



# Talking Points- Special Bulletin

Stop the Press! This is your Special Bulletin edition of TSIB's Talking Points.

Talking Points- Special Bulletin provides you information on the latest developments for a high profiled news story which can affect the Insurance & Surety industry.

Look for the **TSIB Talking Point** that highlights the issue and keeps you informed.

If you have any questions about any of our articles, other Insurance & Surety concerns, or have specific topics you would like to learn more about, please reach out to us directly at [contact@tsibinc.com](mailto:contact@tsibinc.com) or visit [our website](#).



## Amendments to the New York Civil Practice Laws and Rules CPLR § 3101(f) now require the disclosure of voluminous information including insurance applications

On December 31, 2021, New York enacted into law the most extensive liability insurance disclosure requirements in the country. Defendants in New York will now be required to produce insurance related information within 60 days of answering the complaint, or for those complaints in which answers have been filed, an extension has been granted to March 1, 2022.

Prior to this enactment, defendants were only required to provide insurance agreements that would satisfy all or part of a judgment in an action. Courts typically did not require information that spanned beyond the policy of insurance to be produced.

Now within 60 days of answering the complaint, defendants, third party defendants, and cross claim defendants will be required to produce, but not limited to, the following:

- *Complete copies of all primary, excess, and umbrella policies that may be liable to satisfy part or all of a judgment, including any issued by captive insurance entities, risk retention groups, reciprocal insurance exchanges, and syndicates*
- *Applications for such policies*
- *Contact information for the relevant claim adjuster(s) (including third-party administrators and insurance carrier personnel)*
- *Information concerning policy limits available to satisfy a judgment in the action and the erosion of those limits, including information about any lawsuits that have eroded, or may erode limits*
- *The amount of any payment of attorneys' fees that has eroded policy limits and the contact information of any attorney who received such payments*

The parties providing the information and attorneys must certify via sworn affidavit that the insurance information is accurate and complete.



**TSIB's TALKING POINT:** There are going to be changes to this enactment in the coming weeks. We will continue to keep our finger on the pulse of the developments. Here are some key things to consider:

- Information required to be disclosed should be reviewed and vetted by defense counsel
- Providing applications that contain confidential information, as well as information protected by privacy laws, may be problematic to release. This information should be reviewed and vetted by defense counsel
- Obligations to additional insured's need to be reviewed
- Disclosing information regarding claims that may be applied to an aggregate erosion as part of the litigation can become public information thereby enticing other lawsuits to possibly attach to the remaining limits
- Providing information can usurp non-disclosure requirements in prior confidential settlements
- The burden on insurance carriers, brokers, and insureds will become immense as this applies to all civil suits

The intent of this law is to protect Plaintiffs and to provide information to available coverages. This seems to be to the detriment of those compelled to respond to the exhaustive list of required documentation. A bill has already been submitted to the assembly for narrowing the requirements set forth.

[Click here](#) to read more.

