Summary of Consolidated Revised Proposed Fourth Amendment to 11 NYCRR 28 (Insurance Regulation 42), Third Amendment to 11 NYCRR 33 (Insurance Regulation 120), and Third Amendment to 11 NYCRR 66 (Insurance Regulation 76)

Section 28.0 (Introduction) is amended to state that the regulation is designed to provide greater protection to consumers and raise standards of integrity in the bail business.

Section 28.1 is renumbered as Section 28.2, and new Section 28.1 provides definitions applicable to Part 28.

Section 28.2 (formerly Section 28.1) prohibits pre-arrest agreements.

Section 28.3 is added to require, and set forth the procedures for, the appointment of bail agents by insurers and charitable bail organizations (“CBOs”).

Section 28.4 is added to prohibit a bail agent from using an unauthorized name.

Section 28.5 is added to set forth bail agent notification requirements.

Section 28.6 is added to set forth requirements regarding bail agent offices.

Section 28.7 is added to prohibit payments of compensation to unlicensed bail agents by insurers and CBOs.

Section 28.8 is added to prohibit a bail agent or insurer from obtaining any fee or consideration other than a premium based on rates in effect and the actual documented out-of-pocket costs of the apprehension and surrender of the principal following a court-ordered warrant; the apprehension and surrender of the principal following the documented request of the indemnitor; and the application for the remission of forfeiture. It also prohibits an insurer, bail agent, or an employee or other representative of an insurer from knowingly deviating from the filed rates and sets forth the duration of a bail bond.

Section 28.9 is added to set forth requirements regarding return of premiums.

Section 28.10 is added to require and define the prompt release of the principal.

Section 28.11 is added to set forth requirements and procedures regarding collateral.
Section 28.12 is added to require a bail agent to use separate accounts for premium and collateral.

Section 28.13 is added to prohibit a bail agent from using any contract or form that has not been approved by the Superintendent of Financial Services (“Superintendent”) pursuant to 11 NYCRR section 66.1.

Section 28.14 is added to set forth requirements regarding the supervision of bail agents by insurers and CBOs.

Section 28.15 is added to set forth requirements regarding the termination of appointments of bail agents by insurers and CBOs.

Section 28.16 (formerly Section 28.2(a)) is amended to impose new requirements regarding bail registers.

Section 28.17 (formerly Section 28.2(b) and (c)) is amended to impose new requirements regarding receipts, records and written statements to be provided to indemnitors and principals.

Section 28.18 is added to require a statement of rights.

Section 28.19 is added to include requirements regarding a bail agent’s maintenance and retention of records.

Section 28.20 is added to set forth requirements regarding surrender of a principal.

Section 33(c) is amended by revising the definition of “managing general agent” to include certain bail agents.

Section 66.0 is amended by adding a new subdivision (f) to explain why DFS is requiring that bail bond forms be filed with and approved by the Superintendent.

Section 66.1(a) is amended to require bail bond forms to be filed and approved by the Superintendent.

Section 66.1(b) is added to require an insurer and CBO to file with the Superintendent for the Superintendent’s approval any contract or form to be signed by or provided to an indemnitor or principal in connection with the issuance of a bail bond or depositing money or property as bail, and to use only such approved contracts and forms.