

**NEW YORK STATE
DEPARTMENT OF FINANCIAL SERVICES**

**FOURTH AMENDMENT TO 11 NYCRR 55
(INSURANCE REGULATION 78)
NOTICE TO EMPLOYEES CONCERNING TERMINATION OF GROUP AND HEALTH
INSURANCE POLICIES**

**FOURTEENTH AMENDMENT TO 11 NYCRR 62
(INSURANCE REGULATION 96)
SUBPART 62-4
ANTI-ARSON APPLICATION**

**NINTH AMENDMENT TO 11 NYCRR 65-3
(INSURANCE REGULATION 68-C)
CLAIMS FOR PERSONAL INJURY PROTECTION BENEFITS**

**THIRD AMENDMENT TO 11 NYCRR 89
(INSURANCE REGULATION 118)
AUDITED FINANCIAL STATEMENTS**

**THIRD AMENDMENT TO 11 NYCRR 136
(INSURANCE REGULATION 85)
PUBLIC RETIREMENT SYSTEMS**

**EIGHTEENTH AMENDMENT TO 11 NYCRR 216
(INSURANCE REGULATION 64)
UNFAIR CLAIMS SETTLEMENT PRACTICES AND CLAIM COST CONTROL MEASURES**

**TENTH AMENDMENT TO 11 NYCRR 218
(INSURANCE REGULATION 90)
PROHIBITION AGAINST GEOGRAPHICAL REDLINING AND DISCRIMINATING IN CERTAIN
PROPERTY/CASUALTY POLICIES**

I, Linda A. Lacewell, Superintendent of Financial Services, pursuant to the authority granted by Sections 202 and 302 of the Financial Services Law, Sections 301, 305, 307, 308, 314, 331, 1109, 1202, 2601, 2610, 3403, 3411, 3412, 3429, 3429-A, 3430, 3433 and 4235 and Article 24 of the Insurance Law, and Section 424-a of the Retirement and Social Security Law, do hereby promulgate the following amendments to Title 11 of the Official Compilation of Codes, Rules and Regulations of the State of New York, to take effect upon publication of the Notice of Adoption in the State Register, to read as follows:

(Matter In Brackets Is Deleted; New Matter Is Underlined)

Section 55.1(d) is amended to read as follows:

(d) *Group accident insurance policy, group health insurance policy and group accident and health insurance policy* shall have the meanings set forth in subsection (a) of [section 4225 of the] Insurance Law section 4235 (group accident and health insurance defined).

Section 62-4.1(c) is amended to read as follows:

(c) This Subpart applies to cities with a population of [over 400,000] one million or more persons according to the 1970 census. However, the governing board of any local municipal corporation, as defined in article 1 of the General Municipal Law, may petition the Superintendent of Financial Services to mandate the use of the anti-arson application within specific designations in its jurisdiction for any policies issued 30 days after the superintendent’s date of approval. Such petitions should be addressed to the:

Superintendent of Financial Services
New York State Department of Financial Services
Property Bureau
One State Street
New York, NY 10004

(All Matter Is New)

Section 62-4.2(c) is amended by repealing the Anti-Arson Application (NYFA-1) Part 1 and adding a new Anti-Arson Application (NYFA-1) Part 1.

(c) *Anti-arson application (Part 1).*

**STATE OF NEW YORK
ANTI-ARSON APPLICATION
(NYFA-1) PART 1**

WARNING: This application must be completed and returned by the applicant or insured pursuant to New York Insurance Law Section 3403 and 11 NYCRR 62 (Insurance Regulation 96).

NAME OF APPLICANT OR INSURED _____

LOCATION OF PROPERTY _____

Amount of Insurance \$ _____ Applicant is: Owner Occupant Absentee Owner Tenant Other _____

OCCUPANCY(IES) _____

VALUATION: This information helps to explain the amount of insurance selected at the time of application but does not determine the value at the time of loss.

PURCHASE INFORMATION:

Date _____ Price \$ _____ Cost of subsequent improvements \$ _____
Estimated Replacement Cost \$ _____ Estimated Fair Market Value (exclusive of land) \$ _____
For rental properties, indicate the Annual Rental Income \$ _____

Check the valuation method used to establish the amount of insurance:

- Replacement Cost Fair Market Value (exclusive of land)
 Replacement Cost Less Physical Depreciation Other _____

Who determined the value: _____

Attach a copy of any appraisal.

UNDERWRITING INFORMATION: If the answer to any of the following questions is “yes,” complete the corresponding numbered section of Part 2.

YES NO

- | | | |
|--|-------|-------|
| 1. Is the applicant other than an individual or sole proprietorship? | _____ | _____ |
| 2. Are any mortgage payments (building or contents) overdue by three or more months? | _____ | _____ |
| 3. Are there any real estate tax liens or other tax liens against the property or real estate taxes overdue for one year or more? | _____ | _____ |
| 4. Are there any outstanding recorded violations of fire, safety, health, building or construction codes at this location? | _____ | _____ |
| 5. Has anyone with a financial interest in this property been convicted of arson, fraud or other crimes related to loss of property during the last five years? | _____ | _____ |
| 6. Is the mortgagee other than a federal or state-chartered lending institution? | _____ | _____ |
| 7. Except where federal or state-chartered lending institutions are the applicants, please furnish the following information:
Have there been fire losses during the past five years exceeding \$1,000 in damages to this property or to any property in which the applicant has an equity interest as an owner or mortgagee? | _____ | _____ |
| 8. (a) If the property is commercial, is more than 10% of the rentable space vacant, unoccupied or seasonal? | _____ | _____ |
| (b) If the property is residential, are 5% or more of the apartments vacant, unoccupied or seasonal? | _____ | _____ |
| (c) Is the water, sewage, electricity or heat out of service? | _____ | _____ |

9. OTHER POLICIES:

- (a) Is there any other insurance in force or applied for on this property? _____

(b) Has any coverage or policy on this property been declined, cancelled or non-renewed in the last three years? _____

10. Has this property been under the ownership of the applicant for less than three years? _____

ANY PERSON WHO KNOWINGLY AND WITH INTENT TO DEFRAUD ANY INSURANCE COMPANY OR OTHER PERSON FILES AN APPLICATION FOR INSURANCE CONTAINING ANY FALSE INFORMATION, OR CONCEALS FOR THE PURPOSE OF MISLEADING, INFORMATION CONCERNING ANY FACT MATERIAL THERETO, COMMITS A FRAUDULENT INSURANCE ACT, WHICH IS A CRIME.

THE PROPOSED INSURED AFFIRMS THAT THE FOREGOING INFORMATION IS TRUE AND AGREES THAT THESE APPLICATIONS SHALL CONSTITUTE A PART OF ANY POLICY ISSUED WHETHER ATTACHED OR NOT AND THAT ANY WILLFUL CONCEALMENT OR MISREPRESENTATION OF A MATERIAL FACT OR CIRCUMSTANCES SHALL BE GROUNDS TO RESCIND THE INSURANCE POLICY.

SIGNATURE OF PROPOSED INSURED TITLE (IF APPLICABLE) DATE

INSUREDS SHALL NOTIFY THE INSURER IN WRITING OF ANY CHANGE IN THE INFORMATION CONTAINED HEREIN, UPON RENEWAL OR ANNUALLY, WHICHEVER IS SOONER. FAILURE TO COMPLY MAY RESULT IN RESCISSION OF YOUR POLICY.

(Matter In Brackets Is Deleted; New Matter Is Underlined)

Section 65-3 is amended as follows:

NYS Form NF-10 in Appendix 13 is repealed and a new NYS Form NF-10 in Appendix 13 is added.

Section 89.17(b)(1) is amended as follows:

(1) To be exempt from filing[,], an audited financial statement pursuant to this Part, an assessment cooperative property/casualty insurer with less than \$250,000 in direct premiums written in this State, including direct premiums of its affiliates, during the subject calendar year and fewer than 500 policyholders or reinsurance contract holders at the end of such calendar year shall submit an affidavit sworn to by a responsible officer of the insurer specifying the amount of direct premiums written in New York State and number of policyholders or reinsurance contract holders.

Section 136-2.2(e), (f), and (g) are amended to read as follows:

(e) *Consultant or advisor* shall mean any person (other than an OSC employee) or entity retained by the fund to provide technical or professional services to the fund relating to investments by the fund, including outside

investment counsel and litigation counsel, custodians, administrators, broker dealers, and persons or entities that identify investment objectives and risks[,]; assist in the selection of [money] investment managers, securities, or other investments[,]; or monitor investment performance.

(f) *Investment manager* shall [mean any person (other than an OSC employee) or entity engaged by the fund in the management of part or all of an investment portfolio of the fund. Management shall include, but is not limited to, analysis of portfolio holdings, and the purchase, sale, and lending thereof. For the purposes hereof, any investment made by the fund pursuant to RSSL section 177(7) shall be deemed to be the investment of the fund in such investment entity (rather than in the assets of such investment entity)] have the meaning set forth in Retirement and Social Security Law section 424-a(2)(a).

(g) *Placement agent* or *intermediary* shall [mean any person or entity, including registered lobbyists, directly or indirectly engaged and compensated by an investment manager (other than a regular employee of the investment manager) to assist the investment manager in obtaining investments by the fund, or otherwise doing business with the fund, whether compensated on a flat fee, a contingent fee, or any other basis. Regular employees of an investment manager are excluded from this definition unless they are employed principally for the purpose of obtaining investments or providing other intermediary services with respect to the fund] have the meaning set forth in Retirement and Social Security Law section 424-a(2)(b).

Section 136-2.4(d) is amended to read as follows:

(d) Placement agents or intermediaries: In order to preserve the independence and integrity of the fund, to [address] prevent potential conflicts of interest, and to assist the Comptroller in fulfilling his or her duties as a fiduciary to the fund, the [Comptroller shall maintain a reporting and review system that must be followed whenever the fund engages, hires, invests with, or commits to, an outside investment manager who is using the services of a placement agent or intermediary to assist the investment manager in obtaining investments by the fund, or otherwise doing business with the fund. The Comptroller shall require investment managers to disclose to the Comptroller and to his or her designee payments made to any such placement agent or intermediary. The reporting and review system shall be set forth in written guidelines and such guidelines shall be published on the OSC public website] fund shall not engage, hire, invest with, or commit to an investment manager that is using the services of a placement agent or intermediary to assist such investment manager in obtaining investments by the fund, nor shall the fund engage, hire, invest with, or commit to an investment manager without obtaining from such investment manager a certification in the form and manner prescribed by the fund stating that such investment manager has not used the services of a placement agent or other intermediary to assist such investment manager in obtaining investments by the fund.

Section 136-2.5(g) is amended to read as follows:

(g) The Comptroller shall:

(1) file with the superintendent an annual statement in the format prescribed by Section 307 of the Insurance Law, including the retirement system's financial statement, together with an opinion of an independent certified public accountant on the financial statement;

(2) file with the superintendent the Comprehensive Annual Financial Report within the time prescribed by law, but no later than the time it is published on the OSC public website;

(3) disclose on the OSC public website, on at least an annual basis, all fees paid by the fund to investment managers, consultants or advisors, and third party administrators;

(4) [disclose on the OSC public website, on at least an annual basis, instances where an investment manager has paid a fee to a placement agent or intermediary;

(5)] disclose on the OSC public website the fund's investment policies and procedures; and

[(6)] (5) require fiduciary and conflict of interest reviews of the fund every three years by a qualified unaffiliated person.

Section 216.6(h) is amended as follows:

(h) Any notice rejecting any element of a claim involving personal property insurance shall contain the identity and the claims processing address of the insurer, the insured's policy number, the claim number, and the following statement prominently set forth:

“Should you wish to take this matter up with the New York State Department of Financial Services, you may file a complaint with the department either on its website at <http://www.dfs.ny.gov/consumer/fileacomplaint.htm> or [you may write to or visit] by writing to the Consumer Assistance Unit, [Financial Frauds and Consumer Protection Division,] New York State Department of Financial Services, at: One State Street, New York, NY 10004; One Commerce Plaza, Albany, NY 12257; 1399 Franklin Avenue, Garden City, NY 11530; or [Walter J. Mahoney Office Building, 65 Court] 535 Washington Street, Suite 305, Buffalo, NY [14202] 14203.”

Section 216.7(d)(3) is amended as follows:

(3) Any letter of explanation or rejection of any element of a claim shall contain the identity and claims processing address of the insurer, the insured's policy number, the claim number and the following statement, prominently set forth:

“Should you wish to take this matter up with the New York State Department of Financial Services, you may file a complaint with the department either on its website at <http://www.dfs.ny.gov/consumer/fileacomplaint.htm> or [you may write to or visit] by writing to the Consumer Assistance Unit, [Financial Frauds and Consumer Protection Division,] New York State Department of Financial Services, at: One State Street, New York, NY 10004; One Commerce Plaza, Albany, NY 12257; 1399 Franklin Avenue, Garden City, NY 11530; or [Walter J. Mahoney Office Building, 65 Court] 535 Washington Street, Suite 305, Buffalo, NY [14202] 14203.”

Section 218.5(a) is amended as follows:

(a) The following notice shall be clearly and prominently set out in bold face type on the front (except that the company name, company representative, company address and company phone number may be stamped, or typed in the appropriate place in the notice), so that it draws the reader's attention on all notices of refusal to issue,

cancellation or nonrenewal, except where the cancellation is for nonpayment of premium; and on all notices of termination of agents' and brokers' contracts or accounts, which are subject to this Part:

If you have any questions [in regard to] regarding this termination, please contact this company's representative at (company phone number, name of company representative, company address).

The New York Insurance Law prohibits insurers from engaging in redlining practices based upon geographic location of the risk or the producer. If you have any reason to believe that we have acted in violation of such law, you may file [your] a complaint with the department either on its website at www.dfs.ny.gov/consumer/fileacomplaint.htm or by writing to the [State of] New York State Department of Financial Services, Consumer Assistance Unit, [Financial Frauds and Consumer Protection Division,] at either [25 Beaver Street] One State Street, New York, NY 10004 or One Commerce Plaza, Albany, NY 12257.



Department of Financial Services

ANDREW M. CUOMO
Governor

LINDA A. LACEWELL
Superintendent

CERTIFICATION

I, Linda A. Lacewell, Superintendent of Financial Services, do hereby certify that the foregoing is the Fourth Amendment to Part 55 (Insurance Regulation 78), Fourteenth Amendment to Part 62 (Insurance Regulation 96), Ninth Amendment to Part 65-3 (Insurance Regulation 68-C) (Repeal of Form NF 10 of Appendix 13 and Addition of Form NF 10 to Appendix 13), Third Amendment to Part 89 (Insurance Regulation 118), Third Amendment to Part 136 (Insurance Regulation 85), Eighteenth Amendment to Part 216 (Insurance Regulation 64) and Tenth Amendment to Part 218 (Insurance Regulation 90) to Title 11 of the Official Compilation of Codes, Rules and Regulations of the State of New York, signed by me on May 19, 2021, pursuant to the authority granted by Sections 202 and 302 of the Financial Services Law, Sections 301, 305, 307, 308, 314, 331, 1109, 1202, 2601, 2610, 3403, 3411, 3412, 3429, 3429-A, 3430, 3433 and 4235 and Article 24 of the Insurance Law, and Section 424-a of the Retirement and Social Security Law, to take effect upon publication of the Notice of Adoption in the State Register.

Pursuant to the provisions of the State Administrative Procedure Act, prior notice of the proposed rule was published in the New York State Register on March 3, 2021. No other publication or prior notice is required by statute.

Linda A. Lacewell
Superintendent of Financial Services

Dated: May 19, 2021