Regulatory Impact Statement for the Thirteenth Amendment to 11 NYCRR 60-1 (Insurance Regulation 35-A)

1. Statutory authority: The authority of the Superintendent of Financial Services ("Superintendent") to promulgate this rulemaking derives from Financial Services Law ("FSL") sections 202 and 302 and Insurance Law ("IL") sections 301 and 3420(g).

FSL section 202 establishes the office of the Superintendent and designates the Superintendent as the head of the Department of Financial Services ("Department").

FSL section 302 and Insurance Law section 301 authorize the Superintendent to effectuate any power accorded to the Superintendent by the Insurance Law, the Banking Law, the FSL, or any other law of this state and to prescribe regulations interpreting the Insurance Law, among other things.

IL section 3420(g) sets forth requirements for the provision of supplemental spousal liability ("SSL") insurance.

Vehicle and Traffic Law section 311 sets forth definitions, including the definition of "owner's policy of liability insurance."

2. Legislative objectives: To require an insurer to provide SSL insurance to all married policyholders with non-commercial motor vehicle liability policies unless a first named insured has declined it and to make SSL insurance available to all other motor vehicle liability policyholders.

3. Needs and benefits: Chapter 356 of the Laws of 2024 ("Chapter 356") amended IL section 3420(g) to require motor vehicle liability insurers to provide SSL insurance, upon payment of a reasonable premium, to all policyholders who are covered under motor vehicle liability insurance policies that satisfy the requirements of New York Vehicle and Traffic Law Article 6 and are subject to IL section 3425, and where the policyholders have indicated that they have spouses on their insurance applications, unless a first named insured declines and refuses such insurance in writing. Additionally, IL section 3420(g), as amended, requires motor vehicle liability insurers to provide SSL insurance upon written request of the policyholder, other than a policyholder specified

above, and payment of a reasonable premium. An insurer also must provide certain notifications to first named insureds, including a concise statement that SSL insurance is provided or available, as relevant, an explanation of the coverage, and the insurer's premium for the coverage. IL section 3420(g), as amended, applies to all policies issued, renewed, or modified on and after March 26, 2025.

This rulemaking accords with the Legislature's public policy objectives by amending existing SSL insurance requirements to conform to the amendments made by Chapter 356 so that the rule matches the law.

This rulemaking also amends Subpart 60-1.1(c) by fixing an incorrect construction of the subdivision caused by the renumbering of the subdivision in a previous amendment to the rule. The rulemaking amends subdivision (c) to clarify that current subparagraphs (i) through (iii) of paragraph (3) of subdivision (c) also apply to current paragraphs (1) and (2) of subdivision (c), in accordance with the intent of the regulation as originally promulgated.

The rulemaking further amends language to make it gender neutral.

4. Costs: Insurers may incur costs to revise the declination forms and mandatory SSL notices, as set forth in Subpart 60-1.6, to conform to the revised declination form and the new notices, and to file revised policy forms with the Department if insurers include the mandatory SSL notices in their policies, such as on the declarations page. Insurers also may incur costs obtaining written declination forms or requests for coverage from named insureds. However, that is the consequence of Chapter 356 and not this rulemaking.

The Department may incur costs to review revised policy forms that insurers may file. However, any additional costs incurred should be minimal and the Department should be able to absorb such costs in its ordinary budget.

5. Local government mandates: This rule does not impose any program, service, duty, or responsibility upon a county, city, town, village, school district, fire district, or other special district.

6. Paperwork: Insurers will need to revise their mandatory SSL notices, as set forth in Subpart 60-1.6, to conform to the new notices, and obtain written declination forms from first named insureds. Insurers also may

need to submit revised policy forms to the Department for approval if insurers include the mandatory SSL notices in their policies, such as on the declarations page. However, that is the consequence of Chapter 356 and not this rulemaking.

7. Duplication: This rulemaking does not duplicate, overlap, or conflict with any existing State or federal rules or other legal requirements.

8. Alternatives: The Department considered not promulgating the rulemaking. However, the rulemaking is necessary to conform to the changes made by Chapter 356, fix the numbering error, and revise the language to be gender neutral.

9. Federal standards: The rulemaking does not exceed any minimum standards of the federal government for the same or similar subject areas.

10. Compliance schedule: The rulemaking will take effect upon publication of the Notice of Adoption in the State Register.

Statement as to Why a Revised Regulatory Flexibility Analysis for Small Businesses and Local Governments ("RFA") is not Required for the Adoption of the Thirteenth Amendment to 11 NYCRR 60-1 (Insurance Regulation 35-A)

A revised RFA is not required for the adoption of the Thirteenth Amendment to 11 NYCRR 60-1 (Insurance Regulation 35-A) because the non-substantive revisions to the regulation do not require a change to the previously published RFA.

Statement as to Why a Revised Rural Area Flexibility Analysis ("RAFA") is not Required for the Adoption of the Thirteenth Amendment to 11 NYCRR 60-1 (Insurance Regulation 35-A)

A revised RAFA is not required for the adoption of the Thirteenth Amendment to 11 NYCRR 60-1 (Insurance Regulation 35-A) because the non-substantive revisions to the regulation do not require a change to the previously published RAFA.

Statement as to Why a Revised Job Impact Statement ("JIS") is not Required for the Adoption of the Thirteenth Amendment to 11 NYCRR 60-1 (Insurance Regulation 35-A)

A revised JIS is not required for the adoption of the Thirteenth Amendment to 11 NYCRR 60-1 (Insurance Regulation 35-A) because the non-substantive revisions to the regulation do not require a change to the previously published JIS.