

**NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES
FOURTH AMENDMENT TO 11 NYCRR 16
(INSURANCE REGULATION 86)**

SPECIAL RISK INSURANCE

I, Benjamin M. Lawskey, Superintendent of Financial Services, pursuant to the authority granted by Sections 202 and 302 of the Financial Services Law and Sections 301, 307 and 308 and Article 63 of the Insurance Law, do hereby promulgate the following Fourth Amendment to Part 16 of Title 11 of the Official Compilation of Codes, Rules, and Regulations of the State of New York (Insurance Regulation 86) to take effect upon publication in the State Register, to read as follows:

(Matter Underlined is New; Matter in Brackets is Deleted)

Section 16.1(j)(1) is amended to read as follows:

(j) *Special risk means:*

(1) Class 1. Where all or part of the insured's business operations, for which coverage is authorized by the kinds of insurance defined in section 1113(a) of the Insurance Law, is insured in a single policy written in accordance with section 6303 of the Insurance Law, and which is written with or is reasonably expected to produce a billed annual premium of at least:

(i) \$100,000 for at least one kind of insurance; or

(ii) [~~\$200,000~~]\$150,000 for more than one kind of insurance where the premium for any one kind of insurance does not exceed \$100,000.

Section 16.2 is amended to read as follows:

Section 16.2 Limitations on transactions.

(a) For property/casualty insurers:

(1)(i) the insurer's net premiums written pursuant to section 6302 of the Insurance Law during [any four consecutive] the prior calendar [quarter period]year shall not exceed [the greater of: (i) 20]75 percent of the surplus to policyholders, as reported in the insurer's annual [or quarterly]statement filed with [this department as of the end of the quarter immediately preceding such period; or] the superintendent for the corresponding calendar year;

(ii) [an amount which, when added to all other net premiums written during such period,] the insurer's direct premiums written pursuant to section 6302 of the Insurance Law during the prior calendar year shall not exceed 75 percent of the surplus to policyholders, as reported in the insurer's annual statement filed with the superintendent for the corresponding calendar year; and

(iii) the insurer's total net premiums written [produces a sum that] in the United States shall not exceed 200 percent of surplus to policyholders, as reported in the insurer's annual [or quarterly]statement filed with [this department, as of the end of the quarter immediately preceding such period] the superintendent for the corresponding calendar year.

(2) [In no event shall an insurer's net premiums written pursuant to section 6302 of the Insurance Law in any four consecutive calendar quarter period exceed 25 percent of that insurer's total net premiums written during such period, unless the insurer has received prior written approval from the superintendent to exceed this 25 percent limitation.] An insurer may request the superintendent's prior written approval to exceed the limitations specified in paragraph (1) of this subdivision. If the superintendent determines that it would not be harmful to policyholders or the people of this State, the superintendent may in such approval allow the insurer to exceed such limitations. The approval shall specify what limits may apply. In reviewing an application for such an approval, the superintendent shall consider:

(i) the market need for the coverage;

(ii) the insurer's financial condition;

(iii) the type of business to be written by the insurer within and without the insurer's holding company system, including a breakdown, by annual statement line of business, of business assumed and ceded within the insurer's holding company system;

(iv) the projected amounts of gross and net premiums to be written, by annual statement line of business, including a breakdown, by line of business, of the amounts of special risk premiums to be ceded to authorized special risk insurers; and

(v) other factors [that may affect the insurer's financial condition] affecting the insurer's compliance with applicable laws and regulations.

(b) For life and accident and health insurers[,];

(1) the insurer's net premiums written pursuant to section 6302 of the Insurance Law during [any] the prior calendar year shall not, for any line of business written, exceed one percent of the insurer's total net premiums written [during the year ending December 31st immediately preceding,] as reported in the insurer's annual statement filed with the superintendent for the corresponding calendar year for the same lines of business as reported in the gain and loss exhibit of the annual statement, separated into individual and group business; and

(2) the insurer's direct premiums written pursuant to section 6302 of the Insurance Law during the prior calendar year shall not, for any line of business written, exceed one percent of the insurer's total net premiums written as reported in the insurer's annual statement filed with the superintendent for the corresponding calendar year for the same lines of business as reported in the gain and loss exhibit of the annual statement, separated into individual and group business.

[(c) For the purposes of this section, no reinsurance credit shall be granted for special risk business ceded to any company not licensed pursuant to section 6302 of the Insurance Law.]

Section 16.3 is amended to read as follows:

Section 16.3 Disclosure to insureds.

(a) The following notice shall appear conspicuously on the front page of each binder, policy, contract, rider or endorsement, and on all subsequent additions thereto, issued or renewed under Class 1 or 2 pursuant to section 6303(a)(1) or (2) of the Insurance Law, provided, however, that such notice need not appear separately on a rider or endorsement issued contemporaneously with, and as part of, a policy or contract, if, in accordance with the provisions of Insurance Law section 6303(a)(1) or (2) and this Part, all such riders or endorsements, and the rates associated therewith have not been filed with, the superintendent:

NOTICE: THESE POLICY FORMS AND THE APPLICABLE RATES ARE EXEMPT FROM THE FILING REQUIREMENTS OF THE NEW YORK [STATE] INSURANCE LAW AND REGULATIONS. HOWEVER, THE FORMS AND RATES MUST MEET THE MINIMUM STANDARDS OF THE NEW YORK INSURANCE LAW AND REGULATIONS.

(b) The following notice shall appear conspicuously on the front page of each binder, policy, contract, rider or endorsement, and on all subsequent additions thereto, issued or renewed under Class 3 pursuant to section 6303(a)(3) of the Insurance Law, provided, however, that such notice need not appear separately on a rider or endorsement issued contemporaneously with, and as part of, a policy or contract, if, in accordance with the provisions of Insurance Law section 6303(a)(1) or (2) or (3) and this Part, all such riders or endorsements have in fact not been approved by, and the rates associated therewith have not been filed with, the superintendent:

NOTICE: THESE POLICY FORMS ARE NOT SUBJECT TO THE APPROVAL REQUIREMENTS AND THE APPLICABLE RATES ARE EXEMPT FROM THE FILING REQUIREMENTS OF THE NEW YORK [STATE] INSURANCE LAW AND REGULATIONS. HOWEVER, THE FORMS AND RATES MUST MEET THE MINIMUM STANDARDS OF THE NEW YORK INSURANCE LAW AND REGULATIONS.

(c) Each “Notice” required by subdivision (a) or (b) of this section shall be in bold capital letters, no less than [three-eighths of an inch in height] fourteen point font, enclosed in a border.

Section 16.6 is amended to read as follows:

Section 16.6 Licensing.

(a) An authorized insurer may apply for a special risk license to transact business written pursuant to section 6302 of the Insurance Law by completing an application form, prescribed by the superintendent and available from the Property Bureau of the Department of Financial Services. Every special risk license shall be issued for a term expiring on August 31. Every such license may be renewed for the ensuing period of twelve months upon the filing of an application in conformity with this Part.

(b) An insurer shall file an application for a renewal license with the superintendent not less than 30 days prior to the date the license expires.

(c) Nothing in this Part shall authorize an insurer to do any kind of insurance business for which it is not licensed in this State.

Section 16.9 is amended to read as follows:

Section 16.9 Records maintenance and examination.

(a) An insurer granted a special risk license by the superintendent pursuant to section 6302 of the Insurance Law shall maintain in this State an underwriting office:

(1) that shall be under the control of the insurer's management and staffed with personnel who are charged with the responsibility for making underwriting decisions relating to policies issued pursuant to this Part; and

(2) in which the insurer shall maintain or have electronic access to the underwriting files, experience statistics, financial and other records, applicable to business underwritten and transacted under section 6302 of the Insurance Law, subject to examination by the [Insurance] Department] superintendent as often as the superintendent deems necessary.

(b) An insurer that does not renew its special risk license shall make its records regarding special risk business available to the superintendent upon request.

Section 16.12(e) 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:

<u>Statistical Code</u>	<u>Classification</u>
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.
- 2-14206 Auto/Boom Truck Operations/Liability
- Insurance policy providing both:
- (i) commercial auto coverage with limits of liability that meet or exceed the minimum financial responsibility limits; and
- (ii) commercial general liability risks for owners, operators and lessors of self-propelled or “road-ready” vehicles with articulated or telescopic arms, cranes or concrete pumpers permanently affixed. Includes liability coverage for operation of boom trucks where equipment was leased with (or without) the services of an operator. The policy shall provide separate and equal per occurrence limits of liability for the commercial auto liability coverage part and the commercial general liability coverage. In addition, any general policy aggregate limit of liability

shall not be applicable to the policy's commercial auto coverage part or to the products/completed operations coverage part and the declarations page shall specifically so indicate.

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] lessors of race tracks for oval track events, drag races, monster truck rallies, [motorcross] motocross, motorcycle, boat or snowmobile racing, and other types of motorized vehicle competitive events.

2-50008 Aviation Hull Insurance

Coverage for loss or damage to aircraft.

2-50007 Aviation Liability Insurance

Coverage against third party liability or passenger liability arising out of occupancy, operation or use of owned or non-owned aircraft. Coverage also may include liability arising out of the insured's use, ownership or maintenance of helipads and aviation building or premises.

2-14019 Banks - Mortgage Interest - All Risks

Coverage of the bank's mortgage interest for any reason - must be a nonstandard 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

(a) 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

(b) Boat Rentals

Property and liability coverage for the owners and operators of boat rental facilities.

- 2-13000 Commercial Excess and Umbrella Liability Insurance
- (a) Coverage for commercial excess liability where the underlying policy limits are at least \$1 million per occurrence.
- (b) Coverage for commercial umbrella liability where the underlying automobile and general liability policies each contain limits of at least \$1 million per occurrence.
- 2-01007 Commercial Excess Property Insurance
- Coverage for commercial excess property insurance where the underlying policy provides at least \$1 million in coverage.
- 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.
- 2-50002 Cyber Risks
- First and third party commercial lines coverage for loss or liability arising out of or relating to cyber risks, including data privacy breaches and other privacy risks, networks security risks, electronic advertising, intellectual property infringement and virus risks.
- 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]Certain Commercial Risks

(a) Policies providing liability coverage for the directors and officers of corporations [which] that:

(1) have a net worth of at least [\$15,000,000] \$7,500,000, 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] \$25,000,000 and a net worth of at least [\$3,000,000] \$1,500,000, 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] are for-profit business [entity] entities that [generates] generate annual gross revenues exceeding [\$50,000,000] \$25,000,000, and [has] have a net worth of at least [\$3,000,000] \$1,500,000, 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]are for-profit business [entity] entities that [has] have gross assets exceeding [\$50,000,000] \$25,000,000 and [generates] generate annual gross revenues exceeding [\$50,000,000] \$25,000,000, 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] are not-for-profit organizations or public [entity] entities with [an] annual [budget] budgets exceeding [\$50,000,000] \$25,000,000 for each of [its] the 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.

2-50003 Directors and Officers Liability Insurance - Private Company Package Policies.

Directors and Officers, Employment Practices Liability, Fiduciary, Crime, and Kidnap and Ransom containing primary liability limits of at least \$5,000,000.

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] including coverage for:
- (a) unauthorized use of format, idea, titles, music, etc.;
 - (b) libel, slander, invasion of privacy, failure to acknowledge “credits” or contributions of others;
 - (c) third party property damage;
 - (d) equipment owned or leased;
 - (e) props, sets and wardrobes;
 - (f) time element coverage for unavailability of cast, damaged film or negatives; and
 - (g) 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 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
- (a) Flood insurance excess of maximum limits available from the Federal Flood Program; or
 - (b) Primary coverage on property not eligible for 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 nonfatal 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
- [(a)] “Voluntary Attending Physician Program” (channeling) means a program recognized by Section 3436(a) of the Insurance Law which insures one or more hospital 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, \$1 million per occurrence/\$3 million in the aggregate, for each hospital, including its participating attending physicians;
 - (2) coverage for excess layers shall be in excess of the primary layer 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.
- 2-50004 Mergers and Acquisitions
- Insurance for claims arising from merger and acquisition transactions, including all related coverages that are permissible under the New York Insurance Law.
- 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 business owners 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
- (a) Coverage for property of those directly engaged in nuclear operations, including loss due to radioactive contamination of the insured's premises.
- (b) 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 or 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 or 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 nonstandard 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.

2-50005 Product Liability for Fire Extinguishers and Accessories

Lead and Wire Seal, Hose, Horn and Nozzle Assemblies, Foam, Buckets, Reducer, Calcium Chloride, Sodium Bicarbonate, Fire Hats.

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.

2-50009 Property Insurance for Highly Protected Risks (HPR)

Highly protected risks are properties that are subject to a substantially lower than normal probability of loss by virtue of superior construction, special fire protection equipment/procedures, and management commitment to loss prevention.

PROFESSIONAL/ERRORS AND OMISSIONS LIABILITY

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

2-14002 Accountants

2-14204 Actuarial Professional Liability Coverage

2-14005 Advertisers

2-14013 Architects

2-50006 Attorney's Errors And Omissions—Non law firms

Coverage for attorneys who are employed as lawyers by a business entity that is not a law firm.

2-14178 Attorney's Errors and Omissions – Large or High Risk Firms

[(a)] 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 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 collection or real estate closings;

(3) matters involving the Securities Exchange Commission; [or]

(4) matters involving Admiralty Law; or

(5) matters involving intellectual property including patents, trademarks and copyrights.

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 and Analysts

2-14051 Employee Benefit Plan Trustees

2-14054 Engineers

2-14164 Excess and Surplus Lines Brokers

2-14172 Film Distributors

2-14199 Health Maintenance Organizations (HMOs)

Policies providing errors and omissions coverage for a healthcare system that assumes or shares both the financial risk and delivery risk associated with providing comprehensive medical services to the voluntarily enrolled population in a particular geographic area, usually in return for a fixed, prepaid fee. This coverage excludes health care professionals.

- 2-14200 Independent Physicians Association (IPA)
- Policies providing errors and omissions coverage for an organization comprised of individual physicians or physicians in small group practices that contracts with managed care organizations (MCOs) on behalf of its member physicians to provide healthcare services. This coverage excludes health care professionals.
- 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, Asset Managers and Venture Capital Professionals and Management Liability
- 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
- 2-14108 Pension Plan Consultants

- 2-14109 Pension Plan Trustees
- 2-14111 Physicians - Medical Students
- [Those] Policies providing coverage for those in training to be physicians or nurses.
- 2-14185 Physicians – Temporaries
- [Physicians] Policies providing coverage for 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.
- 2-14112 Police Officers
- 2-14201 Preferred Provider Organization (PPO)
- Policies providing errors and omissions coverage for an organization that has a healthcare benefit arrangement designed to supply services at a discounted cost by providing incentives for members to use designated healthcare providers (who contract with the PPO at a discount), and also provides coverage for services rendered by healthcare providers who are not part of the PPO network. This coverage excludes health care professionals.
- 2-14171 Psychologists
- 2-14166 Publicists and Public Relations
- 2-14125 Reducing Salons
- 2-14129 Scalp Treatment
- 2-14138 Social Service Agencies
- Excluding medical or other health services.
- 2-14139 Social Workers
- 2-14143 Stockbrokers
- 2-14168 Talent (Artists)
- 2-14202 Third Party Administrator (TPA)
- Policies providing errors and omissions coverage for a company that provides administrative services to managed care organizations or self-funded health plans but that does not have the financial responsibility for paying benefits. This coverage excludes health care professionals.

2-14155 Trustees - Trust Department

2-14153 Trustees and Fiduciaries

2-14203 Utilization Review Organization (URO)

Errors and omissions policies for external organizations that conduct reviews to assess the medical appropriateness of suggested courses of treatment for patients thereby providing the patient and the purchaser increased assurance of the value and quality of healthcare services. This coverage excludes healthcare professionals.

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 and Exchange Act Liability Insurance

[(a)] 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 nonpublic 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
2-14205

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.



NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Benjamin M. Lawsky
Superintendent

I, Benjamin M. Lawsky, Superintendent of Financial Services, do hereby certify that the foregoing is the Fourth Amendment to Part 16 of Title 11 (Insurance Regulation 86) signed by me on October 17, 2012, pursuant to the authority granted by Sections 202 and 302 of the Financial Services Law and Sections 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 20, 2012. No other publication or prior notice is required by statute.

Benjamin M. Lawsky
Superintendent of Financial Services

Date: October 17, 2012