

NEW YORK STATE
INSURANCE DEPARTMENT
FOURTH AMENDMENT TO REGULATION NO. 95
(11 NYCRR 86)

REPORT OF SUSPECTED INSURANCE FRAUDS TO INSURANCE FRAUDS
BUREAU; REQUIRED WARNING STATEMENTS

I, GREGORY V. SERIO, Superintendent of Insurance of the State of New York, pursuant to the authority granted by Sections 201, 301, 403(c), (d) and (e), 409 and 4322 of the Insurance Law, Chapter 480 of the Laws of 1992, Chapter 729 of the Laws of 1993, and Chapter 2 of the Laws of 1998, do hereby promulgate the following Fourth Amendment to Part 86 of Title 11 of the Official Compilation of Codes, Rules and Regulations (Regulation No. 95) to take effect on November 1, 2003.

(NEW MATTER UNDERSCORED, MATTER IN BRACKETS DELETED)

Section 86.1 of Part 86 is amended to read as follows:

§ 86.1 Introduction.

This Part is hereby promulgated to establish procedures to effectuate the purposes of the Insurance Frauds Prevention Act (L. 1981, ch. 720), as amended.

Subdivision (e) of Section 86.2 is amended to read as follows:

(e) Insurer means an insurer authorized to do an insurance business in this State, including any organization exempted from compliance with the licensing requirements by the Insurance Law which is engaged in the business of insurance in this State. For the purposes of this Part, all health maintenance organizations, the Motor Vehicle Accident Indemnification Corporation, the New York Automobile Insurance Plan, the New York Property Insurance Underwriting Association, and the Medical Malpractice Insurance [Association] Plan [and the underwriting members of the New York Insurance Exchange, Inc.] shall be deemed insurers.

Subdivisions (a), (b) and (d) of Section 86.4 are amended to read as follows:

§ 86.4 Warning statements.

(a) [All] Except with respect to automobile insurance, all claim forms for insurance, and all applications [provided to applicants] for commercial insurance [and all claim forms for insurance, except personal automobile insurance, delivered] and accident and health insurance, provided to any person residing or located in this State [(on and after February 2, 1994)] in connection with insurance policies [to be issued or issued] for issuance or issuance for delivery in this State, shall contain the following statement:

"Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information, or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime, and shall also be subject to a civil penalty not to exceed five thousand dollars and the stated value of the claim for each such violation."

(b) All applications and claim forms for [personal] automobile insurance [delivered] provided to any person residing or located in this State [(on and after February 2, 1994)] in connection with [policies of personal automobile insurance and claims arising under policies of such insurance] insurance policies for issuance or issuance for delivery in this State shall contain the following statement:

"Any person who knowingly and with intent to defraud any insurance company or other person files an application for commercial insurance or a statement of claim for any commercial or personal insurance benefits containing any materially false information, or conceals for the purpose of misleading, information concerning any fact material thereto, and any person who, in connection with such application or claim, knowingly makes or knowingly assists, abets, solicits or conspires with another to make a false report of the theft, destruction, damage or conversion of any motor vehicle to a law enforcement agency, the department of motor vehicles or an insurance company, commits a fraudulent insurance act, which is a crime, and shall also be subject to a civil penalty not to exceed five thousand dollars and the value of the subject motor vehicle or stated claim for each violation."

(d) *Location of warning statements and type size.* [(1)] The warning statements required by subdivisions (a), (b) and (e) of this section shall be placed immediately above the space provided for the signature of the person executing the application or claim form and shall be printed in type which will produce a warning statement of conspicuous size. On claim forms which require execution by a person other than the claimant, or in addition to the claimant, the warning statements required by subdivisions (a), (b) and (e) of this section shall be placed at the top of the first page of the claim form or on the page containing instructions, either in print, by stamp or by attachment and shall be in type size which will produce a warning statement of conspicuous size.

[(2) Notwithstanding the provisions of paragraph (1) of this subdivision, insurers may affix the warning statements required by this Part to all application and claim forms by means of labels and/or stamps or by attachment during the period from February 2, 1994 to July 31, 1994.]

I, Gregory V. Serio, Superintendent of Insurance of the State of New York, do hereby certify that the foregoing is the Fourth Amendment to Part 86 of Title 11 of the Official Compilation of Codes, Rules and Regulations of the State of New York (Regulation No. 95), promulgated by me on August 11, 2003, pursuant to the authority granted by Sections 201, 301, 403(c), (d) and (e), 409 and 4322 of the Insurance Law, Chapter 480 of the Laws of 1992, Chapter 729 of the Laws of 1993, and Chapter 2 of the Laws of 1998.

Pursuant to the provisions of the State Administrative Procedure Act, prior notice of the proposed regulation was published in the State Register on June 4, 2003. No other publication or prior notice is required by statute.

Gregory V. Serio
Superintendent of Insurance

August 11, 2003