



S.9421 (Breslin) / A.10343 (Weprin)

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<p>BILL</p> <p>S.9421 (Breslin) / A.10343 (Weprin)</p>
<p>SUBJECT</p> <p>Anti-Concurrent Causation Clauses</p>
<p>DATE</p> <p>May 20, 2024</p>
<p>OPPOSE</p>

The Business Council strongly opposes S.9421 (Breslin) / A.10343 (Weprin), which requires an insurer to pay claims resulting from non-covered perils and seeks to provide flood coverage as part of a policy that does not cover flood.

Affordability is always at top of mind when The Business Council evaluates legislation. To put it simply, this legislation will undoubtedly increase costs and result in increased premiums or potential lack of coverage for New York consumers. At a time when New Yorkers are struggling with inflation and increasing costs for everyday items and when insurance premiums are already on the rise due to legislation like this, passing this bill is reckless.

Anti-concurrent clauses have been used by most states for decades. The purpose of an anti-concurrent clause is to match the premium with the risks that are covered by the policy, meaning that a policy provides coverage for only those losses they are meant to cover as outlined in the relevant policy language. Anti-concurrent clauses do not allow an insurer to deny coverage or payment for covered risks but ensure that damage caused by an excluded peril is not covered. For example, generally, insurers do not provide coverage for certain perils, like flood (commonly referred to as “excluded perils”). Instead, if a consumer wants protection from flooding, they would purchase flood insurance as offered by the National Flood Insurance Program, a federal program. This bill is a significant expansion of coverage because it requires insurers to provide flood coverage as part of a policy that is not intended to cover flood.

A water back up/sump pump overflow coverage is usually optional coverage. By requiring that this optional coverage now include coverage when the loss is due to a non-covered peril of flood, this bill is making coverage more expensive. **If this becomes law, some consumers may opt out of this optional coverage because they can no longer afford it, which would leave them without coverage for these types of losses. It would be extremely**

unfortunate if a consumer declined this beneficial coverage because of a legislatively-mandated policy that unnecessarily made it unaffordable.

Further, if an insurer is unable to calculate the risk to offer water back up/ sump pump overflow coverage, they may simply decide to no longer offer that coverage in New York, potentially leaving consumers without protection for water back up/sump pump overflow losses.

This bill fails to appropriately and accurately assess the unintended consequences and costs that this policy would have on New Yorker consumers who purchase insurance coverage. It is for these reasons that The Business Council strongly opposes S.9421 (Breslin) / A.10343 (Weprin), and requests that the Legislature stand with New Yorkers who are struggling to keep up with necessary, everyday costs and reject this bill.