



**STATE OF NEW YORK
INSURANCE DEPARTMENT**
25 BEAVER STREET
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George E. Pataki
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Circular Letter No. 2 (2003)
January 24, 2003

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

RE: RENTAL VEHICLE COVERAGE

STATUTORY REFERENCE: SECTION 396-z OF THE GENERAL BUSINESS LAW, CHAPTER 656 OF THE LAWS OF 2002, REGULATION NO. 35-A AND REGULATION NO. 6

The purpose of this Circular Letter is to call the attention of the insurance community to the recent enactment of Chapter 656 of the Laws of 2002, which includes amendments of Section 396-z of the General Business Law. These amendments make significant changes that have an impact on rental vehicle companies, their customers, and insurers. Insurers, rate service organizations, and insurance producers are advised to familiarize themselves with the provisions of Chapter 656 to determine its impact on their rights, duties, and procedures with respect to rental vehicle coverage. The effective date of Chapter 656 is February 24, 2003.

The new statute provides that rental vehicle companies may offer to sell "optional vehicle protection" to its renters at maximum daily rates of up to \$9 or up to \$12 as specified in the statute. Rental vehicle companies must advise prospective renters to examine their credit card protections and automobile insurance policies to determine if they have rental vehicle coverage.

The statute has also been amended to remove the \$100 limitation on liability that may be imposed by rental vehicle companies in New York State for damage to or loss of rental vehicles. As a result of this change, the renter may be held fully responsible for damage to a rental vehicle unless the renter purchases "optional vehicle protection" or has coverage under an insurance policy or credit card. Accordingly, in the recently promulgated Eighth Amendment to Regulation No. 35-A (11 NYCRR 60-1), the policyholder notice contained in Section 60-1.5(i) of the regulation has been revised, to delete the reference to the \$100 maximum charge. Although, pursuant to Section 3440(d)(1) of the Insurance Law, 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. 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.

Insurers should see to it that their claims personnel are aware of the changes made by Chapter 656 concerning the rights and duties of various parties with respect to incident reporting, inspection of a damaged rental vehicle, loss adjustment and claim settlement.

New provisions from Chapter 656 specifically pertaining to the rights and duties of authorized drivers and their insurers regarding inspection of a damaged rental vehicle have been incorporated into revised Section 216.10 of Regulation No. 64 (11 NYCRR 216) in the recently promulgated Ninth Amendment to Regulation No. 64. It should be noted that existing provisions on claims treatment in Regulation No. 64 still apply and that the new law may further limit an insurer's rights in processing a claim.

In addition, insurers should be aware that new Section 396-z(6) provides the standards for determining the maximum amount for which an authorized driver who does not purchase the "optional vehicle protection" will be responsible for physical or mechanical damage to a rental vehicle.

Insurers should review their current procedures and make necessary changes to be in compliance with Chapter 656, the revised provisions in Regulation No. 35-A and the new provisions in Regulation No. 64.

Very truly yours,

Mark Presser
Assistant Deputy Superintendent and
Chief Examiner
Property Bureau