

**NEW YORK STATE  
DEPARTMENT OF FINANCIAL SERVICES  
PROPOSED  
SEVENTH AMENDMENT TO 11 NYCRR 67  
(INSURANCE REGULATION 79)**

**MANDATORY UNDERWRITING INSPECTION REQUIREMENT  
FOR PRIVATE PASSENGER AUTOMOBILES**

I, Adrienne A. Harris, Superintendent of Financial Services of the State of New York, pursuant to the authority granted by Sections 202 and 302 of the Financial Services Law, Sections 301, 3411, 5303 and Article 53 of the Insurance Law, and Chapter 638 of the Laws of 2023, do hereby promulgate the following Seventh Amendment to Part 67 of Title 11 of the Official Compilation of Codes, Rules, and Regulations of the State of New York (Insurance Regulation 79), to take effect upon publication of the Notice of Adoption in the State Register, to read as follows:

(New Matter Underscored; Matter in Brackets Deleted)

**The title of Part 67 is amended as follows:**

[MANDATORY] UNDERWRITING INSPECTION REQUIREMENT FOR PRIVATE PASSENGER AUTOMOBILES

**Section 67.0 is amended as follows:**

(a) This Part implements Insurance Law section 3411 by establishing inspection requirements applicable to the issuance and renewal of insurance policies providing private passenger automobile physical damage insurance. Chapter 638 of the Laws of 2023 amended Insurance Law section 3411 to permit an insurer to waive the right to such inspection.

(b) [It] Unless an insurer has filed with the superintendent a statement waiving its right to inspections for all automobiles, it shall be the responsibility of every insurer that issues and delivers automobile physical damage insurance in this State and of the New York Automobile Insurance Plan (“NYAIP”) to establish and maintain inspection procedures that fully comply with section 3411, as implemented by the provisions of this Part. Each such insurer and the NYAIP shall file with the [Superintendent of Financial Services] superintendent a statement describing in detail its plan of operation for establishing and adequately maintaining an inspection system. If an insurer wishes to waive its right to such an inspection for some automobiles, then the insurer shall submit to the superintendent a revised plan of operation that specifies the automobiles that are subject to inspection and those automobiles for which the insurer is waiving the inspection. Any amendments to the plan of operation shall take effect upon filing with the superintendent. Failure to adhere to the provisions of section 3411 and this Part shall subject the violator to the penalty provisions of the Insurance Law, including section 3411(n).

**Section 67.2 is amended as follows:**

67.2 [Mandatory inspection] Inspection requirement for private passenger automobiles.

Except [as permitted by section 67.3] where an insurer has waived its right to an inspection or deferred an inspection pursuant to section 67.4 of this Part, an insurer shall not issue a new insurance policy or modify an existing insurance policy providing automobile physical damage insurance for a new, additional or replacement private passenger automobile unless the insurer's authorized representative has inspected the automobile.

**Section 67.3 is amended as follows:**

67.3 Waiver of the [mandatory] inspection requirement.

Except where an insurer has submitted a statement waiving its right to inspections for all automobiles, the following shall apply:

(a) *Mandatory waivers.* An insurer shall waive an inspection of:

- (1) a temporary substitute automobile; and
- (2) an automobile that is leased for less than six months.

(b) *Optional waivers.* An insurer may waive an inspection for any automobile, including:

- (1) where an automobile is at least seven model years old on the effective date of automobile physical damage insurance;
- (2) where a new, unused automobile is purchased, leased or transferred from a new automobile dealer;
- (3) for an additional or replacement automobile, where the named insured has been continuously insured for automobile insurance with the same insurer or another insurer under common control or ownership for at least two years;
- (4) where a nonowned automobile is insured under a policy providing automobile physical damage insurance issued by an insurer that has inspected the automobile in accordance with the provisions of this Part;
- (5) for an automobile insured under a policy that provides automobile physical damage insurance for five or more automobiles;
- (6) where a licensed insurance producer transfers a book of business from one insurer to another insurer or insurers, provided that the named insured elected to transfer coverage to the new insurer from the previous insurer and the previous insurer had inspected the insured automobile in accordance with the provisions of this Part;
- (7) when a licensed independent insurance agent transfers an individual named insured's coverage to another insurer, provided that the licensed independent insurance agent represents both insurers, the insured automobile was physically inspected by the previous insurer in accordance with the provisions of this Part and the named insured elected to transfer coverage to the new insurer from the previous insurer;

(8) when one insurer has agreed to accept the majority of another insurer's book of automobile physical damage insurance business covering private passenger automobiles registered in New York State, provided that the named insured elected to transfer coverage to the new insurer from the previous insurer provided that the previous insurer had inspected the insured automobile in accordance with the provisions of this Part and supplies the new insurer with a copy of the inspection report that was completed on its behalf;

(9) where an insurer voluntarily writes a named insured's coverage in accordance with a program approved by the superintendent, which is designed to reduce the number of persons insured through the NYAIP, provided that the insurer assigned by the NYAIP physically inspected the insured automobile in accordance with the provisions of this Part and supplies the new insurer with a copy of the inspection report that was completed on its behalf and the coverage with the new insurer becomes effective immediately after the termination of coverage with the insurer assigned by the NYAIP;

(10) where an insurer has agreed to write a named insured's private passenger automobile physical damage insurance, which is otherwise terminating with another insurer under common control or ownership and where the terminating insurer inspected the insured automobile in accordance with the provisions of this Part; or

(11) under a new policy, where the named insured's automobile has been continuously insured for automobile physical damage insurance by the insurer issuing the new policy or any other insurer without a lapse in coverage provided that the insurer actually inspected the automobile within the previous two years in accordance with the provisions of this Part.

(c) An insurer shall set forth the procedures for implementing any inspection waiver for certain automobiles, including a waiver required [or permitted] pursuant to subdivision (a) of this section, in the insurer's plan of operations. An insurer shall base the inspection waiver, and any exceptions to the waiver, on underwriting criteria uniformly applied.

(d)(1) When an insurer waives an inspection pursuant to paragraph (a)(2) of this section, the insurer [shall] may request that the named insured submit a copy of the lease agreement that sets forth a full description of the automobile at the time of lease or rental.

(2) When an insurer waives an inspection pursuant to paragraph (b)(2) of this section, the insurer [shall] may request that the named insured submit:

(i) a copy of the window sticker or advanced dealer shipping notice (invoice) showing the total retail price of the insured automobile including an itemized list of all factory and dealer installed options, accessories and equipment installed on or within the automobile at the time of sale, lease or transfer; and

(ii) a copy of the:

(a) bill of sale or lease agreement that sets forth a full description of the automobile, including all factory and dealer installed options, accessories and equipment installed on or within the automobile at the time of sale, lease or transfer; or

(b) MV-50 form provided by the New York State Department of Motor Vehicles, which establishes transfer of ownership from the new automobile dealer to the named insured.

(3) When an insurer waives an inspection pursuant to paragraph (a)(2) or (b)(2) of this section, the insurer [shall] may:

(i) condition payment of any physical damage loss upon the insurer's receipt of the relevant documents set forth in paragraph (1) or (2) of this subdivision;

(ii) not suspend coverage during the initial annual policy term due to the named insured's failure to provide the required documents; and

(iii) require an inspection of the insured automobile as a condition of renewal of the private passenger automobile physical damage insurance, pursuant to the provisions of section 67.7(c) of this Part, if the insurer cannot obtain a copy of the documents required by paragraph (1) or (2) of this subdivision at least 60 calendar days prior to the first annual renewal date.

(4)(i) An insurer [shall not waive] may require as a condition of waiving an inspection pursuant to paragraph (b)(4), (6), (7), (8), (9), (10) or (11) of this section [unless] that the previous insurer's authorized representative actually inspected the named insured's automobile.

(ii) When an insurer waives an inspection pursuant to paragraph (b)(4), (6), (7), (8), (9), (10), or (11) of this section, the insurer [shall] may:

(a) document the insurer's reason to believe that the automobile was inspected by the previous insurer in accordance with this Part, as well as the source of that information;

(b) request, within 10 days of the start of coverage, confirmation that the inspection was completed and applicable photographs were taken, and a copy of the completed inspection report and applicable photographs from the previous insurer, insurance agent, third-party such as the photo inspection vendor or insured, unless the insurer already has in its possession a copy of the inspection report and applicable photographs;

(c) not suspend coverage during the term of the initial annual policy period due to the previous insurer's failure to provide a copy of the previously completed inspection report and applicable photographs; and

(d) require an inspection of the insured automobile as a condition of renewal of private passenger automobile physical damage insurance pursuant to the provisions of section 67.7(c) of this Part, if the insurer does not obtain a copy of the inspection report and applicable photographs from the previous insurer at least 60 calendar days prior to the first annual renewal date.

**The title and subdivision (a) of section 67.4 are amended as follows:**

67.4 Deferral of the [mandatory] inspection requirement.

(a) Unless an insurer either waives an inspection [as required or permitted by section 67.3 of this Part] or immediately inspects the automobile, upon a named insured's request for private passenger automobile physical damage insurance, an insurer shall, at the time of the insured's request, notify the named insured of the [New York mandatory] physical damage inspection requirement.

**Section 67.5(a) is amended as follows:**

(a) An insurer shall use authorized representatives that conduct inspections [required or permitted pursuant to this Part] in accordance with the provisions of this section. An insurer's authorized representative shall conduct the inspection at a time and place reasonably convenient to the named insured. A reasonably convenient time shall include, in addition to customary business hours, sufficient early morning, evening and weekend hours.

**Section 67.6 is amended as follows:**

(a) [If] Unless an insurer waives an inspection, if the named insured fails to make the insured automobile available for the [mandatory] inspection prior to expiration of the deferral period specified in section 67.4(b) of this Part, then automobile physical damage insurance on the insured automobile shall be suspended at 12:01 a.m. of the day following the 14th calendar day after the effective date of coverage.

(1) If the named insured makes [his or her] the named insured's automobile available for the inspection after the automobile physical damage insurance has been suspended, then the insurer shall accept the inspection and reinstate the automobile physical damage insurance effective as of the date and time of the inspection.

(2) For the purposes of sections 3425 and 3426 of the Insurance Law, reinstatement of automobile physical damage insurance shall not be considered new business.

**Section 67.8 is amended as follows:**

(a) [The] Except where the NYAIP has submitted a statement waiving its right to inspections for all automobiles, the standards for conducting inspections contained in this Part shall be applicable to new assignments by NYAIP, except that:

(1) the 14-calendar-day deferral period for new business provided by section 67.4 of this Part shall be mandatory; and

(2) [The] the NYAIP may waive the [mandatory] inspection requirement for any automobile, [only for a new, unused automobile purchased from a new automobile vehicle dealer in accordance with] including the automobiles specified in section 67.3(b)[(2)] of this Part.

(b) The NYAIP shall have the same rights and obligations as an insurer to arrange for and complete inspections [required by] under section 3411 of the Insurance Law and this Part.

(c) The NYAIP shall forward the completed Automobile Insurance Inspection Report (NYS APD form A) to the designated insurer, which shall accept and be bound by such inspection.

NYS APD Form B and NYS APD Form C as set forth in section 67.12 are REPEALED and new forms are added as follows:

(company letterhead)

**CONFIRMATION OF PHYSICAL DAMAGE COVERAGE  
NOTICE OF PHOTO INSPECTION REQUIREMENT**

Policyholder's Name: \_\_\_\_\_

Address: \_\_\_\_\_

Date of Mailing: \_\_\_\_\_

Coverage Effective Date: \_\_\_\_\_

Inspection Must Be Completed By: \_\_\_\_\_

Policy Number: \_\_\_\_\_

Please Check One:  Initial Inspection  Renewal Inspection

Dear Policyholder,

This will confirm that your vehicle(s) are insured as follows:

- 1) \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_  Comprehensive  Collision  Fire and Theft
  - 2) \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_  Comprehensive  Collision  Fire and Theft
  - 3) \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_  Comprehensive  Collision  Fire and Theft
- Year                      Make                      Model                      VIN

Please disregard this notice if your vehicle(s) already had their photo inspections.

You are reminded that the above-described vehicle(s) must be inspected by the date indicated above, or physical damage coverage will be suspended effective 12:01 A.M. on \_\_\_\_\_.

If you have your vehicle(s) inspected after the date indicated above, then your coverage will be restored effective at the date and time of inspection. However, you will have no coverage for any loss that occurs during the suspension period.

For further information, please contact: \_\_\_\_\_  
Name of and Contact Information for Insurer's Authorized Representative

cc: Producer of Record

NYS APD Form B (2024)

(company letterhead)

**CONFIRMATION OF SUSPENSION OF PHYSICAL DAMAGE COVERAGE**

Date: \_\_\_\_\_

Policyholder's Name: \_\_\_\_\_

Address: \_\_\_\_\_

Policy Number: \_\_\_\_\_

Dear Policyholder,

The vehicle(s) listed below are no longer insured as follows:

- 1) \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_  Comprehensive  Collision  Fire and Theft
  - 2) \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_  Comprehensive  Collision  Fire and Theft
  - 3) \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_  Comprehensive  Collision  Fire and Theft
- Year            Make            Model            VIN

Date coverage was requested: \_\_\_\_\_

Date coverage was suspended: \_\_\_\_\_

The physical damage coverage(s) indicated above have been suspended on the vehicle(s) described, effective 12:01 A.M. on the suspension date. We suspended your coverage(s) due to your failure to comply with the photo inspection requirement.

Your premium adjustment for the suspended coverage(s) [will follow shortly under separate cover].\*

You will not have physical damage coverage on the vehicle(s) during the suspension period. We will restore the coverage(s) if you have your vehicle(s) inspected.

For further information, please contact: \_\_\_\_\_  
Name of and Contact Information for Insurer's Authorized Representative

cc: Producer of Record  
Lienholder

\* Companies may substitute "is enclosed" if the premium adjustment accompanies this letter.

NYS APD Form C (2024)