Regulatory Impact Statement for the Ninth Amendment to 11 NYCRR 60-2 (Insurance Regulation 35-D)

1. Statutory authority: The authority of the Superintendent of Financial Services ("Superintendent") to promulgate this amendment derives from Financial Services Law sections 202 and 302, Insurance Law sections 301 and 3420(f), and Chapter 59, Part III, Section 19 of the Laws of 2019.

Financial Services Law section 202 establishes the office of the Superintendent and designates the Superintendent as the head of the Department of Financial Services ("Department").

Financial Services Law section 302 and Insurance Law section 301 authorize the Superintendent to effectuate any power accorded to the Superintendent by the Insurance Law, Banking Law, Financial Services Law, or any other law of this state and to prescribe regulations interpreting the Insurance Law, among other things.

Insurance Law section 3420 establishes the minimum provisions for liability insurance policies issued or delivered in New York. Insurance Law section 3420(f) requires a motor vehicle liability policy issued or delivered in New York to provide supplementary uninsured/underinsured motorist ("SUM") coverage.

Chapter 59, Part III, Section 19 of the Laws of 2019, which was signed into law on April 12, 2019 and will take effect on January 1, 2020, amended Insurance Law section 3420(f) to require that any policy insuring against loss resulting from liability imposed by law for bodily injury or death suffered by any natural person arising out of the ownership, maintenance, and use of an altered motor vehicle or stretch limousine, having a seating capacity of eight or more passengers and used in the business of carrying or transporting passengers for hire, provide SUM insurance for bodily injury in an amount of a combined single limit of $1,500,000 because of bodily injury or death of one or more persons in any one accident.

2. Legislative objectives: Chapter 59, Part III, Section 19 of the Laws of 2019 amended Insurance Law section 3420(f) to require that a motor vehicle liability policy covering an altered motor vehicle or stretch limousine, having a seating capacity of eight or more passengers and used in the business of carrying or
transporting passengers for hire, provide SUM insurance for bodily injury in an amount of a combined single limit of $1,500,000 because of bodily injury or death of one or more persons in any one accident.

This amendment to the rule accords with the public policy objectives that the Legislature sought to advance in Insurance Law section 3420(f) and Chapter 59, Part III, Section 19 of the Laws of 2019 by updating the rule to include the increased minimum SUM limits for altered motor vehicles or stretch limousines as set forth in Section 19 and adding a definition of “altered motor vehicle” or “stretch limousine” consistent with Department of Motor Vehicles regulation 15 NYCRR section 79.20(f)(2).

3. Needs and benefits: Chapter 59, Part III, Section 19 of the Laws of 2019 amended Insurance Law section 3420(f) to require that a motor vehicle liability policy covering an altered motor vehicle or stretch limousine, having a seating capacity of eight or more passengers and used in the business of carrying or transporting passengers for hire, provide SUM insurance for bodily injury in an amount of a combined single limit of $1,500,000 because of bodily injury or death of one or more persons in any one accident.

This amendment updates the preamble, definitions, and applicability section of the rule to describe the amendments made by Section 19 and amends the section regarding the basics of SUM coverage to include the increased minimum SUM limits for altered motor vehicles or stretch limousines and sets forth a definition of “altered motor vehicle” or “stretch limousine” consistent with Department of Motor Vehicles regulation 15 NYCRR section 79.20(f)(2).

4. Costs: Insurers may incur additional costs because they will need to submit new rate and form filings to the Department to reflect the increased minimum SUM limits for altered motor vehicles or stretch limousines. However, this is a consequence of Section 19 of Part III of Chapter 59 of the Laws of 2019, which requires a motor vehicle liability policy to provide increased minimum SUM limits for altered motor vehicles or stretch limousines.
The Department also may incur costs for the implementation and continuation of the amendment made to the rule, because the Department will need to review the rate and form filings. However, any additional costs incurred should be minimal and the Department should be able to absorb the costs in its ordinary budget.

This rule does not impose compliance costs on any local government.

5. Local government mandates: This amendment does not impose any program, service, duty, or responsibility upon a county, city, town, village, school district, fire district, or other special district.

6. Paperwork: Insurers may need to complete additional paperwork because they will need to submit new rate and form filings to the Department. However, this is a consequence of Section 19 of Part III of Chapter 59 of the Laws of 2019, rather than the amendment.

7. Duplication: This amendment does not duplicate, overlap, or conflict with any existing state or federal rules or other legal requirements.

8. Alternatives: No significant alternatives were considered.

9. Federal standards: The amendment does not exceed any minimum standards of the federal government for the same or similar subject areas.

10. Compliance schedule: All insurers must comply with this rule for policies issued, renewed, altered, or modified on or after January 1, 2020.
Regulatory Flexibility Analysis for Small Businesses and Local Governments for the Ninth Amendment to 11 NYCRR 60-2 (Insurance Regulation 35-D)

1. Effect of rule: Chapter 59, Part III, Section 19 of the Laws of 2019 amended Insurance Law section 3420(f) to require that any policy insuring against loss resulting from liability imposed by law for bodily injury or death suffered by any natural person arising out of the ownership, maintenance and use of an altered motor vehicle or stretch limousine, having a seating capacity of eight or more passengers and used in the business of carrying or transporting passengers for hire, provide supplementary uninsured/underinsured motorist (“SUM”) coverage for bodily injury in an amount of a combined single limit of $1,500,000 because of bodily injury or death of one or more persons in any one accident.

This amendment reflects the amendments made by Section 19 and adds a definition of “altered motor vehicle” or “stretch limousine” consistent with Department of Motor Vehicles regulation 15 NYCRR section 79.20(f)(2).

Industry asserts that certain insurers subject to the amendment are small businesses. However, the law, rather than the amendment to the rule, requires that a motor vehicle liability policy provide increased minimum SUM limits for altered motor vehicles or stretch limousines. The rule cannot vary a requirement imposed by law.

2. Compliance requirements: No local government will have to undertake any reporting, recordkeeping, or other affirmative acts to comply with this amendment because the amendment does not apply to any local government.

An insurer that is a small business affected by this rule, if any, may be subject to reporting, recordkeeping, or other compliance requirements because the insurer will need to submit new rate and form filings to the Department of Financial Services (“Department”) to comply with Chapter 59, Part III, Section 19 of the Laws of 2019. However, this is a consequence of Section 19, which requires a motor vehicle liability policy to provide increased minimum SUM limits for altered motor vehicles or stretch limousines.
3. Professional services: No local government will need professional services to comply with this amendment because the amendment does not apply to any local government. No insurer that is a small business affected by this amendment, if any, should need to retain professional services, such as lawyers or auditors, to comply with this amendment.

4. Compliance costs: No local government will incur any costs to comply with this amendment because the amendment does not apply to any local government. An insurer that is a small business affected by this amendment, if any, may incur additional compliance costs because the insurer will need to submit new rate and form filings to the Department to comply with Chapter 59, Part III, Section 19 of the Laws of 2019. However, this is a consequence of Section 19, which requires a motor vehicle liability policy to provide increased minimum SUM limits for altered motor vehicles or stretch limousines.

5. Economic and technological feasibility: This amendment does not apply to any local government; therefore, no local government should experience any economic or technological impact as a result of the amendment. No insurer that is a small business affected by this amendment, if any, should experience any economic or technological impact as a result of the amendment. Furthermore, this amendment merely implements Chapter 59, Part III, Section 19 of the Laws of 2019, which requires a motor vehicle liability policy to provide increased minimum SUM limits for altered motor vehicles or stretch limousines.

6. Minimizing adverse impact: There will not be an adverse impact on any local government because the amendment does not apply to any local government. This amendment should not have an adverse impact on an insurer that is a small business affected by the amendment, if any, because the amendment uniformly affects all insurers that are subject to it and merely implements Chapter 59, Part III, Section 19 of the Laws of 2019, which requires a motor vehicle liability policy to provide increased minimum SUM limits for altered motor vehicles or stretch limousines.
7. Small business and local government participation. The Department will comply with State Administrative Procedure Act section 202-b(6) by publishing the proposed amendment in the State Register and posting the proposed amendment on its website.
Rural Area Flexibility Analysis for the Ninth Amendment to 11 NYCRR 60-2 (Insurance Regulation 35-D)

1. Types and estimated numbers of rural areas: Insurers affected by this amendment operate in every county in this state, including rural areas as defined by State Administrative Procedure Act section 102(10).

2. Reporting, recordkeeping and other compliance requirements; and professional services: An insurer, including an insurer in a rural area, may be subject to additional reporting, recordkeeping, or other compliance requirements because the insurer will need to submit new rate and form filings to the Department of Financial Services ("Department") to comply with Chapter 59, Part III, Section 19 of the Laws of 2019. However, this is a consequence of Section 19, which requires a motor vehicle liability policy to provide increased minimum supplementary uninsured/underinsured motorists ("SUM") limits for altered motor vehicles or stretch limousines.

An insurer, including an insurer in a rural area, should not need to retain professional services, such as lawyers or auditors, to comply with this amendment.

3. Costs: An insurer, including an insurer in a rural area, may incur additional compliance costs because the insurer will need to submit new rate and form filings to the Department to comply with Chapter 59, Part III, Section 19 of the Laws of 2019. However, this is a consequence of Section 19, which requires a motor vehicle liability policy to provide increased minimum SUM limits for altered motor vehicles or stretch limousines.

4. Minimizing adverse impact: This amendment uniformly affects insurers that are located in both rural and non-rural areas of New York State. The amendment should not have an adverse impact on rural areas.

5. Rural area participation: Insurers, including insurers in rural areas, will have an opportunity to participate in the rule-making process when the amendment is published in the State Register and on the Department’s website.
Statement Setting Forth the Basis for the Finding that the Ninth Amendment to 11 NYCRR 60-2 (Insurance Regulation 35-D) Will Not Have a Substantial Adverse Impact on Jobs and Employment Opportunities

This amendment should not adversely impact jobs or employment opportunities in New York State. The amendment merely implements Chapter 59, Part III, Section 19 of the Laws of 2019, which amended Insurance Law section 3420(f) to require that any policy insuring against loss resulting from liability imposed by law for bodily injury or death suffered by any natural person arising out of the ownership, maintenance and use of an altered motor vehicle or stretch limousine, having a seating capacity of eight or more passengers and used in the business of carrying or transporting passengers for hire, provide supplementary uninsured/underinsured motorist (“SUM”) coverage for bodily injury in an amount of a combined single limit of $1,500,000 because of bodily injury or death of one or more persons in any one accident. The amendment also adds a definition of “altered motor vehicle” or “stretch limousine” consistent with Department of Motor Vehicles regulation 15 NYCRR section 79.20(f)(2).