

**NEW YORK STATE  
INSURANCE DEPARTMENT**

**FIFTH AMENDMENT TO REGULATION NO. 55  
(11 NYCRR 130)**

**PROPERTY AND LIABILITY INSURANCE SECURITY FUND;  
CONTRIBUTIONS TO FUND AND APPLICABILITY OF INCOME OF FUND**

I, Gregory V. Serio, Superintendent of Insurance of the State of New York, pursuant to the authority granted by Sections 201, 301, 7601, 7603, and 7604 of the Insurance Law, do hereby promulgate the following Fifth Amendment to Part 130 of Title 11 of the Official Compilation of Codes, Rules and Regulations of the State of New York (Regulation 55), to take effect upon publication in the State Register, to read as follows:

(Matter in brackets is deleted; new matter is underlined)

The title of Part 130 of Title 11 is amended to read as follows:

[PROPERTY AND LIABILITY] PROPERTY/CASUALTY INSURANCE SECURITY FUND;  
CONTRIBUTIONS TO FUND AND APPLICABILITY OF INCOME OF FUND

The statutory authority references for Part 130 are repealed and a new statutory authority is added to read as follows:

Insurance Law Sections 201, 301, 7601, 7603, and 7604

Section 130.1 is amended to read as follows:

§ 130.1 Exclusion.

The kinds of insurance with respect to which contributions under section [334] 7603 of the Insurance Law are required shall not include those as to which contributions are required pursuant to section [330 or were required pursuant to section 333 prior to July 1, 1969. The medical payment portion of automobile premiums shall be included since these amounts were excluded from contribution under section 333] 7604.

Subdivision (b) of Section 130.3 is amended to read as follows:

(b) Such securities must be registered in the name of the Commissioner of Taxation and Finance, State of New York, in trust for the [Property and Liability] Property/Casualty Insurance Security Fund. Coupon or bearer securities will not be accepted.

Subdivision (a) of Section 130.4 is repealed.

Subdivision (b) of Section 130.4 is amended to read as follows:

[(b)] Income earned on and after July 1, 1979; *applicability to deficit of New York Property Insurance Underwriting Association*. [(1)] (a) Annually on or before each November 1st, the superintendent shall estimate the amount of income to be earned by the [Property and Liability]

Property/Casualty Insurance Security Fund (hereinafter referred to as "the fund") for the fiscal year beginning December 1st.

[(2)] (b) Annually on or before each November 1st, the New York Property Insurance Underwriting Association (hereinafter referred to as "the association") shall estimate its deficit from operations for the fiscal year beginning on December 1st, which shall be subject to the approval of the superintendent. Deficit from operations of the association shall mean the excess of loss over income after combining underwriting results with net investment gain or loss (net investment income earned and net realized capital gains or losses) and other income or losses. For the purposes of this [subdivision] section, other income shall include those amounts which are the subject of section 130.5 of this Part and which are due the association from any of its members, whether or not assessed by the association.

[(3)] (c) On or before the last day of January, and on or before the last day of each succeeding month thereafter, the superintendent shall certify to the Commissioner of Taxation and Finance the amount of income to be credited to the association, and the Commissioner of Taxation and Finance shall transfer such amount as soon as possible thereafter to the association. The amount of income to be so credited and/or transferred each month shall not exceed the lesser of (i) \$1,250,000; (ii) the estimated amount of income earned during the preceding month; or (iii) 1/12 of the estimated annual deficit of the association. Notwithstanding the foregoing, upon a showing of an emergency need by the association, the superintendent may authorize that any income earned by the fund which is available within the association's current fiscal period and which has not been transferred or credited within such period, be credited and/or transferred to the association. However, in no event shall such amount exceed the limit under section [654(1)(c)] 5405(d) of the Insurance Law.

[(4)] (d) Such transfer shall be accomplished by the Commissioner of Taxation and Finance delivering to the superintendent, for transmittal to the association, a check drawn upon the fund and payable to the association.

[(5)] (e) Any difference between the superintendent's annual estimated amount of income and the actual amount of income earned by the fund shall be taken into account in computing the estimate for the next succeeding period.

[(6)] (f) Any difference between the annual estimated deficit from operations and the actual result from operations of the association shall be taken into account for the purpose of transfer of income to the association under [paragraph (b)(4)] subdivision (d) of this section. The superintendent shall examine the records of the association annually in order to determine the accuracy of the deficit estimated by the association and reported to the superintendent.

[(7) (i)] (g)(1) If the assets of the association exceed its liabilities on the 30th day of November in any year commencing on or after April 1, 1982, as determined from reports required to be filed by the association with the superintendent, the association shall pay to the Commissioner of Taxation and Finance, for credit to the account of the fund, the amounts paid from the fund to the association which have not been repaid prior to such 30th day of November, together with any investment income attributable thereto, up to the amount of such excess. For the purpose of this [subdivision] section, liabilities of the association shall not include any balance due the fund. Any such payment required to be made by the association shall be made no later than February 1st of the following year.

[(ii)] (2) Investment income attributable to amounts transferred from the fund to the association, for which the association is liable to the fund pursuant to section [654] 5405 of the Insurance Law, shall be the ratio of the average fund amounts received and held by the association over the total average invested assets of the association, applied to the net investment gain (net investment income earned and net realized capital gains or losses) remaining after deduction for losses from underwriting and the inclusion of other income or losses as reported in the statements required to be filed with the superintendent for the respective periods involved.

[(iii)] (3) The superintendent may annually examine the association to determine the accuracy of the reports required to be filed. If upon examination it is found that additional amounts are due from the association, such payment shall be made no later than two months after demand by the superintendent.

*Note:* For the period August 1, 1979 through November 30, 1979 the deficit of the association was estimated as \$8,333,000. The provisions of the former section 130.4 provided for the transfer of up to \$1,250,000 of income earned by the fund after July 1, 1979, as estimated by the superintendent, to the association for each month from August, 1979, through December, 1979.

Sections 130.5 and 130.6 are amended to read as follows:

§ 130.5 Assessment by the association.

The association shall immediately establish and implement a procedure acceptable to the superintendent to assess and collect from its members, their respective shares of all amounts due relating to that portion of any estimated deficit from operations approved by the superintendent, pursuant to section [654(1)(b)] 5405(c) of the Insurance Law and remaining after application of the funds provided for by section [654(1)(c)] 5405(d) of the Insurance Law.

§ 130.6 Application of section [334] 7603.

The provisions of section [334] 7603 of the Insurance Law shall apply to all companies required to make contributions after September 1, 1969, except that the provisions in respect to the payment of claims shall apply only to those companies judicially determined insolvent by order entered after September 1, 1969.