

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES
REVIEW STANDARDS FOR BURGLARY & THEFT (COMMERCIAL CRIME)

LINE OF BUSINESS: Burglary and Theft
(Commercial Crime)
CODE: 26.0000

LINE(S) OF INSURANCE
none

CODES
none

IF CHECKLIST IS NOT APPLICABLE, PLEASE EXPLAIN:

REVIEW REQUIREMENTS	REFERENCE	DESCRIPTION OF REVIEW STANDARDS REQUIREMENTS	LOCATION OF STANDARD IN FILING
GENERAL REQUIREMENTS FOR ALL FILINGS		The following web site represents the Department's initiative to streamline the procedures for form, rate and rule filings: Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers.	Form/Page/Para Reference
COVER LETTER AND EXPLANATORY MEMORANDUM	CL 11 (1998)	The filing should include a cover letter, and an explanatory memorandum clearly explaining the intent of the filing, and highlighting any substantive changes (such as changes in ratemaking methodology or major coverages provided). If new form(s), territories, classification(s), or rule(s) are being filed and there are similar ones currently approved for use by a Rate Service Organization (RSO) or another insurer, or has been the subject of a filing previously not approved in New York, reference should be provided to the Department's file number or SERFF tracking number and effective date of the approval, or copies of the approved items should be included, if applicable. If the filing is currently in use in another state, this should be indicated.	
EXCLUSIONS & LIMITATIONS		The following web site contains additional information on exclusions and prohibited coverages: Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers.	
Discrimination	§2606, §2607, & §2608	Unfairly discrimination provisions because of race, color, creed, national origin, disability (including treatment of mental disability), sex, and marital status are prohibited.	
Intentional Acts	§1101(a)	The provisions of the Insurance Law do not permit coverage for Intentional Acts.	
FILING SUBMISSION	§2305 & §2307 CL 19 (1992) Supplement No 1 to CL 11(1998)	Forms, territories, classifications, rating rules, rates and rating plans are subject to prior approval.	
Compliance Questionnaires, Forms and Optional "Speed to Market" Filing Procedures	CL 11 (1998) Supplement No 3 to CL 11 (1998)	Please refer to the following web site for additional information: Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers.	

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES
REVIEW STANDARDS FOR BURGLARY & THEFT (COMMERCIAL CRIME)

REVIEW REQUIREMENTS	REFERENCE	DESCRIPTION OF REVIEW STANDARDS REQUIREMENTS	LOCATION OF STANDARD IN FILING
NO FILE OR FILING EXEMPTIONS	Article 63 11NYCRR16 (Reg. 86)	An authorized insurer must obtain a "Special Risk License" prior to writing business in the "Free Trade Zone". Such business shall be limited to a Special Risk defined as either a Class 1 risk, Class 2 risk as enumerated in the list contained in Regulation 86, or a Class 3 risk. Although filing is not required for a Class 1 risk or a Class 2 risk, rates and policy forms applied to special risks must still satisfy governing standards set forth in the Insurance Law and regulations. If it is a class 3 risk then the company is required to file for information only any form that has not been previously filed with the Superintendent within three business days after the first delivery of a policy using such form, but no later than 60 calendar days after the inception date of such policy. It should be noted that any policy form that an insurer previously filed with the Superintendent and that the Superintendent disapproved or rejected or that the insurer withdrew will not be considered to have been previously filed with the Superintendent.	
PROHIBITED COVERAGES		While the Department does not have an exhaustive list, some examples of prohibited coverages include punitive damages and corporal punishment. Please refer to the following web site for additional information: Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers.	
SIDE BY SIDE COMPARISON	CL 11 (1998)	If the filing is a revision to existing form(s), territories, classification(s) or rule(s); Except for simple, non-substantive changes, a side-by-side comparison of the form(s) or rule(s) being proposed and those currently in use in New York, with all changes clearly marked and explained in the company's cover letter or memorandum must be included. Revisions to classifications and territories should include a comparison between those currently on file (in New York) and those proposed, including relevant statistical data (experience) and any rate or rate relativity effect. There should be a reference to the Department's previous file number and/or a copy of the approval letter in which the current form(s), territories, classification(s) or rule(s) were approved/acknowledged.	
FORMS: POLICY PROVISIONS	§2307, §3105, §3106, §3404, §3407, §3407-a, §3435 & Article 54 11 NYCRR 86 (Reg. 95) 11NYCRR153 (Reg. 135)	The Commercial Lines Property Insurance Form Filing Compliance Questionnaire contains detailed information for making a commercial property filing including required policy provisions, exclusions, prohibited coverages, and standard language, available at: Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers.	Form/Page/Para Reference
APPLICATIONS			
Filing exemption	§2307(b)	Applications which do not become part of the policy are exempt from filing requirements. Please refer to Item I.N.1 of the Commercial Liability Insurance Form Filing Compliance Questionnaire, available at: Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers.	
Fraud Warning Statement	§403(d) 11NYCRR86.4 (Reg. 95)	All applications must contain the prescribed fraud warning statement, which must be incorporated immediately above the applicant's signature.	

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES
REVIEW STANDARDS FOR BURGLARY & THEFT (COMMERCIAL CRIME)

REVIEW REQUIREMENTS	REFERENCE	DESCRIPTION OF REVIEW STANDARDS REQUIREMENTS	LOCATION OF STANDARD IN FILING
APPRAISAL			
Procedure for selection of umpire	§3408	While an appraisal provision is not required, such provision must comply with the requirements of §3408 for selection of an umpire on failure to agree.	
ARBITRATION		Arbitration of disputes between an insured and the insurer may not be required.	
BLANK ENDORSEMENTS		Not permitted since a blank endorsement may change policy provisions without the proper approval by this Department. An exception may be made for a blank form if its usage is apparent based on the title/language of the form itself (such as a change in address form). Forms containing check boxes with a space for language to be added are considered blank endorsements and are subject to these rules.	
CANCELLATION & NON-RENEWAL	§3426 CL 14 (1986) CL 11 (1989) Supplement No 1 to CL 11 (1989)	The Cancellation & Nonrenewal provisions apply to all commercial risk policies including policies issued or issued for delivery in New York covering risks with multi-state locations where the insured is principally headquartered in New York or the policy provides that New York Law will govern. Please refer to the Commercial Lines Cancellation and Nonrenewal Form Filing Compliance Questionnaire for detailed cancellation and nonrenewal requirements, available at: Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers.	
Notice of Cancellation	§3426(b), (c), (h)(2), (g) & (l)	The cancellation provisions must comply with the statutory requirements for the content of the notice (including loss information), proof of notice, special provisions, and time frame for giving notice. Any notice which fails to include a provision required by Section 3426 shall not be an effective notice of cancellation. Notice must be mailed/delivered to the first name insured and to the insured's authorized agent or broker. Please refer to Item I.A of the Commercial Lines Cancellation and Nonrenewal Form Filing Compliance Questionnaire for detailed cancellation and nonrenewal requirements, available at: Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers.	
Notice of Non Renewal	§3426(e), (g), (h)(2) & (l)	The nonrenewal provisions must comply with the statutory requirements for the content of the notice (including loss information), proof of notice, special provisions, and time frame for giving notice. Any notice which fails to include a provision required by Section 3426 shall not be an effective notice of nonrenewal. Notice must be mailed/delivered to the first name insured and to the insured's authorized agent or broker. Please refer to Item I.B of the Commercial Lines Cancellation and Nonrenewal Form Filing Compliance Questionnaire for detailed cancellation and nonrenewal requirements, available at: Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers.	

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES
REVIEW STANDARDS FOR BURGLARY & THEFT (COMMERCIAL CRIME)

REVIEW REQUIREMENTS	REFERENCE	DESCRIPTION OF REVIEW STANDARDS REQUIREMENTS	LOCATION OF STANDARD IN FILING
Required Policy Period	§3426(a)(2) & (d)(2)	A required policy period means a period of one year from the date as of which a covered policy is renewed or first issued. A policy issued for less than one year must be in compliance with statutory reasons outlined in §3426(d)(2). Please refer to Item II of the Commercial Lines Cancellation and Nonrenewal Form Filing Compliance Questionnaire for detailed cancellation and nonrenewal requirements, available at: Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers.	
Permissible Reasons for Cancellation	§3426(b), (c) & (h)	A policy may be cancelled for any valid underwriting reason during the first 60 days a policy is in force. After the first 60 days, reasons for cancellation are limited to statutory references. Please refer to Item I.A. 2 of the Commercial Lines Cancellation and Nonrenewal Form Filing Compliance Questionnaire for detailed cancellation and nonrenewal requirements, available at: Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers.	
Permissible Reasons for Non Renewal	§3426(e) & (h)	A valid underwriting reason must be specifically listed in notice. Please refer to the Commercial Lines Cancellation and Nonrenewal Form Filing Compliance Questionnaire for detailed cancellation and nonrenewal requirements, available at: Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers.	
Conditional Renewal	§3426(e)(1)(B)	A conditional renewal notice is required for any change in the policy less favorable to the policyholder. Such notice must contain the specific reason or reasons for conditional renewal and must comply with the statutory requirements for the content of the notice (including loss information), proof of notice, special provisions, and time frame for giving notice. Please refer to Item I.B.2 and I.B.3 of the Commercial Lines Cancellation and Nonrenewal Form Filing Compliance Questionnaire for detailed cancellation and nonrenewal requirements, available at: Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers.	
Suspension	§3426(m)	A suspension of coverage shall not be considered a cancellation of coverage.	
FORMS MISCELLANEOUS	§3407(a)	All Property and Casualty insurance policies must contain a provision equal or more favorable to the provisions of §3407(a)	
Numbered Forms	§2307(b)	All policy forms and endorsements filed with the Department must include an identification number. Please refer to Item I.h of the Commercial Lines Property Insurance Form Filing Compliance Questionnaire, available at: Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers.	
Unlicensed Companies	§2307(b)	All policy forms and endorsements filed with the Department may only include the names of insurers licensed in the State of New York. Please refer to Item I.f of the Commercial Lines Property Insurance Form Filing Compliance Questionnaire, available at: Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers.	

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES
REVIEW STANDARDS FOR BURGLARY & THEFT (COMMERCIAL CRIME)

REVIEW REQUIREMENTS	REFERENCE	DESCRIPTION OF REVIEW STANDARDS REQUIREMENTS	LOCATION OF STANDARD IN FILING
FICTITIOUS GROUPS	§3435 11NYCRR301 (Reg. 134) 11NYCRR153 (Reg. 135)	The provisions of §3435 and Regulations 134 and 135 do not permit fictitious groups. The issuance of group property & casualty insurance is limited to either not-for-profit or municipality insureds, or purchasing groups formed under the Federal Liability Risk Retention Act of 1986 or quasi-group policies through a mass merchandising, safety group or similar program, in connection with State law or a Federal purchasing group. Please refer Item II of the Commercial Lines Property Insurance Form Filing Compliance Questionnaire, available at : Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers.	
GROUP POLICIES	§3435 11NYCRR301 (Reg. 134) 11NYCRR153 (Reg. 135)	The provisions of §3435 and Regulations 134 and 135 do not permit fictitious groups. The issuance of group property & casualty insurance is limited to either not-for-profit or municipality insureds, or purchasing groups formed under the Federal Liability Risk Retention Act of 1986 or quasi-group policies through a mass merchandising, safety group or similar program, in connection with State law or a Federal purchasing group. Group policies must comply with the provisions of Regulations 134 & 135 including the following: general requirements, group policy minimum standards, premium collection and payment, dividend plans and form and rate filings requirements. Please refer Item II of the Commercial Lines Property Insurance Form Filing Compliance Questionnaire, available at: Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers.	
PARTICIPATING POLICIES	§4106	A participating policy provision is not required. However, when the provision is included, the board of directors may make reasonable classifications of policies in order to issue payment of dividends. Such classifications must be filed for approval and be fair and not unfairly discriminatory.	
VOIDANCE	§3105 & §3106	May not void a policy unless the misrepresentation is material. No misrepresentation shall be deemed material unless knowledge by the insurer of the facts misrepresented would have led to a refusal by the insurer to make such contract. Please refer to Item I.H of the Commercial Liability Insurance Form Filing Compliance Questionnaire and Item I.c of the Commercial Lines Property Insurance Form Filing Compliance Questionnaire, available at: Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers.	
WARRANTIES	§3106	A breach of warranty shall not void a policy unless the breach of warranty is material.	

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES
REVIEW STANDARDS FOR BURGLARY & THEFT (COMMERCIAL CRIME)

REVIEW REQUIREMENTS	REFERENCE	DESCRIPTION OF REVIEW STANDARDS REQUIREMENTS	LOCATION OF STANDARD IN FILING
RATES & RATING PLANS	§2304 & §2344 11NYCRR161 (Reg. 129) Supplement No 4 to CL 11 (1998)	All rates, rating plans, and rating rules filings must be submitted in accordance with the instructions of Supplement No. 4 to Circular Letter 11 (1998) which outlines the new mandatory filing procedures effective September 16, 2002. These procedures contain the minimum required information that must accompany all rate, rating plan, and rating rule filings. Rate filings must include appropriate supporting information as outlined in the Rate Filing Sequence Checklist. Please note the relevant requirements contained in Section 2304 of the New York Insurance Law. For commercial lines filings subject to flex-rating under Section 2344, please also refer to Regulation 129 (11 NYCRR 161). Please refer to the Department's web site for additional information at: Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers.	Form/Page/Para Reference
ADOPTIONS OF RATE SERVICE ORGANIZATIONS (RSO) FILINGS			
Me Too Filings	§2306 11 NYCRR 161.7 (Reg. 129)	The insurer may discharge its rate filing obligation by giving notice that it uses rates and rate information prepared by a designated rate service organization. Please refer to Regulation 129 for the filing of rates and the relation and role of rates published by a rate service organization and the Department's web site for additional filing information at: Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers.	
CONSENT-TO-RATE	§2309	The application for an excess rate is subject to prior approval. In addition, the application must include the insured's reasons and the application must be signed by the insured.	
CREDIT SCORING AND REPORTS		The use of credit scoring and reports is limited to the initial underwriting and/or initial tier placement of the risk.	
INDIVIDUAL RISK RATING	§2305 11NYCRR161.12 (Reg. 129)	Individual Risk Submissions not subject to prior approval shall not filed with the Department. All such information shall be retained in the insurer's individual underwriting file for each policy issued for a period of five years from the date of first issuance of such policy.	
Prior approval	CL 4 (1996)	All Individual Risk Submissions subject to prior approval form must include Form 129-C.doc, available at: Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers.	
PRICING	§2304 & §2344 11NYCRR161 (Reg. 129) CL 19 (1992) CL 4 (1996)	The following web site contains the mandatory filing procedures: Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers.	

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES
REVIEW STANDARDS FOR BURGLARY & THEFT (COMMERCIAL CRIME)

REVIEW REQUIREMENTS	REFERENCE	DESCRIPTION OF REVIEW STANDARDS REQUIREMENTS	LOCATION OF STANDARD IN FILING
Minimum Premium Rules		Minimum Premium Rules- the submission should evidence the relationship between the amount charged as a minimum premium and the costs associated with producing the policy or coverage. Return Premium/Minimum Earned Premium Rules - the submission should specify that the policy will be pro-rated or short-rated due to mid-term termination of the policy. Premium may be considered fully earned only for policies insuring special events that are only a few days in length.	
Multi Tiering		Eligibility requirements for each tier must be submitted. The tier eligibility requirements must be specific and mutually exclusive, so that no insured would be eligible for more than one tier. The rate effects of the tier eligibility requirements should not be duplicated in any rating plans. Justification must be provided for the rate differential for each tier.	
Payment Plans		Payment plans are outside of the rating structure, and do not have to be filed with the Department or included as part of the manual rates.	
Service Charges		Late payment fees, reinstatement fees, and premium installment fees are to be classified as service fees that are outside of the rating structure, and do not have to be filed with the Department or included as part of the manual rates.	
RATING PLAN REQUIREMENTS	§2344 11NYCRR161.8 (Reg. 129)	Rating plans are subject to prior approval. Even if the insurer is adopting a rating plan from a Rate Service Organization (RSO) without modification, such plan is subject to the prior approval requirements.	
Composite Rating		For rating plan rules and standards, please refer to Regulation 129 and item RP-1 and RP-2 of the Rate Filing Sequence Checklist , available at: Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers.	
Expense Reduction Plan		For rating plan rules and standards, please refer to Regulation 129 and item RP-1 and RP-2 of the Rate Filing Sequence Checklist , available at: Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers.	
IRPM		For rating plan rules and standards, please refer to Regulation 129 and item RP-1 and RP-2 of the Rate Filing Sequence Checklist , available at: Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers.	
Loss Rating		For rating plan rules and standards, please refer to Regulation 129 and item RP-1 and RP-2 of the Rate Filing Sequence Checklist , available at: Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers.	
Retrospective Rating		For rating plan rules and standards, please refer to Regulation 129 and item RP-1 and RP-2 of the Rate Filing Sequence Checklist , available at: Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers.	

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES
 REVIEW STANDARDS FOR BURGLARY & THEFT (COMMERCIAL CRIME)

REVIEW REQUIREMENTS	REFERENCE	DESCRIPTION OF REVIEW STANDARDS REQUIREMENTS	LOCATION OF STANDARD IN FILING
RATE/LOSS COST SUPPORTING INFORMATION			
Actuarial or other Rate Support	11NYCRR161 (Reg. 129) CL 19 (1992) Supplement No 4 to CL 11 (1998)	Rate making and supporting information for rates, rating plans, and rating rules must be organized into exhibits, which follow a sequential numbering system. The Rate Filing Sequence Checklist and the related instructions prescribe the required format used to support rate, rating plan, and rating rule filings, available at: Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers.	