: Use of Affidavit in Lieu of a Death Certificate with Respect to Life Insurance Claims Arising Out of the September 11 Disasters in New York City, the Pentagon and Pennsylvania

The tremendous loss of life on September 11<sup>th</sup>, and the difficult circumstances surrounding such loss, are likely to result in a delay in the ability to obtain death certificates. Normally, Insurers rely on a death certificate when processing claims. Under the present circumstances, however, it is clear that a more expeditious method of certification of death must be developed in order to streamline the payment of needed benefits to family members and other designated beneficiaries.

With respect to death claims arising out of the disasters that occurred in New York City, the Pentagon, and Pennsylvania on September 11, 2001, all Insurers must accept a fully executed affidavit in the form as attached, in lieu of a death certificate if such certificate is not available.

Insurers may utilize other information as well to complete the claim process but they must accept the attached affidavit in lieu of a death certificate in appropriate circumstances.

Gregory V. Serio  
Superintendent of Insurance

