

**NEW YORK STATE  
INSURANCE DEPARTMENT**

**SECOND AMENDMENT TO 11 NYCRR 16  
(REGULATION 86)**

**SPECIAL RISK INSURANCE**

I, Gregory V. Serio, Superintendent of Insurance of the State of New York, pursuant to the authority granted by Sections 201, 301, 307 and 308 and Article 63 of the Insurance Law, do hereby promulgate the following second amendment to 11 NYCRR 16 (Regulation 86) to take effect upon publication in the State Register, to read as follows:

**(UNDERLINED MATTER IS NEW; MATTER IN BRACKETS IS DELETED)**

Subsection (e) of section 16.12 is amended to read as follows:

(e) The following is a list and description of coverages that may be written as class 2 risks pursuant to section 16.1(f)(2) of this Part:

Statistical Code	Classification
2-14006	Air Bag Repacking - Coverage for liability claims resulting from the improper packaging of air bags.
2-14007	Alarm System Liability - Coverage against liability of alarm system installers and service contractors for failure to perform services agreed upon with customers or for failure of an alarm to function.
2-14190	Amusement Parks and Carnivals - Property and/or liability coverage for the owners/operators of amusement parks, theme parks and carnivals.
2-14191	Amusement Rides and Devices - Property and/or liability coverage for the owners/operators of amusement rides and devices including bumper cars, go-carts and go-cart tracks, giant slides, skateboard tracks, roller-blade tracks, etc.
2-14165	Animal Liability - Coverage against bodily injury and property damage caused by animals owned by the policyholders.
2-10017	Animal Mortality - Coverage against the death of any domesticated or wild animal from any cause.
2-14010	Animal Rides - Liability coverage against bodily injury or property damage caused during the operation of animal ride concessions at zoos, amusement parks,

circuses, picnics or private parties. Includes coverage for children bitten or thrown by the animal due to excitement, or the negligence of the attendant.

- 2-16003 Armored Car, Couriers or Check Cashing Operations - Crime coverage for armored car services, couriers transporting valuable documents and securities, and check cashing operations.
- 2-22003 Auto Racing and Automobile Race Track Liability - Coverage for claims of spectators, participants or other third parties in connection with the operation of an automobile race track or drag strip, or the staging or conduct of an automobile race.
- 2-13001 Automobile Personal Injury Protection (PIP) Excess of \$150,000 - First Party, New York No-Fault PIP benefits, excess of \$150,000.
- 2-22002 Automobile Racing Liability - Liability coverage for owners or lessors of race tracks for oval track events, drag races, monster truck rallies, motorcross, motorcycle, boat or snowmobile racing, and other types of motorized vehicle competitive events.
- 2-14019 Banks - Mortgage Interest - All Risks - Coverage of the bank's mortgage interest for any reason - must be a non-standard form.
- 2-13002 Blood Banks, Blood and Organ Facilities Liability - Liability coverage for facilities that primarily deal with the collection, storage and distribution of blood, blood products and human organs.
- 2-13003 Boats and Yachts - (1) High Speed Boats - Property and liability coverage for the owners and operators of boats capable of attaining speeds in excess of 40 miles per hour; or (2) Boat Rentals - Property and liability coverage for the owners and operators of boat rental facilities.
- 2-01007 Commercial Excess Property Insurance - Coverage for commercial excess property insurance where the underlying policy provides at least \$1 million in coverage.
- 2-13000 Commercial Excess and Umbrella Liability Insurance - 1. Coverage for commercial excess liability where the underlying policy limits are at least \$1 million per occurrence. 2. Coverage for commercial umbrella liability where the underlying automobile and general liability policies each contain limits of at least \$1 million per occurrence.
- 2-14000 Contractual Liability - Large Contracts - Coverage for liability assumed by an insured in an insured contract, where the value of the contract exceeds \$1 million.
- 2-14041 Data Processing Company Products Liability - Coverage against the failure of various data systems to perform the way the user thought or was promised they would perform.

- 2-14043 Demolition Contractors Liability - Coverage against the hazards involved in destruction of old property.
- 2-14045 Directors and Officers Liability Insurance - Education - Policies providing liability coverage for directors and officers, including managers and trustees, of schools, universities or boards of education.
- 2-14176 Directors and Officers Liability Insurance - Insurance Companies and Financial Institutions - Policies providing liability coverage for the directors and officers of insurance companies, banks, savings and loan associations, mortgage companies and other financial institutions.
- 2-14177 Directors and Officers Liability Insurance - Large Commercial Insureds - (a) Policies providing liability coverage for the directors and officers of corporations which: (1) have a net worth of at least \$15,000,000, as determined by an independent certified public accountant, as of the insured's fiscal year end immediately preceding the policy's effective date; or (2) have gross assets exceeding \$50,000,000 and a net worth of at least \$3,000,000, as determined by an independent certified public accountant, as of the insured's fiscal year end immediately preceding the policy's effective date; or (3) is a for-profit business entity that generates annual gross revenues exceeding \$50,000,000, and has a net worth of at least \$3,000,000, as determined by an independent certified public accountant, as of the insured's fiscal year end immediately preceding the policy's effective date; or (4) is a for-profit business entity that has gross assets exceeding \$50,000,000 and generates annual gross revenues exceeding \$50,000,000, as determined by an independent certified public accountant, as of the insured's fiscal year end immediately preceding the policy's effective date; or (5) is a not-for-profit organization or public entity with an annual budget exceeding \$50,000,000 for each of its three fiscal years immediately preceding the policy's effective date; or (b) Policies containing primary liability limits of at least \$5,000,000.
- 2-14161 Directors and Officers Liability Insurance - Political Action Committees - Policies providing liability coverage for directors, officers, managers, or trustees of political action committees. This may also include liability coverage for the entity that has established the political action committee in regard to the activities of such committee.
- 2-14047 Directors and Officers Liability Insurance - Public Officials - Policies providing liability coverage for directors and officers, including managers and trustees, of public entities.
- 2-14048 Directors and Officers Liability Insurance - Union Officials - Policies providing liability coverage for directors and officers, including managers, fiduciaries (including ERISA), administrators and trustees of unions or labor organizations, and the employee benefit plans related thereto.
- 2-01006 Electrical Disturbance - Coverage for "loss resulting from any electrical injury or disturbance to electrical appliances, devices, fixtures or wiring caused by

electrical currents artificially generated.” This coverage is designed to offset the “electrical apparatus” exclusion usually contained in fire policies.

- 2-14181 Elevator Contractors Liability Insurance - Liability coverage for contractors who perform installation, repair or inspection services of, or to, escalators or elevators.
- 2-14055 Environmental Impairment/Pollution Liability - Liability coverage and/or pollution clean-up expense coverage for the following: asbestos abatement contractors; general pollution liability; environmental impairment; lead abatement contractors; hazardous waste disposal sites; hazardous waste haulers and shippers; hazardous waste site mitigation contractors; radon mitigation contractors; radon testing firms; underground storage tanks - marketers; and underground storage tanks - non-marketers.
- 2-14192 Explosives, Munitions or Fireworks - Manufacturing or Display - Property and/or liability coverage for the manufacturer of explosives, munitions or fireworks and firms which produce fireworks displays or exhibitions.
- 2-14060 Exterminators, Herbicide and Pest Control Contractors Liability - Coverage for liability arising out of use of hazardous pesticides needed to control termites and rodents; may include errors and omissions coverages and contractual liabilities from warranties and annual inspections.
- 2-14061 Fair Employment Practices Liability - Employment practices and procedures, excluding intentional acts and excluding acts of discrimination.
- 2-04002 Federal Crime Program - Excess on Commercial Risks - Coverage in excess of coverage available through state or federal crime insurance programs.
- 2-14183 Fiduciary Liability (Risks Outside New York) - Liability coverage for fiduciaries residing in New York, for risks located outside of New York.
- 2-14160 Film Producers/Theatrical Producers Indemnity Insurance - Insurance for producers of motion pictures, television programs, theatrical (stage) productions, documentaries, industrial films, commercials and educational productions. Coverage would include, but is not limited to: 1. Unauthorized use of format, idea, titles, music, etc.; 2. Libel, slander, invasion of privacy, failure to acknowledge “credits” or contributions of others; 3. Third party property damage; 4. Equipment owned or leased; 5. Props, sets and wardrobes; 6. Time element coverage for unavailability of cast, damaged film or negatives; 7. Extra expense due to delays caused by a covered peril.
- 2-05001 Fine Art Dealers - All-risk or named perils coverage for property held for sale by fine art dealers.
- 2-01010 First Loss Property Insurance - Property and Time element coverage for risks insured for at least \$1 million, but less than the total exposure to property and time element losses, where the remaining amount/exposure is insured by facultative excess reinsurance or excess insurance.

- 2-05002 Flood Insurance - (1) Flood insurance excess of maximum limits available from the Federal Flood Program; or (2) primary coverage on property not eligible for the Federal Flood Program.
- 2-13004 Golf Driving Range Liability - Personal injury or property damage liability coverage associated with the operation of a driving range, e.g., flying golf balls, improperly wielded golf clubs, etc.
- 2-10001 Horse and Pony Policy - Coverage for the death of the insured animal, including veterinary fees; coverage for loss by theft or straying; and coverage for loss of the value of the insured animal caused by non-fatal sickness or accident.
- 2-13005 Horseback Riding Establishments - Coverage for riding academies and pony rides.
- 2-14193 House Movers and Building Demolition Contractors - Coverage for liability arising out of the moving of a house or the demolition of a building, for example, injury caused by falling brick, flying debris, etc. and structural or other damage to a house being moved.
- 2-14072 Institutional Administrators Liability - Coverage for acts in the capacity of administrator of the institution.
- 2-14174 Joint Hospital and Voluntary Attending Physicians Excess Professional Liability Insurance - "Voluntary Attending Physician Program" (channeling) means a program recognized by Section 3436 (a) of the Insurance Law which insures one or more hospitals and includes, as additional named insureds, persons who are voluntary attending physicians, with coverage applicable to both practice conducted at a hospital with such program and the physicians' outside office practice, subject to the following minimum requirements: (1) coverage for the primary level shall be, at the minimum, one million dollars per occurrence/three million dollars in the aggregate, for each hospital, including its participating attending physicians; (2) coverage for excess layers shall be in excess of the primary level specified in paragraph (1) of this subdivision; (3) each hospital participant must be a licensed general hospital as defined in Section 2801 of the Public Health Law of the State of New York; (4) the hospitals shall maintain a joint educational program; (5) the hospitals shall subscribe to common guidelines for quality care assurance; (6) the hospitals shall share in, and commonly develop, safety programs; (7) there are demonstrable savings resulting from the joint insurance program; (8) the producer of record shall obtain a statement from each hospital to the effect that the aggregate limits of all coverage will, in the opinion of the directors or trustees (or their equivalent) of each hospital, be adequate for the risk exposure; (9) each hospital shall maintain full affiliation with the sponsoring program; (10) coverage shall be issued either individually to the hospitals or on a group basis but, in either case, the attending physicians shall be issued certificates of insurance evidencing their coverage; (11) each such channeling program, as an experimental program, shall be limited to no more than 1,500 attending physicians, in actual practice, but a physician who retires from practice shall not be included in the computation and another physician may be enrolled in such case; and (12) the channeling program shall have been permitted by the

Superintendent prior to the enactment of Section 3436(a) of the Insurance Law on July 1, 1986. No new program shall be authorized, and no additional hospital shall join any existing program after such date.

- 2-07001 Kidnap and Ransom Insurance - Coverage for losses incurred by the insured as a result of the surrender of property due to extortion associated with the kidnapping or alleged kidnapping of an employee or members of the household of an employee.
- 2-14057 Large Deductible or Self-Insured Retention Insurance - Property and/or liability insurance policies having either a deductible or self insured retention of at least \$50,000.
- 2-13006 Lead Liability Insurance - Coverage for personal injury resulting from the ingestion or inhalation of lead or lead dust.
- 2-13007 Liquor Law Liability Coverage - Monoline liquor law liability coverage for taverns and restaurants only where liquor sales exceed 75% of total sales revenue.
- 2-10004 Livestock - Prospective Foal Coverage - Coverage against death or injury to livestock prior to birth and resulting loss of earnings.
- 2-14088 Logger's Liability Coverage - Coverage for damage negligently caused by a logging contractor.
- 2-14162 Media Liability - Coverage provided to advertising agencies, advertisers, authors, personal appearances, broadcasters, multi-media companies and publishers for liability arising from defamation (including libel and slander), invasion of privacy, infringement of intellectual property rights (including piracy, plagiarism, trademark and copyright), contextual errors and omissions and incitement.
- 2-02026 Mobile Home - Emergency Removal Service - Coverage for liability of mobile home park owner when removal is necessary due to named perils.
- 2-14196 Natural Disaster Protection – coverage for losses incurred by businessowners and homeowners to their place of employment and residences as a direct result of specified natural disasters. This coverage is intended to supplement any available basic property coverages maintained by the insured.
- 2-14999 Nuclear Risk Insurance - (1) Coverage for property of those directly engaged in the nuclear operations, including loss due to radioactive contamination of the insured's premises. (2) Coverage for bodily injury or property damage liability caused by the radioactive, toxic, explosive, or other hazardous properties of nuclear material.
- 2-14104 Petroleum Refineries - Excess of Loss Liability - Coverage for liability over primary insurance.
- 2-50000 Political Risk Insurance - Coverage for losses arising out of the actions of a foreign government. This includes: (1) loss of use or destruction of property

located in a foreign country; (2) loss of income from operations on uncompleted contracts in a foreign country; (3) nonpayment on contract due to the inability to convert foreign currency into "contract" currency; (4) termination of contracts due to license cancellations and embargoes; (5) war, civil war, revolution, rebellion or insurrection within a foreign country or along the route of shipment which prevents completion of contracts; or (6) expropriation, confiscation, naturalization, seizure, requisition or arbitrary and selective intervention by a foreign government preventing completion of contracts of otherwise affecting business operations of the insured in such country.

- 2-10014 Poultry - Insurance on the life of chickens, turkeys and other domestic poultry issued on a non-standard form; includes full weather perils as well as fire and other extended coverage perils, transportation and flood. Death caused by huddling or piling of the flock in reaction to a covered peril is also covered.
- 2-14115 Private Guards, Patrols, and Security Forces Premises and Operations Liability - Manufacturers and contractors exposure only.
- 2-14116 Product Failure Liability Insurance - Insurance covering a manufacturer for the failure of its products when the failure causes loss of use of a customer's tangible property which has not been physically damaged or destroyed. The product must fail to perform the function intended by the manufacturer and the failure must be due to a mistake or deficiency in design, formula, plan, printed instructions, etc., prepared by the manufacturer. The policy excludes loss arising out of any product manufactured entirely to a customer's specification or any other experimental or prototype product that has not been tried, tested and approved by the manufacturer.
- 2-14194 Product Liability Insurance - Product liability coverage for the following classes of risk only: aircraft parts manufacturers; automobile parts manufacturers; bioengineered products; farm equipment parts manufacturers; firearms manufacturers; helmet manufacturers; and pharmaceutical products manufacturers.
- 2-14118 Products - Recapture or Recalled - This provides coverage per the so-called "sistership liability" exclusion contained in the Products Policy. The coverage applies to damages claimed for the withdrawal, inspection, repair, replacement or loss of use of the named insured's products, or work completed by or for the named insured or of any property of which such products or work form a part, if such products, work or property are withdrawn from the market or from use because of any known or suspected defect or deficiency.
- 2-14119 Product Tampering - Coverage for the liability of manufacturers and marketers for losses due to personal injury or property damage caused by the unauthorized alteration, adulteration or contamination of the insured's product by third parties.

#### PROFESSIONAL /ERRORS & OMISSIONS LIABILITY

The following categories may be underwritten to cover liability arising out of the performance of professional duties:

- 2-14002 Accountants

- 2-14013 Architects
- 2-14178 Attorney's Errors and Omission - Large or High Risk Firms - Policies providing professional liability coverage for law firms consisting of at least 25 attorneys, or firms of any size in which more than five percent (5%) of the aggregate annual billings are derived from the following types of legal work: (1) Mergers and acquisitions; (2) Representing banks, savings and loan associations or other financial institutions on matters other than collections or real estate closings; (3) Matters involving the Securities Exchange Commission; or (4) Matters involving Admiralty Law.
- 2-14005 Advertisers
- 2-14021 Beauty Schools
- 2-14169 Cable Access Television (CATV)
- 2-14026 Clinical Laboratories
- 2-14028 Collection Agencies
- 2-14197 Commercial Real Estate Agents and Brokers – Policies covering the liability of real estate agents and brokers who are engaged in large commercial real estate projects. The policies would include, but are not limited to, liability coverage for acts arising out of the brokerage of sales and lease of real estate, property management, construction management and consulting, general consulting, franchising, joint ventures, mortgage brokering, appraisals, auction, referrals, business brokerage activities and the development of owned commercial and residential real estate.
- 2-14163 Community Health Center Wraparound - Policies providing professional liability coverage to community centers which receive funds under Section 330 of the Public Health Service Act and which have been made eligible for malpractice coverage under the Federal Tort Claims Act pursuant to the Health Centers Assistance Act of 1992 (Public Law 102-501).
- 2-14035 Corporate Trustees
- 2-14042 Data Processors - Programmers & Analysts
- 2-14051 Employee Benefit Plan Trustees
- 2-14054 Engineers
- 2-14164 Excess and Surplus Lines Brokers
- 2-14172 Film Distributors
- 2-14179 Insurance Companies and Financial Institutions - Policies providing errors and omissions coverage to insurance companies, banks, savings and loan associations, mortgage companies and other financial institutions.
- 2-14198 Interior Designers – Professional liability coverage for the development and implementation of designs for interior environments, including the preparation of drawings and specifications for non-load-bearing interior construction.
- 2-14076 Investment Counselors
- 2-14078 Land Surveyors
- 2-14180 Large Firms - Policies providing errors and omissions coverage to individuals, partnerships or professional corporations having annual billings of \$20,000,000 or more.
- 2-14092 Marine Surveyors
- 2-14170 Medical Arts Schools and Colleges - Including acts of students not otherwise covered.
- 2-14096 Mobile X-Ray Units
- 2-14036 Municipal and Public Entities
- 2-14100 Mutual Funds

- 2-14103 Nursing Homes - Administrators  
 2-14106 Paramedics  
 2-14185 Physicians - Temporaries - Physicians, under contract with a commercial entity, placed on a part-time or full-time basis with hospitals, government agencies or private practices to fill the temporary staffing needs of those providers.
- 2-14109 Pension Plan Trustees  
 2-14108 Pension Plan Consultants  
 2-14111 Physicians - Medical Students - Those in training to be physicians or nurses.  
 2-14171 Psychologists  
 2-14112 Police Officers  
 2-14166 Publicists and Public Relations  
 2-14125 Reducing Salons  
 2-14129 Scalp Treatment  
 2-14138 Social Services Agencies - Excluding medical or other health services.  
 2-14139 Social Workers  
 2-14143 Stockbrokers  
 2-14168 Talent (Artists)  
 2-14153 Trustees and Fiduciaries  
 2-14155 Trustees - Trust Department
- 2-13008 Recreational Guide Services - Coverage for outfitters and guides for camping, hiking, rafting and similar recreational activities.
- 2-22004 Residual Value Insurance (Commercial Risks Only) - Residual Value Insurance as defined in section 1113(a)(22) of the Insurance Law, but shall not include residual value insurance on motor vehicles or policies subject to Insurance Law section 3425. (Note that residual value insurance does not include gap insurance.)
- 2-27008 Schools - Special Education Programs - Legal Liability
- 2-14130 Securities & Exchange Act Liability Insurance - Policies providing liability coverage for directors, officers, managers, trustees, shareholders and other professionals for: (1) Liability arising out of the Securities and Exchange Act and similar federal, state, local or foreign government law involving the sale or purchase of securities; (2) Liability arising out of the registration (or failure to register) of securities with the Federal Trade Commission; or (3) Liability arising out of the alleged use of non-public information in a manner violative of the Securities and Exchange act.
- 2-14195 Security Guards - Armed and/or Using Dogs - Professional liability coverage for security guard firms which provide guards using firearms or dogs.
- 2-13009 Skating Rinks - Liability coverage for injury to participants and spectators in ice and roller skating rinks.
- 2-13010 Ski Area Liability - Liability coverage for owners and operators of ski resorts, ski lifts, ski equipment sales and rental, ski lessons, ski trail maintenance, snow-making operations, etc.

- 2-28003 Ski Resort High Limit - Accidental Death and Dismemberment - Coverage in excess of \$500,000 only.
- 2-14141 Special Events Insurance - Policies providing coverage for unique exposures of limited duration which require varied and specialized pricing and coverage. Types of coverage would include legal liability, contractual liability, all risk coverage, CGL coverage, etc. Policies would be issued to, among others, sponsors, organizers, performers and participants of trade shows, parades, flea markets, concerts, etc.
- 2-14142 Sports Instructors Liability - Coverage for judo and karate instructors, scuba or skin diving instructors and water-ski or snow-ski instructors.
- 2-02038 Television Breakdown-Closed Circuits - Covers the reduction in gross admission fees caused by interruption by breakdown, failure, malfunctioning or any disorder of equipment lines and appurtenances thereto, which prevents presentation of the audio or showing of the telecast.
- 2-13011 Tractor Pulls/Mud Bogs - Liability coverage for claims of spectators, participants or other third parties in connection with the operation of organized exhibitions, races or demonstrations primarily involving "Monster" trucks, tractors and similar off-road vehicles.
- 2-50001 Trade Credit Insurance – Coverage for manufacturers, wholesalers, service organizations, etc., against the loss of an outstanding monetary interest in trade receivables for goods or services provided on credit, due to insolvency of the debtor or due to a political event in the debtor's country which prevents repayment.
- 2-18001 Tuition Refund Broad and Limited Plans - This coverage refunds the unused fees due to class time lost when a student is absent or withdrawn from classes because of illness or accident.
- 2-14196 Warehouseman's Liability - Coverage for the liability of a warehouse owner and/or operator for loss or damage to the lawful goods of others in their care, custody or control.
- 2-01001 Weather Insurance – Property coverage for a pecuniary loss or loss of use as a result of any adverse weather event causing the pecuniary loss or loss of use.

I, Gregory V. Serio, Superintendent of Insurance of the State of New York, do hereby certify that the foregoing is the Second Amendment to 11 NYCRR 16 (Regulation 86), promulgated by me on August 16, 2002, pursuant to the authority granted by Sections

201, 301, 307 and 308 and Article 63 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 June 19, 2002. No other publication or prior notice is required by statute.

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Gregory V. Serio  
Superintendent of Insurance

August 16, 2002