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Governor



ADRIENNE A. HARRIS
Superintendent

SENT VIA EMAIL
Christopher.DeMarco@dos.ny.gov

January 16, 2024

Christopher DeMarco
State Register/Office of Information Services
New York State Department of State
One Commerce Plaza
99 Washington Avenue, Suite 650
Albany, NY 12231

Re: January 2024 Regulatory Agenda

Dear Christopher DeMarco:

Attached is the Department of Financial Services' Regulatory Agenda for publication in the January 31, 2024 issue of the State Register. Please note that the Regulatory Agenda is divided into three sections: Insurance Regulations, Banking Regulations, and Financial Services Regulations.

Sincerely yours,

Sally Geisel

Sally Geisel
Principal Attorney
(212) 480-7608

Cc: Christine Tomczak
Camielle Barclay

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES
REGULATORY AGENDA

Pursuant to State Administrative Procedure Act (“SAPA”) Section 202-d, the following Regulatory Agenda is a list of the regulatory additions and amendments to Titles 3, 11, and 23 of the NYCRR that the New York State Department of Financial Services (“Department”) is presently considering proposing during 2024. Some of these items were previously published in the January 2023 Regulatory Agenda. **Items that already have been published in the State Register as “proposed” actions are not included on the list.** The Department’s regulatory plans are subject to change, and the Department reserves the right to add to, delete from, or modify items in the Regulatory Agenda without further notice.

This notice also is intended to provide small businesses, local governments, and public and private interests in rural areas with the opportunity to participate in the rule making process, as required by SAPA Sections 202-b and 202-bb.

I. Insurance Regulations

For inquiries about a specific item, please contact the person identified for that item. For general inquiries about the Insurance Regulations included in this Regulatory Agenda, or to obtain copies of current Insurance Regulations, please contact:

Sally Geisel
Principal Attorney
New York State Department of Financial Services
One State Street
New York, NY 10004
(212) 480-7608
Sally.Geisel@dfs.ny.gov

You may also obtain the current Insurance Regulations directly from Thomson Reuters Westlaw.

1. Summary description of proposal: Addition of 11 NYCRR 65-6 (Insurance Regulation 65-F) (Claims For Personal Injury Protection Benefits for Independent Livery Drivers) and amendments to 11 NYCRR 65 (Insurance Regulation 68) (Regulations Implementing the Comprehensive Motor Vehicle Insurance Reparations Act) and 11 NYCRR 68 (Insurance Regulation 83) (Charges for Professional Health Services) to implement an alternative dispute resolution process for disputes involving claims of independent livery drivers that are processed pursuant to pre-authorization procedures and medical treatment guidelines set forth in 12 NYCRR 324 and applicable provisions of Workers’ Compensation Law Article 2. Agency contact: Camielle A. Barclay, Associate Attorney, Office of General Counsel, New York State Department of Financial Services, One State Street, New York, NY 10004; (212) 480-5299; Camielle.Barclay@dfs.ny.gov.

2. Summary description of proposal: Amendment to 11 NYCRR Appendix 13 (New York Motor Vehicle No-fault Insurance Law Denial of Claim Form, “NF-10”) and 11 NYCRR 65-3 (Insurance Regulation 68) (Claims for Personal Injury Protection Benefits) to include the e-mail address of an insurer representative

or third-party administrator; to update the mailing and email addresses of the designated organization where a claim may be submitted for arbitration; to remove the requirement that insurers submit duplicate copies of the NF-10 to an applicant or the applicant's authorized representative; and to remove the requirement that an insurer provide the applicant with notice and proof of claim for disability benefits (Workers' Compensation DB 450 form) on buff-colored paper. Agency contact: Camielle Barclay, Associate Attorney, Office of General Counsel, New York State Department of Financial Services, One State Street, New York, NY 10004; (212) 480-5299; Camielle.Barclay@dfs.ny.gov.

3. Summary description of proposal: Amendment to 11 NYCRR 65-4 (Insurance Regulation 68-D) (Arbitration) to amend rules related to both the manner in which the first party motor vehicle insurance arbitration programs are administered and the manner in which the costs of these programs are assessed to the insurance industry. Agency contact: Camielle Barclay, Associate Attorney, Office of General Counsel, New York State Department of Financial Services, One State Street, New York, NY 10004; (212) 480-5299; Camielle.Barclay@dfs.ny.gov.

4. Summary description of proposal: Amendment to 11 NYCRR 65-2 (Insurance Regulation 68-B) (Rights and Liabilities of Self-Insurers), 11 NYCRR 65-3 (Insurance Regulation 68-C) (Claims for Personal Injury Protection Benefits), 11 NYCRR 65-4 (Insurance Regulation 68-D) (Arbitration), 11 NYCRR Appendix 13 (New York Motor Vehicle No-Fault Insurance Law Assignment of Benefits Form, "NF-3"), and New York Motor Vehicle No-Fault Insurance Law Denial of Claim Form, "NF-10") to prescribe that an insurer may void the assignability of all rights, privileges, and remedies to a health care provider (other than a hospital) from an eligible injured person through an executed assignment of benefits form if the insurer denies a claim because the eligible injured person failed to appear for a medical examination or examination under oath at the insurer's request. Agency contact: Camielle A. Barclay, Associate Attorney, Office of General Counsel, New York State Department of Financial Services, One State Street, New York, NY 10004; (212) 480-5299; Camielle.Barclay@dfs.ny.gov.

5. Summary description of proposal: Amendment to 11 NYCRR 67 (Insurance Regulation 79) (Mandatory Underwriting Inspection Requirements for Private Passenger Autos) to conform to Chapter 638 of the Laws of 2023, which permits an insurer to waive inspection of some or all automobiles pursuant to its plan of operation filed with the Superintendent. Agency contact: Camielle Barclay, Associate Attorney, Office of General Counsel, New York State Department of Financial Services, One State Street, New York, NY 10004; (212) 480-5299; Camielle.Barclay@dfs.ny.gov.

6. Summary description of proposal: Amendment to 11 NYCRR 65 (Insurance Regulation 68) (Regulations Implementing the Comprehensive Motor Vehicle Insurance Reparations Act), 11 NYCRR 67 (Insurance Regulation 79) (Mandatory Underwriting Inspection Requirements for Private Passenger Automobiles), 11 NYCRR 216 (Insurance Regulation 64) (Unfair Claims Settlement Practices and Claim Cost Control Measures), and 11 NYCRR 255 (Insurance Regulation 168) (Confidentiality Protocols for Victims of Domestic Violence and Endangered Individual) to conform to amendments to Insurance Law Section 2612 by Chapter 579 of the Laws of 2022. Agency contact: Camielle Barclay, Associate Attorney, Office of General Counsel, New York State Department of Financial Services, One State Street, New York, NY 10004; (212) 480-5299; Camielle.Barclay@dfs.ny.gov.

7. Summary description of proposal: Amendment to 11 NYCRR 60-2 (Insurance Regulation 35-D) (Supplementary Uninsured/Underinsured Motorist Coverage) to conform to the amendment to Chapter

751 of the Laws of 2023. Agency contact: Joana Lucashuk, Deputy General Counsel for Insurance, Office of General Counsel, New York State Department of Financial Services, One State Street, New York, NY 10004; (212) 480-2125; Joana.Lucashuk@dfs.ny.gov.

8. Summary description of proposal: Amendment to 11 NYCRR 82 (Insurance Regulation 203) (Enterprise Risk Management and Own Risk and Solvency Assessment; Group-Wide Supervision), regarding implementation of an annual group capital calculation requirement. Agency contact: Joana Lucashuk, Deputy General Counsel for Insurance, Office of General Counsel, New York State Department of Financial Services, One State Street, New York, NY 10004; (212) 480-2125; Joana.Lucashuk@dfs.ny.gov.

9. Summary description of proposal: Amendment to 11 NYCRR 83 (Insurance Regulation 172) (Financial Statement Filings and Accounting Practices and Procedures) to adopt the latest edition of the Accounting Practices and Procedures Manual (“Manual”) published by the National Association of Insurance Commissioners. Agency contact: Michael Campanelli, Principal Attorney, Office of General Counsel, New York State Department of Financial Services, One State Street, New York, NY 10004; (212) 480-5290; Michael.Campanelli@dfs.ny.gov.

10. Summary description of proposal: Repeal of 11 NYCRR 1 and 2 (Insurance Regulation 1) (Definitions, and Promulgation of Regulations; Opinions) and 11 NYCRR 380 (Insurance Regulation 148) (Viatical Settlements) and Amendments to 11 NYCRR 60-1 (Insurance Regulation 35-A) (Minimum Provisions for Automobile Liability Insurance Policies) and 11 NYCRR 86 (Insurance Regulation 95) (Reports of Suspected Insurance Frauds to Criminal Investigations Unit; Required Warning Statements) to repeal provisions that no longer apply to any person, fixes an incorrect grammatical construction, and corrects a date to be consistent with statute. Agency contact: Sally Geisel, Principal Attorney, Office of General Counsel, New York State Department of Financial Services, One State Street, New York, NY 10004; (212) 480-7608; Sally.Geisel@dfs.ny.gov.

11. Summary description of proposal: Amendment to 11 NYCRR 216 (Insurance Regulation 64) (Unfair Claims Settlement Practices and Claim Cost Control Measures) to update the regulation to clarify certain provisions regarding motor vehicle physical damage claims. Agency contact: Hoda Nairooz, Supervising Insurance Examiner, Property Bureau, New York State Department of Financial Services, One State Street, New York, NY 10004; (212) 480-5595; Hoda.Nairooz@dfs.ny.gov.

12. Summary description of proposal: Amendment to 11 NYCRR 111 (Insurance Regulation 207) (Statement of Actuarial Opinion and Actuarial Opinion Summary for Property/Casualty Insurers) to update the reference to the annual statement instructions published by the National Association of Insurance Commissioners that is incorporated by reference in the regulation. Agency contact: Sak-Man Luk, Supervising Casualty Actuary, Property Bureau, New York State Department of Financial Services, One State Street, New York, NY 10004; (212) 480-5135; Sak-Man.Luk@dfs.ny.gov.

13. Summary description of proposal: Addition of a new Part to 11 NYCRR (Insurance Regulation 204) (Property Travel Insurance Policies) to provide a framework for insurers to issue property travel insurance to certain specified groups. The new Part will set forth the groups to which an insurer may issue property travel insurance on a group basis and clarify the meaning of trip cancellation insurance and trip interruption insurance. Agency contact: Hoda Nairooz, Supervising Insurance Examiner, Property

Bureau, New York State Department of Financial Services, One State Street, New York, NY 10004; (212) 480-5595; Hoda.Nairooz@dfs.ny.gov.

14. Summary description of proposal: Repeal of 11 NYCRR 145 (Insurance Regulation 103) (Implementation of Private Passenger Automobile Insurance Statistical Data Monitoring System) to eliminate the requirement that each insurer and statistical agent monitor private passenger automobile statistical data in accordance with the provisions of the Statistical Data Monitoring System. Agency contact: Hoda Nairooz, Supervising Insurance Examiner, Property Bureau, New York State Department of Financial Services, One State Street, New York, NY 10004; (212) 480-5595; Hoda.Nairooz@dfs.ny.gov.

15. Summary description of proposal: Amendment to 11 NYCRR 53 (Insurance Regulation 74) (Life and Annuity Cost Disclosure and Sales Illustrations) to revise and clarify the delivery, signature and certification form requirements for life insurance sales illustrations, including electronic delivery, for policies marketed with illustrations; to modify the bases used for illustrations for life insurance policies with non-guaranteed elements, including universal life; to add requirements to the disciplined current scale underlying the illustrations; and to require additional disclosures for such policies. Agency contact: Rebecca Bollam, Supervising Insurance Attorney, Life Bureau, New York State Department of Financial Services, One Commerce Plaza, Albany, NY 12257; (518) 474-4552; Rebecca.Bollam@dfs.ny.gov.

16. Summary description of proposal: Amendment to 11 NYCRR 103 (Insurance Regulation 213) (Principle-Based Reserving) to revise the reserve standards for certain products and update the reference to the Valuation Manual published by the National Association of Insurance Commissioners that is incorporated by reference in the regulation. Agency contact: Amanda Fenwick, Assistant Chief Life Actuary, Life Bureau, New York State Department of Financial Services, One Commerce Plaza, Albany, NY 12257; (518) 473-6576; Amanda.Fenwick@dfs.ny.gov.

17. Summary description of proposal: Amendment to 11 NYCRR 59 (Minimum Standards for the Form, Content and Sale of Group and Blanket Insurance Certificates Deemed to have been Delivered in this State Pursuant to Section 3201(b) of the Insurance Law) (Insurance Regulation 123) to revise static interest rate requirements and the minimum benefit ratio standard for Group Life Insurance. Also, to add a separate section to the regulation to establish minimum standards for the form, content, and sale of life insurance delivered or issued for delivery in this state, including standards related to various aspects of life insurance such as death benefits, conversion, and fees. Agency contact: Todd Cafarelli, Supervising Attorney, Life Bureau, New York State Department of Financial Services, One Commerce Plaza, Albany, NY 12257; (518) 330-8339; Todd.Cafarelli@dfs.ny.gov.

18. Summary description of proposal: Amendment to 11 NYCRR 54 (Variable Life Insurance) (Insurance Regulation 77) to ensure flexibility of life insurance products by addressing issues associated with the interest rate environment and the nonforfeiture provisions for variable life insurance. Agency contact: Kathleen Ryan, Supervising Attorney, Life Bureau, New York State Department of Financial Services, One Commerce Plaza, Albany, NY 12257; (518) 545-7109; Kathleen.Ryan@dfs.ny.gov.

19. Summary description of proposal: Amendment to 11 NYCRR 125 (Insurance Regulation 20) (Credit for Reinsurance) to revise the collateral requirements for treaties ceding term and universal life with secondary guarantees such that in addition to the current requirements, the collateral for reinsurance will

also need to comply with Actuarial Guideline 48. Agency contact: Amanda Fenwick, Assistant Chief Life Actuary, Life Bureau, New York State Department of Financial Services, One Commerce Plaza, Albany, NY 12257; (518) 473-6576; Amanda.Fenwick@dfs.ny.gov.

20. Summary of description of proposal: Amendment to 11 NYCRR Part 52 (Insurance Regulation 62) (Minimum Standards for the Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure) and Part 215 (Insurance Regulation 34) (Advertisements of Accident and Health Insurance) to establish minimum standards and consumer protections for accident, travel, and hospital indemnity insurance. Agency contact: Michael Grady, Associate Attorney, Health Bureau, New York State Department of Financial Services, One Commerce Plaza, Albany, NY 12257; (518) 473-0273; Michael.Grady@dfs.ny.gov.

21. Summary description of proposal: Amendment to 23 NYCRR 400 (Independent Dispute Resolution for Emergency Services and Surprise Bills) to incorporate requirements from the federal No Surprises Act. Agency contact: Emily Donovan, Associate Attorney, Health Bureau, New York State Department of Financial Services, One Commerce Plaza, Albany, NY 12257; (518) 473-4177; Emily.Donovan@dfs.ny.gov.

22. Summary description of proposal: Addition of 11 NYCRR 38 (Insurance Regulation 230) (Network Adequacy and Access Standards) to set forth certain standards relating to health insurance provider networks for behavioral health services and access to such services. Agency contact: Stephani Schendlinger, Senior Attorney, Health Bureau, New York State Department of Financial Services, One Commerce Plaza, Albany, NY 12257; (518) 709-0688; Stephani.Schendlinger@dfs.ny.gov.

23. Summary description of proposal: Amendment to 11 NYCRR 52 (Insurance Regulation 62) (Minimum Standards for the Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure) to require insurers to add additional disclosure information to long term care insurance disclosure statements. Agency contact: Martin Wojcik, Associate Attorney, Health Bureau, New York State Department of Financial Services, One Commerce Plaza, Albany, NY 12257; (518) 474-8975; Martin.Wojcik@dfs.ny.gov.

24. Summary description of proposal: Amendment to 11 NYCRR 52 (Insurance Regulation 62) (Minimum Standards for the Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure) regarding the collection of an insurance applicant's voluntary provision of race, ethnicity, and language spoken and read, and the prohibition of questions on a comprehensive health insurance application about the past or present health of the applicant. Agency contact: Joel Dankwa, Assistant Counsel, Health Bureau, New York State Department of Financial Services, One State Street, New York, NY 10004; (212) 480-7709; Joel.Dankwa@dfs.ny.gov.

25. Summary description of proposal: Amendment to 11 NYCRR Chapter XXII concerning market conduct standards applicable to pharmacy benefit managers. Agency contact: Kristina M. Magne, Assistant Deputy Superintendent for Pharmacy Benefits, Pharmacy Benefits Bureau, New York State Department of Financial Services, One Commerce Plaza, Albany, NY 12257; (518) 486-1809; PBMregs@dfs.ny.gov.

II. Banking Regulations

For inquiries about the Banking Regulations included in this Regulatory Agenda, or to obtain copies of current Banking Regulations, please contact:

Christine M. Tomczak
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Office of General Counsel
New York State Department of Financial Services
One State Street
New York, NY 10004
(212) 709-1642
Christine.Tomczak@dfs.ny.gov

You may also obtain current Banking Regulations directly from [Thomson Reuters Westlaw](#).

1. Summary description of proposal: Amendment to Part 38 of the General Regulations of the Superintendent, 3 NYCRR Part 38 (Definition of Terms; Advertising; Application and Commitment Disclosures and Procedures; Improper Conduct under Article 12-D), to enhance advertising, disclosure and conduct rules for mortgage bankers and brokers and to incorporate applicable changes under federal laws and regulations.
2. Summary description of proposal: Amendment to Part 41 of the General Regulations of the Superintendent, 3 NYCRR Part 41 (Restrictions and Limitations on High Cost Home Loans), to address threshold limits, the impact of lender paid fees, and otherwise to conform to the requirements of Section 6-1 of the Banking Law.
3. Summary description of proposal: Amendment to Part 79 of the General Regulations of the Superintendent, 3 NYCRR Part 79 (Reverse Mortgage Loans), to implement the new Banking Law Section 6-o (Reverse cooperative apartment unit loans for persons sixty-two years of age or older) concerning reverse mortgages for cooperative apartments.
4. Summary description of proposal: Promulgate a new regulation to implement the requirements of the recently enacted Banking Law § 28-bb. This section establishes requirements for mortgage bankers comparable to the requirements of the Community Reinvestment Act for banks that seek to eliminate redlining and other forms of housing discrimination caused by illegal credit practices.
5. Summary description of proposal: Amendment to Part 322.7 of the Superintendent's Regulations, 3 NYCRR Part 322.7 (Definition of Well-Rated Foreign Banking Corporations), in connection with the elimination by the Federal Reserve System of the Strength of Support Assessment (SOSA) rating for all foreign banking organizations subject to the interagency program for supervising the U.S. operations of foreign banking organizations.
6. Summary description of proposal: Amendment to Part 400.2 of the Superintendent's Regulations, 3 NYCRR Part 400.2 (Books, Records and Microfilm), to eliminate outdated regulatory requirements (i.e. maintenance of records on microfilm) in connection with check cashers books and records).

7. Summary description of proposal: Amendment to Part 401 (Licensed Lenders), Part 403 (Sales Finance Companies) and Part 405 (Premium Finance Agencies) of the Superintendent's Regulations, 3 NYCRR, to include a reporting requirement for each licensee to submit to the Superintendent an independent audited annual financial statement after the licensee's fiscal year end. Part 403 will be amended to include a requirement for the submission of annual reports by sales finance companies and to harmonize the filing of annual and audit reports.

8. Summary description of proposal: Amendment to Part 420 of the Superintendent's Regulations, 3 NYCRR Part 420 (Mortgage Loan Originators: Education Requirements), to conform to amendments made to the federal SAFE Mortgage Licensing Act, which gives qualifying out-of-state mortgage loan originators the temporary authority to operate as a mortgage loan originator in New York prior to completing all licensing requirements.

III. Financial Services Regulations

For specific inquiries about the Financial Services Regulations included in this section of the Regulatory Agenda, or to obtain copies of the current Financial Services Regulations for which proposals are described below, please contact the person identified for that item. You may also obtain current Financial Services Regulations directly from [Thomson Reuters Westlaw](#).

1. Summary description of proposal: Amendment to 23 NYCRR 1 (Debt Collection by Third-Party Debt Collectors and Debt Buyers) to (1) update the regulation in relation to revised federal rules promulgated pursuant to the Fair Debt Collection Practices Act and recently enacted state legislation relating to debt collection and causes of action arising from consumer credit transactions, (2) respond to changes in communication technology used by the debt collection industry to reach consumers, and (3) enhance the Department's ability to protect consumers from abusive debt collection practices. Agency contact: Meredith Weill, Deputy General Counsel, Office of General Counsel, New York State Department of Financial Services, One State Street, New York, NY 10004; (212) 480-5279; Meredith.Weill@dfs.ny.gov.