

**NEW YORK STATE  
INSURANCE DEPARTMENT**

**SECOND AMENDMENT TO REGULATION NO. 1**

**(11 NYCRR 1)  
DEFINITIONS**

**&**

**(11 NYCRR 2)  
PROMULGATION OF REGULATIONS; OPINIONS**

I, Gregory V. Serio, Superintendent of Insurance of the State of New York, pursuant to the authority granted by Sections 201 and 301 of the Insurance Law, do hereby promulgate the following Second Amendment to Parts 1 and 2 of Title 11 of the Official Compilation of Codes, Rules and Regulations of the State of New York (Regulation No. 1), to take effect upon publication in the State Register, to read as follows:

Section 1.3 of Part 1 is amended to read as follows:

**§ 1.3 Opinion.**

An *opinion* is an informal statement of the interpretation or construction of any law or official regulation of the superintendent, in reference to a particular situation involving the exercise of any authority of the superintendent under the Insurance Law, when made by an official or salaried employee of the Insurance Department in the regular course of his or her duties.

Sections 2.1, 2.2, 2.3, and 2.4 of Part 2 are amended to read as follows:

**§ 2.1 Form of regulations.**

All regulations shall be signed by the superintendent, shall be dated as of date of signature, should have short descriptive titles indicating the subject matter to which they relate, and should cite the section or sections of the Insurance Law which authorize their issuance. A regulation which modifies or supersedes a prior regulation should refer to the regulation or regulations so modified or superseded. They are to take effect [from date of signature unless otherwise stated] in accordance with the applicable provisions of the State Administrative Procedure Act.

**§ 2.2 Promulgation.**

(a) Regulations shall be promulgated in compliance with the provisions of the State Administrative Procedure Act and other applicable law.

(b) Copies of regulations should be sent to all authorized insurers affected thereby, and regulations governing the conduct of agents, brokers and other persons directly affected thereby should be given appropriate publicity or be communicated to such persons by such means as may be deemed convenient and practicable.

### **§ 2.3 Recording and indexing.**

All regulations shall be signed by the superintendent in duplicate and the duplicate originals shall be kept in two sets of loose-leaf books of which one shall be kept in the offices of the Insurance Department in Albany and in the City of New York. These copies are not to be taken from the Insurance Department except under order of court. It shall be the duty of the department counsel, or of a deputy superintendent designated for that purpose, to see that all regulations are consecutively numbered, properly recorded and indexed by reference to subject matter and to the section or sections of the Insurance Law. The regulations and index shall be open to public inspection.

### **§ 2.4 Copy to Secretary of State.**

Promptly upon the making of an official regulation, which is required to be filed pursuant to section 8 of article IV of the Constitution of New York and the provisions of the State Administrative Procedure Act, a copy thereof shall be filed in the office of the Secretary of State.

Subdivision (f) of Section 2.5 of Part 2 is amended to read as follows:

(f) If [the official or employee giving the opinion deems the same] an opinion is deemed to be sufficiently important as a guide to the future action of the Insurance Department to justify keeping a permanent record thereof, [he shall send a carbon copy thereof to the department counsel in Albany and to the deputy superintendent in New York City designated for that purpose, each of whom shall file or record the same in his office, and shall make up a card index giving the subject matter, date, addressee and sender of the opinion and the section or sections of the Insurance Law involved. The record of opinions shall not be opened to public inspection; but any deputy superintendent or the department counsel may, if he deems it advisable, give to any person or publication appropriate excerpts from opinions] the opinion shall be filed and retained in accordance with internal department procedures. The public disclosure of opinions shall be subject to the provisions of the Freedom of Information Law and Part 241 of this Title (Regulation 71).

Section 2.7 of Part 2 is amended to read as follows:

### **§ 2.7 Designation of [deputies] department counsel to record regulations and opinions.**

Until further notice, regulations and copies of opinions will be recorded and indexed [in the New York office by the deputy superintendent in charge and in the Albany office] by the department counsel.

I, Gregory V. Serio, Superintendent of Insurance of the State of New York, do hereby certify that the foregoing is the Second Amendment to Parts 1 and 2 of Title 11 of the Official Compilation of Codes, Rules and Regulations of the State of New York (Regulation No. 1), promulgated by me on October 15, 2002, pursuant to the authority granted by Sections 201 and 301 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 August 14, 2002. No other publication or prior notice is required by statute.

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Gregory V. Serio  
Superintendent of Insurance

October 15, 2002