



**STATE OF NEW YORK
INSURANCE DEPARTMENT**
25 BEAVER STREET
NEW YORK, NEW YORK 10004

George E. Pataki
Governor

Gregory V. Serio
Superintendent

Circular Letter No. 23 (2002)
November 15, 2002

TO: ALL INSURERS AUTHORIZED TO WRITE MOTOR VEHICLE INSURANCE IN NEW YORK STATE; RATE SERVICE ORGANIZATIONS; AND INSURANCE PRODUCER ORGANIZATIONS

RE: SUPPLEMENTAL SPOUSAL LIABILITY INSURANCE

STATUTORY REFERENCE: SECTION 3420(g) OF THE INSURANCE LAW, and REGULATION 35-A

The purpose of this Circular Letter is to advise the insurance community of the recent enactment of Chapter 584 of the Laws of 2002, which amends Section 3420(g) of the Insurance Law to require motor vehicle liability insurers to offer supplemental spousal liability insurance to all policyholders, personal and commercial, in New York State who are covered under motor vehicle liability insurance policies that satisfy the requirements of Article 6 of the New York Vehicle and Traffic Law. Insurers must offer this coverage on all such motor vehicle policies issued or renewed that become effective on or after January 1, 2003.

The statute defines supplemental spousal liability insurance as coverage against the liability of an insured because of death of, or injury to, his or her spouse up to the liability insurance limits provided under the policy even where the injured spouse, to be entitled to recover, must prove the culpable conduct of the insured spouse. This coverage must be made available upon written request of the insured and payment of a reasonable premium.

In addition, the statute requires, for all policies issued or renewed to be effective on or after January 1, 2003, that insurers provide appropriate written notification of the availability of this coverage. The notification must be contained on the front of the premium notice in boldface type and include a concise statement that supplementary spousal coverage is available, an explanation of such coverage, and the premium for the coverage. Subsequently, this information must be provided in a notification to all insureds at least once a year. This subsequent notification must contain the information detailed above. Section 60-1.6(b)(5) of the recently promulgated Seventh amendment to Regulation 35-A (11 NYCRR 60-1) contains a sample notification.

In order to be in compliance with the statute, insurers are advised to submit, as soon as possible, policy forms affording this type of coverage to the Department for the Superintendent's review and approval. Although insurers are required to provide notice of this coverage to their insureds, the policy notices are not subject to filing with the Department, unless they are made part of a policy form, such as the declaration page. If an insurer uses a different notice from the one contained in the regulation, the notice must contain substantially all of the same information in a clear and readable manner.

Rates and rating rules associated with such coverage must also be filed with and approved by the Superintendent.

Insurers are encouraged to utilize the Speed-To-Market filing procedures for the required policy form filings. Information on the speed-to-market process can be obtained from the Department's website at www.ins.state.ny.us.

Any questions and/or comments with respect to this matter may be directed to:

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New York State Insurance Department

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Very truly yours,

Mark Presser
Assistant Deputy Superintendent and
Chief Examiner
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