

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

COMMERCIAL LIABILITY INSURANCE FORM FILING COMPLIANCE QUESTIONNAIRE

COMPANY	Co. File No.
Company Contact:	Phone Number:
E-Mail Address:	Claims Made Eligible?
Sub-Type of Insurance	Type of Insurance

Instructions: All applicable items must be answered. Responses in the shaded area indicate non-compliance with Regulation Nos. 95, 107, 110, and/or 121 and New York Insurance Law Section Nos. 1113, 2307, 3105, 3106, 3420 and/or 3426. Failure to complete all items, or responses in the shaded area, will result in this filing being returned without further review.

I. ALL POLICIES

A. Policy complies with §2307 as follows:

- | | | |
|--|------------------------------|-----------------------------|
| 1. Is there coverage for any of the following? | | |
| a. Punitive or exemplary damages | YES <input type="checkbox"/> | NO <input type="checkbox"/> |
| b. Intentional acts | YES <input type="checkbox"/> | NO <input type="checkbox"/> |
| c. Assault and battery, except for defense of person or property | YES <input type="checkbox"/> | NO <input type="checkbox"/> |

B. Does the policy comply with § 3420 as follows?

- | | | |
|--|------------------------------|-----------------------------|
| 1. Policy is written on a "pay on behalf of" basis rather than on an indemnification basis | YES <input type="checkbox"/> | NO <input type="checkbox"/> |
| 2. Policy contains a proper insolvency clause | YES <input type="checkbox"/> | NO <input type="checkbox"/> |
| 3. Policy contains a proper judgment clause, and does not include the requirement that the judgment be "final", or obtained "after actual trial" | YES <input type="checkbox"/> | NO <input type="checkbox"/> |
| 4. Policy contains a provision permitting notice of claim to be given to company's agent. | YES <input type="checkbox"/> | NO <input type="checkbox"/> |
| 5. Is there a provision that failure to give timely notice shall not invalidate any claim if such notice is given as soon as reasonably possible? [NYIL §3420(a)(4)] | YES <input type="checkbox"/> | NO <input type="checkbox"/> |
| 6. Is there a provision that failure to give timely notice shall not invalidate any claim, unless such failure has prejudiced the insurer? [NYIL §3420(a)(5)] | YES <input type="checkbox"/> | NO <input type="checkbox"/> |
| 7. Is there a provision that, with respect to all liability claims (except property damage), if the insurer disclaims liability or denies coverage based upon the failure to provide timely notice, the injured person or other claimant may maintain an action directly against the insurer, provided the disclaimer or denial is based on such failure? [NYIL §3420(a)(6)] | YES <input type="checkbox"/> | NO <input type="checkbox"/> |

C. Defense Provisions

- | | | |
|--|------------------------------|-----------------------------|
| 1. Policy provides defense even if allegations are groundless, false or fraudulent? | YES <input type="checkbox"/> | NO <input type="checkbox"/> |
| 2. Policy provides for the orderly transfer of defense duties when a limit of liability is used up in the payment of judgements or settlements | YES <input type="checkbox"/> | NO <input type="checkbox"/> |
| 3. <input type="checkbox"/> Policy is written on a defense within limits basis; Does it comply with Regulation 107? (complete DWL checklist) | YES <input type="checkbox"/> | NO <input type="checkbox"/> |

D. If policy includes coverage for personal injury, does it contain, in substance, the items contained in §1113(a)(13)? YES NO

E. If the policy covers bodily injury, and that definition does not include mental anguish that results from a wrongful act, is some form of rate relief given? YES NO

F. Does policy language comply with §3426? (complete §3426 checklist) YES NO

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I. ALL POLICIES (continued)

- G. Policy is written on a claims-made basis; Does it comply with Regulation 121? (complete claims-made checklist) YES NO
- H. Does the policy contain warranties that violate §3105 or §3106? YES NO
- I. If more than one policy issued by the company/affiliate covers the loss, is coverage limited to the policy with the highest limit? YES NO
- J. Does the policy contain a definition of loading or unloading? YES NO
- K. Does the policy contain the name of an unlicensed company? YES NO
- L. Are there any blank forms? YES NO
- M. Are all forms numbered? YES NO
- N. Policy application:
 - 1. Has been filed for approval if part of the policy YES NO
 - 2. Complies with Regulation 95 YES NO
- O. If policy contains a tobacco exclusion, is the exclusion limited to the deleterious health effects associated with the use of such products? YES NO
- P. Is there a provision requiring that disputes between the company and insured be resolved through arbitration? YES NO

II. "LEGAL SERVICES INSURANCE" IN LIABILITY POLICIES

- A. Indicate below which, if any, "Legal Services Insurance" coverages are provided (See Department Regulation 162) Unless "None" is checked, complete Legal Services Insurance Checklist
 - (i) Defense only coverage for administrative proceedings
 - (ii) Defense coverage for claims seeking injunctive or other non pecuniary relief
 - (iii) Defense of allegations which are excluded
 - (iv) Coverage for insured who initiates legal action
 - (v) Other _____ (Specify)
 - (vi) None

III. DIRECTORS AND OFFICERS POLICIES

In addition to the requirements of I and II above, does the policy contain the minimum retention and coinsurance amounts required by Regulation 110? YES NO

IV. EMPLOYEE BENEFITS POLICIES

In addition to the requirements of I and II above, does the policy contain any coverages which would substantially provide for the giving of legal advice? YES NO

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<p>V. If the policy is a following form excess liability policy, does it contain language conforming policy to all New York requirements if an unlicensed company is an underlying carrier?</p>	<p>YES <input type="checkbox"/></p>	<p>NO <input type="checkbox"/></p>	
VI. For Umbrella Policies			
<p>1. Insureds consent is required to settle claims within the insured's retention, unless such consent is unreasonably withheld</p>	<p>YES <input type="checkbox"/></p>	<p>NO <input type="checkbox"/></p>	
<p>2. Policy provides coverage for Workers Compensation and Employers Liability where an employee is subject to the NY Workers Compensation Law</p>		<p>YES <input type="checkbox"/></p>	<p>NO <input type="checkbox"/></p>
VII. Employment Practices			
<p>In addition to the requirements of I and II above, coverage is provided only for claims resulting from disparate impact or vicarious liability</p>	<p>YES <input type="checkbox"/></p>	<p>NO <input type="checkbox"/></p>	
VIII. Does the policy contain a pollution exclusion or definition that includes any of the following as a pollutant:			
Lead		<p>YES <input type="checkbox"/></p>	NO <input type="checkbox"/>
Noise		<p>YES <input type="checkbox"/></p>	NO <input type="checkbox"/>
Electromagnetic Fields		<p>YES <input type="checkbox"/></p>	NO <input type="checkbox"/>
IX. If the policy contains a lead exclusion:			
<p>1. Is there a manual rule providing for a premium reduction of between 2% and 10% (1% for BOPS)? Note: For Commercial Umbrella or Excess Liability policies there must be a credit of between 2% and 10% if the underlying coverage does not have a lead exclusion or when the policy premium is not based upon the underlying premium.</p>	<p>YES <input type="checkbox"/></p>	<p>NO <input type="checkbox"/></p>	
<p>2. Is there a manual rule that the exclusion may only be attached to policies insuring structures built prior to 1980 which have a significant potential lead exposure and have not undergone lead abatement procedures?</p>	<p>YES <input type="checkbox"/></p>	<p>NO <input type="checkbox"/></p>	
X. PURCHASING GROUPS			
<p>In addition to compliance with all form and rate requirements, Notice of Intent has been filed with Excess Lines Unit of the Property Bureau.</p>	<p>YES <input type="checkbox"/></p>	<p>NO <input type="checkbox"/></p>	

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