

January 14, 2011

Counsel to the Department at New York City Fire Department
Bureau of Legal Affairs
9 Metro Tech Center, 4th Floor
Brooklyn, New York 11201-3857

Re: Proposed 3 RCNY §4900-03, "Schedule of Charges For Fire Department Motorist Services"

Dear Counsel:

I am pleased to provide comments on behalf of the National Association of Mutual Insurance Companies regarding Proposed 3 RCNY §4900-03, "Schedule of Charges For Fire Department Motorist Services." NAMIC is the largest and most diverse national property/casualty insurance trade and political advocacy association in the United States. Its 1,400 member companies write all lines of property/casualty insurance business and include small, single-state, regional, and national carriers accounting for 50 percent of the automobile/ homeowners market. In New York, 170 NAMIC member companies, including 59 companies domiciled in the state, write a significant share of the state's automobile insurance market.

NAMIC has been monitoring and commenting on the practice of municipalities attempting to bill motorists and their insurers for emergency services since 2006¹ when a trend was detected in a few Midwest states. Over the past half decade, NAMIC has worked to educate policymakers about the realities of such activities and to dispel persistent misconceptions.

A common misconception that drives proposals to charge motorists for emergency response services is that such charges are typically covered by personal automobile insurance policies. We note that the Department's proposal asserts in its "Statement of Basis and Purpose" that such services "are the type of motorist services that are commonly covered by automobile insurance policies." This is not accurate. In fact, personal auto insurance policies do not typically cover such charges.² Insurance companies do not charge for accident response, and they do not have a contractual obligation to pay these fees.

¹ Ominous Trend: Growth of Municipal Accident Response Fees, National Association of Mutual Insurance Companies (NAMIC), April 2006. <http://www.namic.org/insbriefs/060413AccidentResponseFees.pdf>.

² See "Insurance companies will probably pass on footing Mayor Bloomberg's new car crash tax," New York Daily News, Dec. 11, 2010, quoting New York Superintendent of Insurance James Wrynn as stating, "'Except for some limited circumstances, a charge by the Fire Department for responding to auto crashes would not be covered under current auto insurance policies.'" See also <http://www.iii.org/media/research/accidentresponse/>, noting, "While auto insurance policies typically cover medical expenses, including ambulance transportation, expenses related to accident response are not covered."

Emergency response services have traditionally been funded directly through municipal taxes. In NAMIC's view, proposals to charge motorists who have been involved in accidents represent a form of double taxation. While the generation of such proposals is understandable in an era of tightening municipal budgets, they are neither a traditional nor proper way to fund emergency response services.

Having followed this issue for several years, we observe that accident fee initiatives that have been implemented are both unpopular and ineffective, with programs generating negative reviews from residents while generating far less revenues than projected. For instance, a recent initiative in the city of Quincy, Massachusetts that was intended to raise \$250,000 resulted in just \$2,700 in collections half way through the fiscal year.³

The unpopularity of such proposals was documented in a poll last year of California residents that found a large majority of respondents opposed to the idea of municipalities seeking to bill drivers and their insurance companies for accident services.⁴ Furthermore, recognition of the impropriety of such fee initiatives has prompted no fewer than 10 states to enact statutory prohibitions on municipalities levying emergency response fees.⁵

In summary, in NAMIC's view, proposals such as the one the Department is considering to bill motorists and their insurers for emergency services are based on faulty premises, and are improper, unpopular, and ineffective. For these reasons, we recommend the Department not adopt Proposed 3 RCNY §4900-03, "Schedule of Charges For Fire Department Motorist Services." Thank you for this opportunity to present NAMIC's perspective on this issue.

Sincerely,



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³ See "Quincy car crash recovery program only nets \$2,700," The Patriot Ledger, Dec. 7, 2010.

⁴ See "Californians Oppose Accident Response Surcharges," Insurance Journal, Sept. 28, 2010, <http://www.insurancejournal.com/news/west/2010/09/28/113615.htm>.

⁵ The 10 states are Alabama, Arkansas, Florida, Georgia, Indiana, Louisiana, Missouri, Oklahoma, Pennsylvania, and Tennessee. See <http://www.iii.org/media/research/accidentresponse/>