

**NEW YORK STATE  
INSURANCE DEPARTMENT**

**FIRST AMENDMENT TO REGULATION NO. 70  
(11 NYCRR 165)**

**METHODOLOGIES FOR MEASURING THE PROFITABILITY OF  
PROPERTY AND LIABILITY INSURANCE LINES WRITTEN IN  
NEW YORK STATE**

I, Gregory V. Serio, Superintendent of Insurance of the State of New York, pursuant to the authority granted by Sections 201, 301, 2307(d), 2310(a), and 2323 of the Insurance Law, do hereby promulgate the following First Amendment to Part 165 of Title 11 of the Official Compilation of Codes, Rules and Regulations of the State of New York (Regulation No. 70), 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The statutory authority references for Part 165 are repealed and a new statutory authority is added to read as follows:

Insurance Law Sections 201, 301, 2307(d), 2310(a), and 2323

Section 165.1(a) is amended to read as follows:

(a) [Subdivision 3 of section 178] Section 2323 of the Insurance Law [, as added by chapter 13 of the Laws of 1973,] directs the Superintendent of Insurance, by regulation, to establish a method for determining and reporting profitability for each kind of property and liability insurance. Specifically, [the subdivision provides] subsections (a) and (b) of section 2323 provide as follows:

"[3.](a) The superintendent shall by regulation establish a method for determining profitability [(, from whatever source such profits are derived)], and rates of return on net worth, assets and earned premiums, with respect to each kind of insurance subject to this article, based on reasonable and uniform assumptions, including assumptions as to [(i)] (1) amounts of net worth attributable to such kinds of insurance, [(ii)] (2) assets available for investment generated by such kinds of insurance, [(iii)] (3) federal income taxes, and [(iv)] (4) average earnings on insurers' investments. [Such]

(b) The regulation shall require insurers annually to report to the superintendent, who [shall] will make [such] these reports available to the public, concerning such profitability and rates of return."

Section 165.2(e)(4) is amended to read as follows:

(4) These assumptions, based on industry-wide experience, are in accordance with [subdivision 3 of] section [178] 2323 of the Insurance Law, which calls for reasonable and uniform assumptions as to "[~~(ii)~~] (2) assets available for investment generated by such kinds of insurance" and "[~~(iv)~~] (4) average earnings on insurers' investments." The combination of these assumptions produces the investment earning assumptions listed above.

Section 165.3(a)(2) is amended to read as follows:

(2) The reports are to be filed in triplicate no later than April 1 of the year following [(except the 1974 profit report may be filed by April 15, 1975)], and shall be presented on forms to be supplied by the Insurance Department.