

Legislative Bill Drafting Commission
14166-01-4

S. -----
 Senate

IN SENATE--Introduced by Sen

--read twice and ordered printed,
and when printed to be committed
to the Committee on

----- A.
Assembly

IN ASSEMBLY--Introduced by M. of A.

with M. of A. as co-sponsors

--read once and referred to the
Committee on

***INSURLA* *Department of Financial
Services 3*
(Relates to anti-concurrent causa-
tion clauses)**

Ins. anti-concurrent causation

AN ACT

to amend the insurance law, in
relation to anti-concurrent causa-
tion clauses

The People of the State of New
York, represented in Senate and
Assembly, do enact as follows:

IN SENATE

Senate introducer's signature

The senators whose names are circled below wish to join me in the sponsorship
of this proposal:

s15 Addabbo	s34 Fernandez	s28 Krueger	s01 Palumbo	s42 Skoufis
s43 Ashby	s60 Gallivan	s24 Lanza	s21 Parker	s11 Stavisky
s36 Bailey	s12 Gianaris	s16 Liu	s19 Persaud	s45 Stec
s57 Borrello	s59 Gonzalez	s50 Mannion	s13 Ramos	s35 Stewart-
s46 Breslin	s26 Gounardes	s04 Martinez	s05 Rhoads	Cousins
s25 Brisport	s53 Griffo	s07 Martins	s33 Rivera	s44 Tedisco
s55 Brouk	s40 Harckham	s02 Mattera	s39 Rolison	s06 Thomas
s09 Canzoneri-	s54 Helming	s48 May	s61 Ryan	s49 Walczyk
Fitzpatrick	s41 Hinchey	s37 Mayer	s18 Salazar	s52 Webb
s17 Chu	s47 Hoylman-	s03 Murray	s10 Sanders	s38 Weber
s30 Cleare	Sigal	s20 Myrie	s23 Scarcella-	s08 Weik
s14 Comrie	s31 Jackson	s51 Oberacker	Spanton	
s56 Cooney	s27 Kavanagh	s58 O'Mara	s32 Sepulveda	
s22 Felder	s63 Kennedy	s62 Ortt	s29 Serrano	

IN ASSEMBLY

Assembly introducer's signature

The Members of the Assembly whose names are circled below wish to join me in the
multi-sponsorship of this proposal:

a078 Alvarez	a047 Colton	a034 Gonzalez-	a137 Meeks	a016 Sillitti
a031 Anderson	a140 Conrad	Rojas	a017 Mikulin	a052 Simon
a121 Angelino	a032 Cook	a150 Goodell	a122 Miller	a075 Simone
a037 Ardila	a039 Cruz	a116 Gray	a051 Mitaynes	a114 Simpson
a035 Aubry	a043 Cunningham	a100 Gunther	a145 Morinello	a094 Slater
a120 Barclay	a021 Curran	a139 Hawley	a144 Norris	a005 Smith
a106 Barrett	a018 Darling	a083 Heastie	a045 Novakhov	a118 Smullen
a105 Beephan	a053 Davila	a028 Hevesi	a069 O'Donnell	a022 Solages
a107 Bendett	a072 De Los Santos	a128 Hunter	a091 Otis	a110 Steck
a082 Benedetto	a003 DeStefano	a029 Hyndman	a132 Palmesano	a010 Stern
a027 Berger	a070 Dickens	a079 Jackson	a088 Paulin	a127 Stirpe
a042 Bichotte	a054 Dilan	a104 Jacobson	a141 Peoples-	a102 Tague
Hermelyn	a081 Dinowitz	a011 Jean-Pierre	Stokes	a064 Tannousis
a117 Blankenbush	a147 DiPietro	a134 Jensen	a023 Pheffer	a086 Tapia
a015 Blumencranz	a009 Durso	a115 Jones	Amato	a071 Taylor
a073 Bores	a099 Eachus	a125 Kelles	a063 Pirozzolo	a001 Thiele
a098 Brabenec	a048 Eichenstein	a040 Kim	a089 Pretlow	a033 Vanel
a026 Braunstein	a074 Epstein	a013 Lavine	a019 Ra	a055 Walker
a138 Bronson	a109 Fahy	a065 Lee	a030 Raga	a143 Wallace
a046 Brook-Krasny	a061 Fall	a126 Lemondes	a038 Rajkumar	a112 Walsh
a020 Brown, E.	a008 Fitzpatrick	a095 Levenberg	a006 Ramos	a041 Weinstein
a012 Brown, K.	a004 Flood	a060 Lucas	a062 Reilly	a024 Weprin
a093 Burdick	a057 Forrest	a135 Lunsford	a087 Reyes	a059 Williams
a085 Burgos	a124 Friend	a123 Lupardo	a149 Rivera	a113 Woerner
a142 Burke	a050 Gallagher	a129 Magnarelli	a067 Rosenthal, L.	a080 Zaccaro
a119 Buttenschon	a131 Gallahan	a101 Maher	a025 Rozic	a096 Zebrowski
a133 Byrnes	a007 Gandolfo	a036 Mamdani	a111 Santabarbara	a056 Zinerman
a044 Carroll	a068 Gibbs	a130 Manktelow	a090 Sayegh	a077
a058 Chandler-	a002 Giglio, J.A.	a108 McDonald	a076 Seawright	
Waterman	a148 Giglio, J.M.	a014 McDonough	a084 Septimo	
a049 Chang	a066 Glick	a097 McGowan	a092 Shimsy	
a136 Clark		a146 McMahon	a103 Shrestha	

1) Single House Bill (introduced and printed separately in either or
both houses). Uni-Bill (introduced simultaneously in both houses and printed
as one bill. Senate and Assembly introducer sign the same copy of the bill).

2) Circle names of co-sponsors and return to introduction clerk with 2
signed copies of bill and: in Assembly 2 copies of memorandum in support, in
Senate 4 copies of memorandum in support (single house); or 4 signed copies
of bill and 6 copies of memorandum in support (uni-bill).

1 Section 1. The insurance law is amended by adding a new section 3416
2 to read as follows:

3 § 3416. Anti-concurrent causation clauses; water back up or discharge.

4 (a) When an insurance policy provides coverage for loss of or damage to
5 property resulting from water or water-borne material that backs up
6 through sewers or drains, or overflows or is discharged from a sump,
7 sump pump, or related equipment, the policy shall not exclude coverage
8 for any loss of or damage to property resulting from the foregoing on
9 the ground that the loss or damage also may have been caused directly or
10 indirectly by an excluded peril contributing concurrently or in any
11 sequence to cause the loss.

12 (b) For the purpose of this section, "insurance policy" shall mean a
13 policy issued or issued for delivery in this state that provides cover-
14 age for: (1) loss of or damage to real property used predominately for
15 residential purposes and that consists of not more than four dwelling
16 units, other than hotels and motels; or (2) loss of or damage to
17 personal property in which natural persons have an insurable interest,
18 except personal property used in the conduct of business.

19 § 2. This act shall take effect on the ninetieth day after it shall
20 have become a law and shall apply to all policies issued or renewed on
21 or after such date.

DFS #03-24

Memorandum

An ACT to amend the insurance law
in relation to anti-concurrent causation clauses

Purpose of the bill:

This bill would amend the Insurance Law in relation to anti-concurrent causation (“ACC”) clauses.

Summary of provisions:

Section 1 of the bill would add a new Insurance Law § 3416, which would prohibit an insurance policy from excluding coverage for any loss of or damage to property resulting from water or water-borne material that backs up through sewers or drains, or overflows or is discharged from a sump, sump pump, or related equipment, on the ground that the loss or damage also may have been caused directly or indirectly by an excluded peril contributing concurrently or in any sequence to cause the loss. This section would only apply to non-commercial policies.

Section 2 would provide that the bill takes effect 90 days after it is signed into law and applies to policies issued or renewed on or after that date.

Justification:

Past storms, such as Storm Sandy in 2012 and Tropical Depression Ida in 2021, brought strong winds, intense rainfall, and record storm surges, which interfered with the normal drainage of sewage in many areas. Because flooding caused the drainage systems to fail, some New York residents experienced sewage backing up into their homes. Some residents who had purchased sewage backup coverage found that their property insurance policies, nevertheless, would not cover the damage caused by the sewage back up because of the ACC clauses in their policies. This bill would prohibit an insurance policy from excluding coverage for any loss of or damage to property resulting from water or water-borne material that backs up through sewers or drains, or overflows or is discharged from a sump, sump pump, or related equipment, on the ground that the loss or damage also may have been caused directly or indirectly by an excluded peril contributing concurrently or in any sequence to cause the loss.

Prior legislative history:

This is a new bill.

Fiscal implications:

None.

Effective date:

Ninety days after it is signed into law.