

**NEW YORK STATE
INSURANCE DEPARTMENT**

**NINTH AMENDMENT TO REGULATION NO. 90
(11 NYCRR 218)**

**PROHIBITION AGAINST GEOGRAPHICAL REDLINING AND DISCRIMINATING IN
CERTAIN PROPERTY/CASUALTY POLICIES**

I, Howard Mills, Superintendent of Insurance of the State of New York, pursuant to the authority granted by Sections 201, 301, 307, 308, 3429, 3429-a, 3430, 3433, and Article 34 of the Insurance Law, do hereby promulgate the Ninth Amendment to Part 218 of Title 11 of the Official Compilation of Codes, Rules and Regulations of the State of New York (Regulation 90) to take effect upon publication in the State Register to read as follows:

(Matter in brackets is deleted; new matter is underlined)

The Title of Part 218 is hereby amended as follows:

PROHIBITION ~~[OF]~~ AGAINST GEOGRAPHICAL REDLINING ~~[IN WRITING PRIVATE PASSENGER AUTOMOBILE AND FIRE OR FIRE AND EXTENDED COVERAGE INSURANCE POLICIES]~~ AND DISCRIMINATING IN CERTAIN PROPERTY/CASUALTY POLICIES

Section 218.1 is hereby amended as follows:

218.1 Preamble

The purpose of this Part is to make fire or fire and extended coverage insurance, ~~[and] private passenger automobile insurance, and homeowners insurance~~ readily available in the voluntary market by ~~[prohibiting]~~ implementing statutory prohibitions against companies ~~[from] engaging in redlining practices through [refusal] refusing to issue or renew[,] or [from] cancelling fire or fire and extended coverage insurance, and private passenger automobile insurance~~ policies based solely on the geographic location of the risk; or by terminating or cancelling contracts or accounts of agents or brokers with respect to such policies based solely on their geographic location or the geographic location of the risks or properties for which coverage is being provided by such producers; or through refusing to issue or renew or cancelling homeowners insurance and fire or fire and extended coverage insurance policies based solely on the applicant for insurance or insured residing in an area serviced by a volunteer fire department.

Section 218.2 is hereby amended as follows:

218.2 Applicability

This Part shall be applicable [on and after October 1, 1979] only to:

(a) applicants for, and policies of, fire or fire and extended coverage insurance covering properties located in this state;

(b) applicants for, and policies of, automobile insurance covering risks in this state which are subject to section 3425 of the Insurance Law;[and]

(c) applicants for, and policies of, homeowners insurance, as such term is defined in section 2351(a) of the Insurance Law, to the extent that an insurance company refused to issue, refused to renew or cancelled insurance coverage because a person lives in an area serviced by a volunteer fire department, except for Section 218.7 of this Part; and

(d) contracts and accounts of agents and brokers writing insurance subject to this Part.

Section 218.5 is hereby amended as follows:

218.5 Complaints

(a) The following notice shall be clearly and prominently set out in boldface 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 [mailed or delivered on and after January 1, 1988]:

If you have any questions in regard to 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 complaint with the Department either on its website at www.ins.state.ny.us/complhow.htm or by writing to the State of New York Insurance Department, Consumer Services Bureau, at either 25 Beaver Street, New York, NY 10004 or One Commerce Plaza, Albany, 12257.

(b) Insureds, applicants, agents and/or brokers may file geographical redlining complaints with the superintendent when action taken by an insurer or its representative is believed to be in violation of provisions of section 3429, 3429-a, or 3433 of the Insurance Law.

Section 218.6(c) is hereby amended as follows:

(c) Any insurer found by the superintendent to be in violation of sections 3429, 3429-a, 3431(a), or 3433 of the Insurance Law shall be considered to be engaged in unfair methods of competition and unfair or deceptive acts or practices, and shall be subject to the provisions of article 24 of the Insurance Law.

Section 218.7 is hereby amended as follows:

218.7 Reports to superintendent

(a) In order to effectuate this [regulation] Part insurers shall[, no later than January 1, 1980,] maintain records by U.S. postal ZIP code of their agents and brokers in this state and maintain records by U.S. Postal Zip code of all agents and brokers in this state whose contracts or accounts have been terminated[on or after August 1, 1979 by U.S. postal ZIP code].

(b) In order to effectuate this [regulation] Part insurers shall also maintain by U.S. postal ZIP code a record of:

(1) all policies subject to this [regulation] Part issued, renewed, cancelled (other than for nonpayment of premium) or nonrenewed [on and after April 1, 1980]; and

(2) all applications for insurance subject to this [regulation] Part on which the insurer [on and after April 1, 1980] refuses to issue an insurance policy. For private passenger automobile insurance the ZIP code used may be that of the address to which premium notices are mailed. For policies with a term of other than one year or no fixed expiration date, renewed means the annual anniversary date.

(c) The information required to be maintained by subdivisions (a) and (b) of this section shall be kept current and made available to the Insurance Department upon its request.

(d) Reports [for the nine-month period ending December 31, 1980 and] for each full calendar year[thereafter,] containing the information required to be maintained in subdivisions (a) and (b) of this section, shall be filed with the Insurance Department annually on May 1 after the close of the preceding calendar year. Such reports shall be made in a format to be prescribed by the superintendent and every such report shall be public record.

(e)(i) Waiver of reporting requirements. [The filing requirements for reports of policies of fire or fire and extended coverage covering properties located in this State, due on or after May 1, 1984, and before July 1, 1996, is hereby waived if the total direct premium written for all such policies during the preceding calendar year totaled less than \$350,000.] The filing requirements for reports of policies of fire or fire and extended coverage concerning properties located in this State[, due on and after July 1, 1996,] is hereby waived if total direct premiums written for all such policies during the preceding year totaled less than \$500,000.

(ii) The filing requirement for reports of policies of automobile insurance covering risks in this state[, due on and after May 1, 1984,] is hereby waived if the total direct private passenger automobile liability premiums written for all such policies during the calendar year totalled less than \$500,000.

I, Howard Mills, Superintendent of Insurance of the State of New York, do hereby certify that the foregoing is the Ninth Amendment to Part 218 of Title 11 of the Official Compilation of Codes, Rules and Regulations of the State of New York (Regulation 90), entitled "Prohibition Against Geographical Redlining and Discriminating in Certain Property/Casualty Policies", promulgated by me on November 6, 2006, pursuant to the authority granted by Sections 201, 301, 307, 308, 3429, 3429-a, 3430, 3433, and Article 34 of the Insurance Law, to take effect upon publication in the State Register.

Pursuant to the provisions of the State Administrative Procedure Act, prior notice of the proposed amendment was published in the State Register on September 6, 2006. No other publication or prior notice is required by statute.

Howard Mills
Superintendent of Insurance

November 6, 2006