Statement Setting Forth the Basis for Finding that the Proposed Eighth Amendment to 11 NYCRR 16 (Insurance Regulation 86) Will Not Have a Substantial Adverse Impact on Jobs and Employment Opportunities

The Department of Financial Services ("Department") finds that this proposed rulemaking will not have a substantial adverse impact on jobs and employment opportunities.

Chapter 490 of the Laws of 2011 amended Insurance Law section 6301(b) to prohibit an authorized insurer from writing in the free trade zone ("FTZ") insurance required to satisfy any New York financial responsibility requirement. However, after the Legislature added this language, statistical code 2-14206 (Auto/Boom Truck Operations/Liability) set forth in 11 NYCRR section 16.12(e) as a "class 2" risk was not updated to reflect this amendment. As a result, the Department is amending section 16.12(e) to reflect the prohibition in Insurance Law section 6301(b).

In addition, Chapter 550 of the Laws of 2025 ("Chapter 550") amended Insurance Law section 6303(a) to eliminate the requirement that an insurer underwrite and transact FTZ business from an office within New York. This rulemaking amends 11 NYCRR section 16.9 to delete the reference to an underwriting office in New York to conform to the amendment made by Chapter 550 and to make clear that an insurer must maintain all FTZ records in accordance with 11 NYCRR 243. To the extent that there is an adverse impact on jobs and employment opportunities, it is a result of Chapter 550 and not this rulemaking.

The proposed amendment is also deleting statistical code 2-13001 (Automobile Personal Injury Protection Excess of $150,000) as a "class 2" risk because such coverage no longer qualifies as a "class 2" risk. Commercial automobile insurers have made $200,000 personal injury protection ("PIP") coverage available for over two decades and as a result, it no longer meets the definition of a "class 2" risk set forth in 11 NYCRR section 16.1(j)(2) (i.e., coverages that are of an unusual nature, a high loss hazard, or difficult to place).

Lastly, the proposed amendment corrects a typo in 11 NYCRR section 16.12(e).

Therefore, this proposed rulemaking will not have a substantial adverse impact on jobs and employment opportunities in New York State.

Rural Area Flexibility Analysis for the Proposed Eighth Amendment to 11 NYCRR 16 (Insurance Regulation 86)

1. Types and estimated numbers of rural areas: Insurers affected by this amendment do business in every county in this State, including rural areas as defined in State Administrative Procedure Act Section 102(10). The Department of Financial Services ("Department") does not know the number of insurers located in rural areas.

2. Reporting, recordkeeping, and other compliance requirements; and professional services: An insurer that currently writes $200,000 personal injury protection ("PIP") coverage in the free trade zone ("FTZ"), including an insurer in a rural area, will need to make a rate filing with the Department if it wants to continue writing the $200,000 PIP coverage.

3. Costs: An insurer that currently writes $200,000 PIP coverage in the FTZ, including an insurer in a rural area, may incur additional costs to comply with this proposed amendment. If the insurer wants to continue writing the $200,000 PIP coverage, then the insurer must make a rate filing. Any costs associated with making filings should be minimal as they are part of the normal cost of business for insurers operating in New York.

4. Minimizing adverse impact: This amendment applies uniformly to insurers that do business in both rural and nonrural areas of New York State. This amendment does not impose any additional burden on insurers located in rural areas, and the Department does not believe that it will have an adverse impact on rural areas.

5. Rural area participation: The Department posted a draft of the amendment on the Department's website on July 1, 2026 for pre-proposed outreach and directly notified interested parties, including trade associations that represent insurers located in rural areas. Interested parties, including those parties located in rural areas, also will have an opportunity to participate when the Department publishes the proposed amendment in the State Register and posts the proposed amendment on the Department's website.

Regulatory Flexibility Analysis for Small Businesses and Local Governments for the Proposed Eighth Amendment to 11 NYCRR 16 (Insurance Regulation 86)

1. Effect of the rule: State Administrative Procedure Act ("SAPA") section 102(8) defines a small business to mean "any business which is resident in this State, independently owned and operated, and employs one hundred or less individuals." There may be insurers affected by the amendment that may be small businesses, but the Department of Financial Services ("Department") does not know how many. The amendment does not apply to local governments.

2. Compliance requirements: An insurer that currently writes $200,000 personal injury protection ("PIP") coverage in the free trade zone ("FTZ"), including an insurer that is a small business, will need to make a rate filing with the Department if it wants to continue writing the $200,000 PIP coverage.

3. Professional services: An insurer that may be a small business should not need any professional services to comply with this amendment.

4. Compliance costs: An insurer that currently writes $200,000 PIP coverage in the FTZ, including an insurer that is a small business, may incur additional costs to comply with this proposed amendment. If the insurer wants to continue writing the $200,000 PIP coverage, then the insurer must make a rate filing. Any costs associated with making filings should be minimal as they are part of the normal cost of business for insurers operating in New York.

5. Economic and technological feasibility: Insurers that may be small businesses should not incur any economic or technological impact as a result of this amendment.

6. Minimizing adverse impact: The amendment uniformly affects all insurers that are subject to it, including any that are small businesses. The amendment should not have an adverse impact on any insurer that is a small business.

7. Small business and local government participation: The Department complied with SAPA section 202-B(6) by posting a draft of the amendment on the Department's website on July 1, 2026 for pre-proposed outreach and directly notifying trade organizations that represent insurers that may be small businesses. Interested parties, including those parties that may be small businesses, also will have an opportunity to participate when the Department publishes the proposed amendment in the State Register and posts the proposed amendment on the Department's website.

Regulatory Impact Statement for the Proposed Eighth Amendment to 11 NYCRR 16 (Insurance Regulation 86)

1. Statutory authority: The authority of the Superintendent of Financial Services ("Superintendent") to promulgate this proposed amendment derives from Financial Services Law sections 202 and 302 and Insurance Law section 301 and Article 63.

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

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

Insurance Law Article 63 permits an authorized insurer to obtain a special license to write certain kinds of insurance that are jumbo in dimension, exotic in nature, or issued to a large commercial insured, without being subject to form and rate filing requirements (the "free trade zone" or "FTZ"). However, Insurance Law section 6301(b) prohibits an insurer from writing in the FTZ insurance required to satisfy any New York financial responsibility requirement, among other things.

2. Legislative objectives: To permit authorized insurers to write certain kinds of insurance without being subject to form and rate filing requirements.

3. Needs and benefits: Chapter 490 of the Laws of 2011 ("Chapter 490") amended Insurance Law section 6301(b) to prohibit an insurer from writing in the FTZ insurance required to satisfy any New York financial responsibility requirement. However, after the Legislature added this language, statistical code 2-14206 (Auto/Boom Truck Operations/Liability) set forth in 11 NYCRR section 16.12(e) as a "class 2" risk was not updated to reflect this amendment. As a result, the Department is amending section 16.12(e) to reflect the prohibition in Insurance Law section 6301(b).

In addition, Chapter 550 of the Laws of 2025 ("Chapter 550") amended Insurance Law section 6303(a) to eliminate the requirement that an insurer underwrite and transact FTZ business from an office within New York. This proposed amendment amends 11 NYCRR section 16.9 to delete the reference to an underwriting office in New York to conform to the amendment made by Chapter 550 and to make clear that an insurer must maintain all FTZ records in accordance with 11 NYCRR 243.

The proposed amendment also deletes statistical code 2-13001 (Automobile Personal Injury Protection Excess of $150,000) as a "class 2" risk because such coverage no longer qualifies as a "class 2" risk. Commercial automobile insurers have made $200,000 personal injury protection ("PIP") coverage available for over two decades and as a result, it no longer meets the definition of a "class 2" risk set forth in 11 NYCRR section 16.1(j)(2) (i.e., coverages that are of an unusual nature, a high loss hazard, or difficult to place).

Lastly, the proposed amendment corrects a typo in 11 NYCRR section 16.12(e).

4. Costs: An insurer that currently writes $200,000 PIP coverage in the FTZ may incur additional costs to comply with this proposed amendment. If the insurer wants to continue writing the $200,000 PIP coverage, then the insurer must make a rate filing. Any costs associated with making filings should be minimal as they are part of the normal cost of business for insurers operating in New York. The Department will not incur any costs as a result of this proposed amendment.

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

6. Paperwork: An insurer that currently writes $200,000 PIP coverage in the FTZ will need to make a rate filing with the Department.

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 proposed amendment. However, the proposed amendment is necessary to conform to the changes made by Chapters 490 and 550, to reflect current market availability of the $200,000 PIP coverage limit, and to fix a typo.

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

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