



Department of Financial Services

ANDREW M. CUOMO
Governor

LINDA A. LACEWELL
Superintendent

VIA EMAIL

Jane.Hamm@dos.ny.gov

January 12, 2021

Jane Hamm
State Register/Office of Information Services
New York State Department of State
One Commerce Plaza
99 Washington Avenue, Suite 650
Albany, NY 12231

Re: January 2021 Regulatory Agenda

Dear Ms. Hamm:

Attached is the Department of Financial Services' Regulatory Agenda for publication in the January 27, 2021 issue of the State Register. Please note that the Regulatory Agenda is divided into three sections: Insurance Regulations, Banking Regulations, and Financial Services Regulations.

Sincerely yours,

Sally Geisel

Sally Geisel
Supervising Attorney
(212) 480-7608

Cc: Camielle Barclay
Christine Tomczak
Eamon Rock

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES
REGULATORY AGENDA

Pursuant to State Administrative Procedure Act (“SAPA”) Section 202-d, the following Regulatory Agenda is a list of the regulatory additions and amendments to Titles 3, 11, and 23 of the NYCRR that the New York State Department of Financial Services (“Department”) is presently considering proposing during 2021. Some of these items were previously published in the January 2020 Regulatory Agenda. **Items that have already been published in the State Register as “proposed” actions are not included on the list.** The Department’s regulatory plans are subject to change, and the Department reserves the right to add to, delete from, or modify items in the Regulatory Agenda without further notice.

This notice also is intended to provide small businesses, local governments, and public and private interests in rural areas with the opportunity to participate in the rule making process, as required by Sections 202-b and 202-bb of SAPA.

I. Insurance Regulations

For inquiries about a specific item, please contact the person identified for that item. For general inquiries about the Insurance Regulations included in this Regulatory Agenda, or to obtain copies of current Insurance Regulations, please contact:

Sally Geisel
Supervising Attorney
New York State Department of Financial Services
One State Street
New York, NY 10004
(212) 480-7608

1. Summary description of proposal: Amendment of 11 NYCRR 20 (Brokers, Agents and Certain Other Licensees – General) (Insurance Regulations 9, 18, and 29) to require, during the two-year licensing term, at least one continuing education (“CE”) credit for an overview of the New York Insurance Law for all resident public adjusters and insurance producers, at least one ethics and professionalism CE credit for all resident public adjusters and insurance producers, at least one diversity, inclusion, and elimination of bias CE credit for all resident public adjusters and insurance producers, at least one flood insurance CE credit for all property/casualty resident insurance producers, and at least three enhanced flood insurance CE credits for resident insurance producers who sell flood insurance through the National Flood Insurance Program. Agency contact: Joana Lucashuk, Principal Attorney, Office of General Counsel – (212) 480-2125.

2. Summary description of proposal: Amendment of 11 NYCRR 25 (Public Adjusters) (Insurance Regulation 10) to address amendments made to the Insurance Law by Chapter 546 of the Laws of 2013. Agency contact: Joana Lucashuk, Principal Attorney, Office of General Counsel – (212) 480-2125.

3. Summary description of proposal: Amendment of 11 NYCRR 82 (Enterprise Risk Management and Own Risk and Solvency Assessment) (Insurance Regulation 203) to require a holding company and certain domestic insurers to describe their enterprise risk management functions in their enterprise risk

reports and to clarify certain language. Agency contact: Joana Lucashuk, Principal Attorney, Office of General Counsel – (212) 480-2125.

4. Summary description of proposal: Addition of a new subpart 65-6 to 11 NYCRR (Insurance Regulation 65-F), amendment of 11 NYCRR 65 (Regulations Implementing the Comprehensive Motor Vehicle Insurance Reparations Act) (Insurance Regulation 68), and amendment of 11 NYCRR 68 (Charges for Professional Health Services) (Insurance Regulation 83) to implement an alternative dispute resolution process for disputes involving claims of independent livery drivers that are processed pursuant to pre-authorization procedures and medical treatment guidelines set forth in 12 NYCRR 324 and applicable provisions of Article 2 of the Workers' Compensation Law. Agency contact: Camielle A. Barclay, Associate Attorney, Office of General Counsel – (212) 480-5299.

5. Summary description of proposal: Amendment of 11 NYCRR 68 (Charges to Professional Health Services) (Insurance Regulation 83) to update the fee schedule rules applicable to no-fault in light of amendments to Workers' Compensation Board's fee schedules. Agency contact: Camielle Barclay, Associate Attorney, Office of General Counsel – (212) 480-5299.

6. Summary description of proposal: Amendment of 11 NYCRR 65-4 (Arbitration) (Insurance Regulation 68-D) to amend rules related to both the manner in which the first party motor vehicle insurance arbitration programs are administered and the manner in which the costs of these programs are assessed to the insurance industry. Agency contact: Camielle Barclay, Associate Attorney, Office of General Counsel – (212) 480-5299.

7. Summary description of proposal: Amendment of 11 NYCRR 65-2 (Rights and Liabilities of Self-Insurers) (Insurance Regulation 68-B), 11 NYCRR 65-3 (Claims for Personal Injury Protection Benefits) (Insurance Regulation 68-C), 11 NYCRR 65-4 (Arbitration) (Insurance Regulation 68-D), the New York Motor Vehicle No-Fault Insurance Law Assignment of Benefits Form, the NYS Form NF-3, and the NYS Form NF-10 to prescribe that an insurer may void the assignability of all rights, privileges, and remedies to a health care provider (other than a hospital) from an eligible injured person through an executed assignment of benefits form if the insurer denies a claim because the eligible injured person failed to appear for a medical examination or examination under oath at the insurer's request. Agency contact: Camielle A. Barclay, Associate Attorney, Office of General Counsel – (212) 480-5299.

8. Summary description of proposal: Amendment to 11 NYCRR 67 (Mandatory Underwriting Inspection Requirements for Private Passenger Autos) (Insurance Regulation 79) regarding automobile photo inspections. Agency contact: Camielle Barclay, Associate Attorney, Office of General Counsel – (212) 480-5299.

9. Summary description of proposal: Amendment of 11 NYCRR 136 (Public Retirement Systems) (Insurance Regulation 85) to conform to the enactment of Retirement and Social Security Law Section 424-a by prohibiting retirement funds from engaging or investing with an investment manager that uses the services of a placement agent or intermediary to assist in obtaining investments by such funds. Agency contact: Michael Campanelli, Principal Attorney, Office of General Counsel – (212) 480-5290.

10. Summary description of proposal: Amendment of 11 NYCRR 62 (Anti-Arson Application) (Insurance Regulation 96) to update the rule to comport with the 2017 amendment to Insurance Law Section 3403(g)(2), which made the section applicable only to cities with one million or more (instead of 400,000 or more) people. Under the legislative amendment, the city of Buffalo is no longer subject to anti-arson

application requirements. Agency contact: Sally Geisel, Supervising Attorney, Office of General Counsel – (212) 480-7608.

11. Summary description of proposal: Amendment of 11 NYCRR 60-1 (Minimum Provisions for Automobile Liability Insurance Policies) (Insurance Regulation 35-A) to amend subdivision (c) of 11 NYCRR 60-1.1 to fix an incorrect grammatical construction caused by the formatting of the subdivision. The current format may lead a reader to limit the application of subparagraphs (i) – (iii) to subdivision (c)(3) only, when in fact the subparagraphs apply also to paragraphs (2) and (3) of subdivision (c). Agency contact: Joana Lucashuk, Principal Attorney, Office of General Counsel – (212) 480-2125.

12. Summary description of proposal: Amendment of 11 NYCRR 55 (Notice to Employees Concerning Termination of Group and Health Insurance Policies) (Insurance Regulation 78) to correct a typographical error in 11 NYCRR 55.1(d) by replacing the reference to “section 4225 of the Insurance Law” with “Insurance Law section 4235”. Agency contact: Sally Geisel, Supervising Attorney, Office of General Counsel – (212) 480-7608.

13. Summary description of proposal: Amendment of 11 NYCRR 216 (Unfair Claims Settlement Practices and Claim Cost Control Measures) (Insurance Regulation 64) to update Section 216.7 to clarify certain provisions in the regulation regarding motor vehicle physical damage claims. Agency contact: Hoda Nairooz, Supervising Insurance Examiner, Property Bureau – (212) 480-5595.

14. Summary description of proposal: Amendment of 11 NYCRR 111 (Statement of Actuarial Opinion and Actuarial Opinion Summary for Property/Casualty Insurers) (Insurance Regulation 207) to update the reference to the annual statement instructions published by the National Association of Insurance Commissioners that is incorporated by reference in the regulation. Agency contact: Sak Man Luk, Supervising Casualty Actuary, Property Bureau – (212) 480-5135.

15. Summary description of proposal: Amendment of 11 NYCRR 53 (Life and Annuity Cost Disclosure and Sales Illustrations) (Insurance Regulation 74) to revise and clarify the delivery, signature and certification form requirements for life insurance sales illustrations, including electronic delivery, for policies marketed with illustrations; to modify the bases used for illustrations for life insurance policies with non-guaranteed elements, including universal life; to add requirements on the disciplined current scale underlying the illustrations; and to require additional disclosures for such policies. Agency contact: Rebecca Bollam, Associate Insurance Attorney, Life Bureau – (518) 474-4552.

16. Summary description of proposal: Amendment of 11 NYCRR 50 (Separate Accounts and Separate Account Annuities) (Insurance Regulation 47) to establish revised standards for the operation of separate accounts, contract provisions, and actuarial requirements to reflect statutory changes, recent innovations in product design, and changes in administration of separate account products. Agency contact: Peter Dumar, Chief Insurance Attorney, Life Bureau – (518) 474-4552.

17. Summary description of proposal: Amendment of 11 NYCRR 103 (Principle-Based Reserving) (Insurance Regulation 213) to update the reference to the Valuation Manual published by the National Association of Insurance Commissioners that is incorporated by reference in the regulation. Agency contact: Amanda Fenwick, Assistant Chief Life Actuary, Life Bureau – (518) 473-6576.

18. Summary description of proposal: Adoption of a new Part to 11 NYCRR (Issuance of Stop-Loss and Health Insurance Policies to Small Groups) to establish standards relating to the activities of insurers issuing stop-loss and health insurance policies to small groups in order to preserve and maintain the small

group health insurance market in New York. Agency contact: Jon Thayer, Associate Attorney, Health Bureau – (518) 486-2970.

19. Summary description of proposal: Amendment of 11 NYCRR 52 (Minimum Standards for the Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure) (Insurance Regulation 62) to require health plans to hold an insured harmless when the insured has relied on the health plan's inaccurate electronic provider directory and then receives an out-of-network bill. The insured will be responsible only for any in-network cost sharing. Agency contact: Emily Donovan, Associate Attorney, Health Bureau – (518) 486-2970.

20. Summary description of proposal: Amendment of 11 NYCRR 52 (Minimum Standards for the Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure) (Insurance Regulation 62) to set forth standards relating to health insurance producer payments. Agency contact: Lydia Hoffman, Director Financial Services Programs 1, Health Bureau – (518) 486-2970.

21. Summary of description of proposal: Amendment of 11 NYCRR Part 52 (Minimum Standards for the Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure) (Insurance Regulation 62) and Part 215 (Advertisements of Accident and Health Insurance) (Insurance Regulation 34) to establish minimum standards and consumer protections for accident, travel, and hospital indemnity insurance. Agency contact: Christina Fernet, Associate Attorney, Health Bureau – (518) 486-2970.

22. Summary of description of proposal: Adoption of a new Part to 11 NYCRR (Transparency) to require health plans to provide consumers with information about network providers, such as cost-estimator tools, to allow consumers to make more intelligent decisions regarding their choice of provider. Agency contact: John Powell, Director of Rate Review, Health Bureau – (518) 474-4567.

23. Summary description of proposal: Amendment of 11 NYCRR 52 (Minimum Standards for the Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure) (Insurance Regulation 62) to set forth standards relating to the modalities for the provision of telehealth services and to provide consumers with information in provider directories about the availability of telehealth services from network providers. Agency contact: Tobias J. Len, Assistant Chief, Health Bureau – (518) 486-2970.

II. Banking Regulations

For inquiries about the Banking Regulations included in this Regulatory Agenda, or to obtain copies of current Banking Regulations, please contact:

Christine M. Tomczak
Assistant Counsel
New York State Department of Financial Services
One State Street
New York, NY 10004
(212) 709-1642

1. Summary description of proposal: Amendment of Part 8 of the General Regulations of the Superintendent, 3 NYCRR Part 8 (Superintendent's Regulations: Banking Development Districts), to conform the regulation to include participation by credit unions pursuant to the recently amended Sec. 96-d of the Banking Law.

2. Summary description of proposal: Amendments of Part 38 of the General Regulations of the Superintendent, 3 NYCRR Part 38 (Definition of Terms; Advertising; Application and Commitment Disclosures and Procedures; Improper Conduct under Article 12-D), to enhance advertising, disclosure and conduct rules for mortgage bankers and brokers and to incorporate applicable changes under federal laws and regulations.
3. Summary description of proposal: Amendment of Part 41 of the General Regulations of the Superintendent, 3 NYCRR Part 41 (Restrictions and Limitations on High Cost Home Loans), to address threshold limits, the impact of lender paid fees, and otherwise to conform to the requirements of Section 6-1 of the Banking Law.
4. Summary description of proposal: Amendment of Part 79 of the General Regulations of the Superintendent, 3 NYCRR Part 79 (Reverse Mortgage Loans), to give effect to changes in foreclosure procedures enacted in the Law of 2020, Chapter 337 and any subsequent corrective amendment to that statute.
5. Summary description of proposal: Amendment of Part 322.7 of the Superintendent's Regulations, 3 NYCRR Part 322.7 (Definition of Well-Rated Foreign Banking Corporations), in connection with the elimination by the Federal Reserve System of the Strength of Support Assessment (SOSA) rating for all foreign banking organizations subject to the interagency program for supervising the U.S. operations of foreign banking organizations.
6. Summary description of proposal: Amendment of Part 400.2 of the Superintendent's Regulations, 3 NYCRR Part 400.2 (Books, Records and Microfilm), to eliminate outdated regulatory requirements (i.e. maintenance of records on microfilm) in connection with check cashers books and records.
7. Summary description of proposal: Amendment of Part 401 (Licensed Lenders), Part 403 (Sales Finance Companies) and Part 405 (Premium Finance Agencies) of the Superintendent's Regulations, 3 NYCRR Part 401, Part 403 and Part 405, to include a reporting requirement for each licensee to submit to the Superintendent an independent audited annual financial statement within 90 days after the licensee's fiscal year end.
8. Summary description of proposal: Amendment of Part 403 of the Superintendent's Regulations 3 NYCRR Part 403 (Sales Finance Companies) to include a requirement for the submission of annual reports to the superintendent and to allow the superintendent to make requests for additional regular or special reports as deemed necessary
9. Summary description of proposal: Amendment of Part 410 and Part 413 of the Superintendent's Regulations, 3 NYCRR Part 410 (Mortgage Bankers; Licensing Requirements; Mortgage Brokers: Registration Requirements; Branch Applications: Notifications: Books and Records; Annual Reports; Surety Bonds; and Consultants of Licensed Mortgage Bankers and Registered Mortgage Brokers) and 3 NYCRR Part 413 (Procedures and Requirements for Mortgage Brokers to Act as FHA Mortgage Loan Correspondents) and Supervisory Procedure 3 NYCRR MB 101 (Application for a License as a Mortgage Banker), Supervisory Procedure 3 NYCRR MB 102 (Application for Registration as a Mortgage Broker), Supervisory Procedure 3 NYCRR MB 103 (Application for a Change in Control of a Mortgage Banker) and Supervisory Procedure 3 NYCRR MB 104 (Application for a Change in Control of a Mortgage Broker), to eliminate certain outdated regulatory requirements and to clarify language, the minimum

licensing standards, and other requirements in connection with mortgage banker and mortgage broker applications.

10. Summary description of proposal: Amendment of Part 420 of the Superintendent's Regulations, 3 NYCRR Part 420 (Mortgage Loan Originators: Education Requirements), to conform to amendments made to the federal SAFE Mortgage Licensing Act, which gives qualifying out-of-state mortgage loan originators the temporary authority to operate as a mortgage loan originator in New York prior to completing all licensing requirements.

11. Summary description of proposal: Repeal of Supervisory Procedure 3 NYCRR (Public Access to Department of Financial Services Records), to repeal this outdated Banking regulation in connection with the promulgation of a new Financial Services regulation to provide one set of unified and updated rules governing public access to records of the Department of Financial Services.

III. Financial Services Regulations

For specific inquiries about the Financial Services Regulations included in this Regulatory Agenda, or to obtain copies of current Financial Services Regulations, please contact the person identified for that item.

1. Summary of description of proposal: Amendment of 23 NYCRR 400 (Independent Dispute Resolution for Emergency Services and Surprise Bills) to establish independent dispute resolution process for emergency services from a non-participating physician or hospital, including a bill for inpatient services that follows an emergency room visit. Agency contact: Emily Donovan, Associate Attorney, Health Bureau – (518) 486-2970.

2. Summary of description of proposal: Amendment of 23 NYCRR 2 (Rules Governing the Procedures for Adjudicatory Proceedings Before the Department of Financial Services) to add a new section specifying that the Department of Financial Services ("Department") may conduct administrative hearings by videoconference at the Department's discretion so that parties and hearing officers do not have to be physically present at the same location during hearings, subject to a determination by the hearing officer upon a timely objection filed by the respondent or applicant that a hearing held by videoconference would either impinge upon the respondent's or applicant's due process rights, or would be fundamentally unfair or impractical, as expressed in the new section. Agency contact: Alan Lebowitz, Deputy General Counsel, Office of General Counsel – (212) 709-1575.

3. Summary of description of proposal: Amendment of 23 NYCRR 500 (Cybersecurity Requirements for Financial Services Companies) to provide updated rules governing cybersecurity, to eliminate certain outdated regulatory requirements, and to clarify language, minimum standards, and other requirements in connection with cybersecurity. Agency contact: Joanne Berman, Counsel, Cybersecurity Division – (347) 541-2978.