

**NEW YORK STATE
INSURANCE DEPARTMENT**

**FIRST AMENDMENT TO REGULATION NO. 85
(11 NYCRR 136)**

**STANDARDS FOR ACTUARIALLY FUNDED PUBLIC RETIREMENT
SYSTEMS**

I, Gregory V. Serio, Superintendent of Insurance of the State of New York, pursuant to the authority granted by Sections 201, 301, 314, 7401(a), and 7402(n) of the Insurance Law, do hereby promulgate the following First Amendment to Part 136 of Title 11 of the Official Compilation of Codes, Rules and Regulations of the State of New York (Regulation No. 136) to take effect upon publication in the State Register, to read as follows:

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

The statutory authority references for Part 136 are repealed and a new statutory authority is added to read as follows:

Insurance Law Sections 201, 301, 314, 7401(a), and 7402(n)

Section 136.1 is amended to read as follows:

§136.1 Preamble.

(a) [Subdivision 2 of section 36-a] Subsection (b) of section 314 of the Insurance Law[, as added by chapter 382 of the Laws of 1973,] authorizes the Superintendent of Insurance to promulgate certain standards with respect to the public retirement and pension systems of the State of New York or of a municipality thereof. Specifically, [the subdivision] subsection (b) provides as follows:

“[2.] (b) Notwithstanding any other provision of law[, including the administrative code of the city of New York] to the contrary, the superintendent shall have, in addition to any other powers conferred upon him by law, [have] the following authority with respect to any system:

[(b) (2) to promulgate and amend from time to time, after consultation with the [permanent commission on public employee pension and retirement systems and the] administrative heads of systems and after a public hearing, standards with respect to actuarial assumptions, accounting practices, administrative efficiency, discharge of fiduciary responsibilities, investment policies and financial soundness.”

(b) This Part is designed to implement the legislative intent contained in the foregoing.

Section 136.9(b) is amended to read as follows:

(b) Any administrative head, executive or employee of a pension system subject to supervision by the Superintendent of Insurance who wilfully violates or knowingly participates in a violation of any standard promulgated pursuant to section [36-a] 314 of the Insurance Law shall be guilty of a breach of fiduciary responsibility.