

**INSURANCE DEPARTMENT OF THE STATE OF NEW YORK
FIRST AMENDMENT TO
REGULATION NO. 119
11 NYCRR 151
WORKERS' COMPENSATION INSURANCE RATES**

I, Eric R. Dinallo, Superintendent of the Insurance Department of the State of New York, pursuant to the authority granted by Sections 201 and 301 of the Insurance Law of the State of New York, and Section 27 of the Workers' Compensation Law of the State of New York, do hereby promulgate the first amendment to Part 151 of Title 11 of the Official Compilation of Codes, Rules and Regulations of the State of New York (Regulation No. 119), to take effect upon publication in the State Register, to read as follows:

Part 151 is hereby retitled: "Workers' Compensation Insurance Rates."

Part 151 (Regulation No. 119) is hereby renumbered Subpart 151-1, in sequence. Subpart 151-1 shall be entitled: "Rate Filings Prior Approval."

A new Subpart 151-2, entitled "Industry Standard Rate for Aggregate Trust Fund," is added to read as follows:

(ALL MATTER NEW)

Section 151-2.1 Preamble.

(a) Section 27 of the Workers' Compensation Law requires the present value of certain awards of compensation to be deposited into the Aggregate Trust Fund on either a mandatory basis or by the discretion of the Workers' Compensation Board. The present value is discounted by a percentage rate specified by section 27. On March 13, 2007, legislation establishing comprehensive reform to New York's Workers' Compensation Law was signed into law, becoming chapter 6 of the laws of 2007. Chapter 6 amended section 27 to replace the 6 % discount rate previously applicable to ATF deposits, as well as various other interest rates associated with ATF deposits, with an "industry standard rate" to be determined by the Superintendent of Insurance by regulation. Section 27, as amended, applies the industry standard rate to accidents occurring on or after January 1, 2001.

(b) After discussions with the New York State Insurance Fund (NYSIF) (which administers the ATF), insurers, the Workers' Compensation Board, and other interested parties, the superintendent has determined the industry standard rate. Among the factors that were considered by the superintendent in making this determination were the following:

- (1) the rate of return on invested assets experienced by the NYSIF in recent years;
 - (2) the investment performance of domestic property/casualty insurers;
 - (3) the rates of return on low risk investments of comparable duration to that of the ATF liabilities;
- and

(4) the discount rate used in calculating the minimum individual case reserves for policies of workers' compensation insurance, pursuant to section 4117(d) of the Insurance Law and section 86 of the Workers' Compensation Law.

Section 151-2.2 Industry Standard Rate.

The industry standard rate shall be five percent per year.

Section 151-2.3 Effective Date

This Subpart shall apply to all new deposits made into the ATF on or after July 1, 2007, for accidents occurring on or after January 1, 2001, as mandated by chapter 6 of the laws of 2007.

I, Eric R. Dinallo, Superintendent of Insurance of the State of New York, do hereby certify that the forgoing is the First Amendment to Part 151 of Title 11 of the Official Compilation of Codes, Rules and Regulations of the State of New York (Regulation No. 119), promulgated by me on June 9, 2008, pursuant to the authority granted by Sections 201 and 301 of the Insurance Law, and Section 27 of the Workers' Compensation Law of the State of New York, to take effect upon publication in the State Register.

Pursuant to the provisions of the State Administrative Procedure Act, prior notice of the proposed rule was published in the State Register on April 16, 2008. No other publication or prior notice is required by statute.

Eric R. Dinallo
Superintendent of Insurance

Dated: June 9, 2008