

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES  
REVIEW STANDARDS FOR PERSONAL LIABILITY

LINE OF BUSINESS: Other Liability  
CODE: 17.1

LINE(S) OF INSURANCE  
Comprehensive Personal Liability      17.1003  
Personal Umbrella & Excess      17.1021

IF CHECKLIST IS NOT APPLICABLE, PLEASE EXPLAIN:

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REVIEW REQUIREMENTS	REFERENCE	DESCRIPTION OF REVIEW STANDARDS REQUIREMENTS	LOCATION OF STANDARD IN FILING
<b>GENERAL REQUIREMENTS FOR ALL FILINGS</b>		The following web site represents the Department's initiative to streamline the procedures for form, rate and rule filings: <a href="#">Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers</a>	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: <a href="#">Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers</a>	
Lead	§2307(b)	May only exclude structures built prior to 1980 which have a significant potential lead exposure and have not undergone lead abatement procedures. A premium reduction should be contemplated whenever the exclusion is attached to a policy. Please refer to Item II of Personal Liability and Umbrella Insurance Form Filing Compliance Questionnaire, available at: <a href="#">Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers</a> .	
Mold	§2307(b)		
Pollution	§2307(b)	May only exclude pollution incidents which are not sudden and accidental nature. Please refer to Item III. 2 of Personal Liability and Umbrella Insurance Form Filing Compliance Questionnaire, available at: <a href="#">Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers</a> .	
Terrorism	CL 2 (2015)	This Circular Letter containing additional information is available at: <a href="#">Circular Letters</a>	

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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: <a href="#">Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers</a>	
NO FILE OR FILING EXEMPTIONS	Article 63 11NYCRR16 (Reg. 86)	A (Personal Lines Policies) policy may be written as a Class 2 risk as long as it appears on the lists of eligible Class 2 risks contained in Section 16.12(e) of Regulation No.86. An authorized insurer must obtain a "Special Risk License" prior to writing business in the "Free Trade Zone." Although filing is not required for 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.	
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: <a href="#">Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers</a>	
Assault and Battery	§2307(b)	Coverage for Assault and Battery is prohibited except for defense of person or property. Please refer to Item I.A.3 of Personal Liability and Umbrella Insurance Form Filing Compliance Questionnaire, available at: <a href="#">Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers</a> .	
Discrimination	CL 6 (1994)	Coverage for discrimination may only be provided on vicarious basis or for disparate impact.	
Indemnification Policy	§3420	Is not permitted. Liability coverage must be provided on a pay on behalf basis. Please refer to Item I.B.1 of Personal Liability and Umbrella Insurance Form Filing Compliance Questionnaire, available at: <a href="#">Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers</a> .	
Intentional Acts	§2307(b)	May only be provided on vicarious basis or for disparate impact. Please refer to Item I.A.2 of Personal Liability and Umbrella Insurance Form Filing Compliance Questionnaire, available at: <a href="#">Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers</a> .	
Punitive or Exemplary Damages	CL 6 (1994)	Coverage for Punitive or Exemplary Damages is not permitted. Please refer to Item I.A.1 of Personal Liability and Umbrella Insurance Form Filing Compliance Questionnaire, available at: <a href="#">Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers</a> .	

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Sexual Harassment Coverage	§2307(b)	Coverage should not be provided to any person who allegedly or actually: i) participates in, ii) directs; or iii) knowingly allows any act of sexual misconduct	
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.	
<b>FORMS: POLICY PROVISIONS</b>	§1113, §2307, §3105, §3106, & §3420 11 NYCRR 86 (Reg. 95)	The following Compliance Questionnaire contains detailed information for making a comprehensive personal liability, umbrella and excess filings including required policy provisions, exclusions, prohibited coverages, and standard language: <a href="#">Personal Liability and Umbrella Insurance Form Filing Compliance Questionnaire Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers</a>	Form/Page/Para Reference
APPLICATIONS			
Filing exemption	§2307(b)	Applications which do not become part of the policy are exempt from filing requirements	
Fraud Warning Statement			
ARBITRATION		Arbitration of disputes between an insured and the insurer may not be required.	
BANKRUPTCY PROVISIONS			
Insolvency or bankruptcy clause	§3420(a)(1)	A policy must contain a statement indicating that the insolvency or bankruptcy of the insured or the insured's estate does not relieve the obligations of the insurer. Please refer to Item I.B.2 of Personal Liability and Umbrella Insurance Form Filing Compliance Questionnaire, available at: <a href="#">Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers</a> .	
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. Please refer to Item I.K of Personal Liability and Umbrella Insurance Form Filing Compliance Questionnaire, available at: <a href="#">Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers</a> .	
CANCELLATION & NON-RENEWAL	§3425	Please refer to Compliance Questionnaire No. PLCNR for detailed cancellation and nonrenewal requirements: Personal Lines (other than auto) Cancellation and Nonrenewal Form Filing Compliance <a href="#">Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers</a> .	

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Notice of Cancellation	§3425(b), (c), & (h)	The notice of cancellation must include a specific reason or reasons of such cancellation and must be sent to the named insured at the address shown in the policy. Please refer to Item I.A of Personal Lines (other than auto) Cancellation and Nonrenewal Form Filing Compliance Questionnaire available at: <a href="#">Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers</a> .	
Notice of Non Renewal	§3425(d)	The nonrenewal provisions must comply with statutory time frame for giving notice and must be sent to the named insured at the address shown in the policy. Please refer to Item I.B of Personal Lines (other than auto) Cancellation and Nonrenewal Form Filing Compliance Questionnaire available at: <a href="#">Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers</a> .	
Required Policy Period	§3425(a)(7) & (q)	Three year unless compliance with statutory reasons.	
Permissible Reasons for Cancellation	§3425(b) & (c)	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. The reason for cancellation must be specifically listed in notice.	
Permissible Reasons for Non Renewal	§3425(d) & (e)	A valid underwriting reason must be specifically listed in notice.	
Conditional Renewal	§3425(d)	A conditional renewal notice is required for any change in the policy less favorable to the policyholder. Please refer to Item II.B of Personal Lines (other than auto) Cancellation and Nonrenewal Form Filing Compliance Questionnaire available at: <a href="#">Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers</a> .	
<b>DEFENSE</b>			
Duty to Defend		The insurer has the duty to defend all claims to which the policy applies. A defense must be provided even if allegations are groundless, false or fraudulent. A complete defense must be provided for a claim, which involves both covered and uncovered allegations, and no allocation of defense costs is permitted. Additionally, provision must be made for the orderly transfer of defense duties when the limit of liability is used up in the payment of judgments or settlements. Please refer to Item I.D of Personal Liability and Umbrella Insurance Form Filing Compliance Questionnaire, available at: <a href="#">Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers</a> .	
Legal Services Insurance	§1113(a)(29) & §1116 11NYCRR262 (Reg. 162)	Legal Services Insurance means insurance providing legal services or reimbursement of the cost of legal services. (Please note that pursuant to Section 262.10(d) of Department Regulation 161, when legal services insurance is written as part of a liability policy, it shall be written on a "pay on behalf" basis, except for a policy of directors and officers insurance, which may be written on an "indemnification" basis.) Please refer to the Legal Services Insurance Form Filing Compliance Questionnaire for additional requirements, available at: <a href="#">Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers</a>	

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DEFINITIONS			
Bodily Injury		If the policy covers Bodily Injury, and that definition does not include mental anguish that results from a wrongful act, some form of rate relief must be given. Please refer to Item I.O of Personal Liability and Umbrella Insurance Form Filing Compliance Questionnaire, available at: <a href="#">Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers.</a>	
Loading & Unloading	§2307(b)	The term "Loading & Unloading" must remain undefined. Please refer to Item I.I of Personal Liability and Umbrella Insurance Form Filing Compliance Questionnaire, available at: <a href="#">Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers.</a>	
Personal Injury	§1113(a)(13)	If the policy provides coverage for Personal Injury, such policy must include the provisions of §1113(a)(13). Please refer to Item I.C of Personal Liability and Umbrella Insurance Form Filing Compliance Questionnaire, available at: <a href="#">Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers.</a>	
EXCESS COVERAGE		The consent of the insured to settle a claim is required for claims falling within the self-insured retention, unless such consent is unreasonably withheld.	
FORMS MISCELLANEOUS			
Numbered Forms	§2307(b)	All policy forms and endorsements filed with the Department must include an identification number. Please refer to Item I.L of Personal Liability and Umbrella Insurance Form Filing Compliance Questionnaire, available at: <a href="#">Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers.</a>	
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.J of Personal Liability and Umbrella Insurance Form Filing Compliance Questionnaire, available at: <a href="#">Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers.</a>	
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.	
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.	

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LIBERALIZATION CLAUSE		Please refer Item I.G of Personal Liability and Umbrella Insurance Form Filing Compliance Questionnaire, available at: <a href="#">Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers.</a>	
LOSS SETTLEMENT			
Action Against Company	§3420(a)(2) & §3420(b)	If judgment against an insured is not satisfied within 30 days, an action can be brought against an insurer. Furthermore, the judgment clause may not include the requirement that judgment be "final" or obtained "after actual trial." Please refer to Item I.B. 3 of Personal Liability and Umbrella Insurance Form Filing Compliance Questionnaire, available at: <a href="#">Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers.</a>	
After Market Parts			
Deductibles			
Loss Valuations			
Notification of Claim	§3420(a)(3)(4)(5)&(6)	The policy must contain the various liability provisions set forth in Section 3420 (a)(3)(4)(5) and (6). Please refer to Items I.B.5, I.B.6 and I.B.7 of Personal Liability and Umbrella Insurance Form Filing Compliance Questionnaire, available at: <a href="#">Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers.</a>	
Settlement with Retention		The consent of the insured to settle a claim is required for claims falling within the self-insured retention, unless such consent is unreasonably withheld.	
Unfair Claim Settlement Practice	§2601		
OTHER INSURANCE	§2303	Policy provisions which indicate that in the event an occurrence is covered by more than one policy issued by an insurer or its affiliates, only the highest limit of liability among all policies will apply to the claim, are not permitted.	
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.	
READABILITY	§3102	The insurance policy must be understandable and meet the requirements for readability including a minimum score of 45 on the Flesch Test. Please refer to Item I.F of Personal Liability and Umbrella Insurance Form Filing Compliance Questionnaire, available at: <a href="#">Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers.</a>	
VICARIOUS LIABILITY	CL 6 (1994)	The Department permits coverage for claims of vicarious liability regardless of whether the underlying wrong is intentional or not.	

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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 Personal Liability and Umbrella Insurance Form Filing Compliance Questionnaire, available at: <a href="#">Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers.</a>	
WARRANTIES	§3106	A breach of warranty shall not void a policy unless the breach of warranty is material. Please refer to Item I.H of Personal Liability and Umbrella Insurance Form Filing Compliance Questionnaire, available at: <a href="#">Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers.</a>	
WORLDWIDE COVERAGE		In provisions where the company states it has no duty to defend suits brought in foreign countries, the company must state the specific reasons why it does not wish to defend (i.e. if the insurer lacks the expertise to defend in the foreign country, or if the insurer is not permitted by law to defend in such foreign country.) In such situations, the policy must specify that the insurer must reimburse the insured for the defense expenses the insured incurred.	
WORKERS' COMPENSATION COVERAGE	§3420(j)	Every policy providing comprehensive personal liability insurance on a one, two, three, or four family owner-occupied dwelling shall provide coverage against liability for the payment of any obligation incurred under the provisions of the Workers' Compensation Law, to an employee arising out of and in the course of employment of less than forty hours per week. Please refer to Item I.P of Personal Liability and Umbrella Insurance Form Filing Compliance Questionnaire, available at: <a href="#">Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers.</a>	
<b>RATES &amp; RATING PLANS</b>	§2304 & §2344 11NYCRR161 (Reg. 129) CL 5 (2009)	All rates, rating plans, and rating rules filings must be submitted in accordance with the instructions of Circular Letter No. 5 (2009) which outlines the new mandatory filing procedures effective March 10, 2009. 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. Please refer to the following web site for additional information: <a href="#">Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers</a>	Form/Page/Para Reference
ADOPTIONS OF RATE SERVICE ORGANIZATIONS (RSO) FILINGS			

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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: <a href="#">Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers</a>	
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	Individual Risk Submissions are required to be filed with the Department for personal lines products when the rate to be charged is not currently on file (in the manual) with the Department. Such filings should include justification for the proposed rate and must be applied in a manner that is not unfairly discriminatory.	
PRICING	§2304 & §2344 11NYCRR161 (Reg. 129) CL 19 (1992) & CL 4 (1996)	The following web site contains the mandatory filing procedures: <a href="#">Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers</a>	
Audit Provisions/premium Audit Rules		Indicate if the filing includes an audit provision and/or a premium audit rule. If so, an audit to determine final premium for policies under which the initial premium is based on an estimate of the insured's exposure base must comply with Section 161.10 of Regulation 129. The provision/rule must clearly demonstrate compliance.	
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.	
Renewal Discounts		Renewal Discounts or credits due to the insured's longevity with the company are not permitted for Personal Liability coverage.	
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.	



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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	11NYCRR161.8(a) (Reg. 129)	Composite Rating may not be used in rating personal lines policies.	
Expense Reduction Plan	11NYCRR161.8(f) (Reg. 129)	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: <a href="#">Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers</a> .	
Experience Rating	11NYCRR161.8(a) (Reg. 129)	Experience Rating may not be used in rating personal lines policies.	
Loss Rating	11NYCRR161.8(a) (Reg. 129)	Loss Rating may not be used in rating personal lines policies.	
Retrospective Rating	11NYCRR161.8(a) (Reg. 129)	Retrospective Rating may not be used in rating personal lines policies.	
Schedule Rating	11NYCRR161.8(a) (Reg. 129)	Schedule Rating may not be used in rating personal lines policies.	
RATE/LOSS COST SUPPORTING INFORMATION			
Actuarial or other Rate Support	11NYCRR161 (Reg. 129) CL 19 (1992) CL 5 (2009)	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: <a href="#">Rate, Form, Territory, Classification and Rule Filing Instructions for Property/Casualty Filers</a>	