

NEW YORK STATE
INSURANCE DEPARTMENT
10/4/07 EXPOSURE DRAFT
PROPOSED
REGULATION 189
(11 NYCRR 111)

**MANDATORY CATASTROPHE RESERVES FOR PROPERTY/CASUALTY
INSURANCE COMPANIES**

I, Eric R. Dinallo, Superintendent of Insurance of the State of New York, pursuant to the authority granted by Sections 201, 301, 1113(a)(4), (5), (6), (12), and (20), 1306, 4102(c), and 4117(e) and Articles 41, 61, 66 and 67 of the Insurance Law, do hereby promulgate Part 111 of Title 11 of the Official Compilation of Codes, Rules and Regulations of the State of New York (Regulation 189), to take effect upon publication in the State Register, to read as follows:

(ALL MATERIAL IS NEW)

Section 111.0 Statement of purpose.

This Part requires authorized property/casualty insurers to establish reserve funds for the payment of losses that occur in New York, arising out of natural catastrophes. Insureds pay for catastrophe coverage every year as part of their property insurance premiums, yet catastrophic events generally happen infrequently. This results in significant underwriting gains for insurers for years in which no catastrophe occurs. These underwriting gains should be retained by insurers in the event of future catastrophe losses. This reserve will have a stabilizing effect on insureds' premiums. It will facilitate the ability of insurers to fund catastrophic losses and mitigate the exposure of insurers' surplus to policyholders to large fluctuations resulting from such losses.

Section 111.1 Applicability and scope.

Every authorized property/casualty insurer issuing a policy of insurance or contract of reinsurance covering losses resulting from a natural catastrophe for property risks located or resident in this State shall establish a contingent liability, specified as its New York mandatory catastrophe reserve, which shall be used to fund the payment of claims resulting from qualifying losses.

Section 111.2 Definitions.

- (a) *Catastrophe* shall mean an event designated as a catastrophe by the Property Claims Service and covering losses related to a natural event such as wind, hail, hurricane, earthquake, winter storms (snow, ice, freezing), fire, tsunami, or flood.
- (b) *New York subject premiums* shall mean premiums related to property risks located or resident in this State with respect to the kinds of insurance specified in Section 1113(a)(4), (5), (6), (12), or (20) or pursuant to Section 4102(c) of the Insurance Law, that are written on a direct or assumed reinsurance basis.
- (c) *New York mandatory catastrophe reserve* shall mean a contingent liability account.
- (d) *Property/casualty insurer* shall mean an insurer licensed pursuant to Article 41, 61, 66, and 67 of the Insurance Law
- (e) *Qualifying losses* means losses and loss adjustment expenses incurred, net of reinsurance, which are directly attributable to a catastrophe in this State.

Section 111.3 Annual contribution to the New York mandatory catastrophe reserve.

- (a) Every property/casualty insurer shall fund its mandatory catastrophe reserve in an amount no less than the aggregate catastrophe load included in the premium of policies covering risks located or resident in this State with respect to the kinds of insurance specified in Section 1113(a) (4), (5), (6), (12), or (20), or in any reinsurance contract of such risks, written pursuant to Insurance Law Section 4102(c) or otherwise, for the calendar year. The reserve liability so established shall be net of any reinsurance ceded, and federal, state and local income tax incurred on such reserves.
- (b) Notwithstanding subdivision (a) of this section, an insurer need not fund its mandatory catastrophe reserve with respect to assumed reinsurance premiums on excess of loss reinsurance contracts or treaties.

Section 111.4 Accumulation of the New York mandatory catastrophe reserve.

The New York mandatory catastrophe reserve shall have a 20-year rolling term. At the end of the 20th year, the first year's contribution (to the extent not used to fund catastrophe losses), shall be taken into income and the following year's contribution shall be added to the reserve.

Section 111.5 Transfers from the New York mandatory catastrophe reserve.

- (a) A property/casualty insurer shall release its New York mandatory catastrophe reserve when it incurs a loss on a catastrophe for property risks located or resident in this State.
- (b) Within 30 days of releasing the funds from the New York mandatory catastrophe reserve, a property/casualty insurer shall provide the superintendent with written notice of such release.

The notice shall be in a form as specified by the superintendent showing the amount of the transfer, calculation of the transfer, and the catastrophe that necessitated the transfer.

- (c) A property/casualty insurer shall return to the New York mandatory catastrophe reserve any reserves transferred from the New York mandatory catastrophe reserve that are not ultimately expended to pay losses resulting from a natural catastrophe.
- (d) The superintendent may approve funds for release from the New York mandatory catastrophe reserve:
 - (1) to mitigate the potential impairment of the property/casualty insurer;
 - (2) when the property/casualty insurer no longer has exposure for losses resulting from a catastrophe; or
 - (3) where the release of funds would be in the best interests of the property/casualty insurer, its policyholders, or the people of this State.

Section 111.6 Reporting requirements.

- (a) For a domestic insurer, the New York mandatory catastrophe reserve shall be shown as a write-in liability item on the quarterly and annual statements.
- (b) For an insurer other than a domestic insurer, the New York mandatory catastrophe reserve shall be shown as a write-in liability item on the New York supplement to the property and casualty annual statement.