Filing Considerations in New York
Applicable Laws and Regulations

Article 23 of the New York Insurance Law regulates most property and casualty insurance rates, territories and classifications, and policy forms.

The following is a summary of key New York rating laws and regulations for most property and casualty insurance. The specifics relating to, for example, workers compensation insurance and medical malpractice, are not included here.

There are several key sections to note in relation to rates. As a general rule, rates cannot be excessive, inadequate, unfairly discriminatory or destructive of competition, as indicated in New York Insurance Law § 2303. The general rate and rating plan filing provision is Insurance Law § 2305. The rate making and supporting information standards are outlined in § 2304. The rate filing obligation can be delegated to rate service organizations pursuant to § 2306.

Insurance rates and rating plans for most lines of insurance, including both commercial and personal (such as homeowners) property and liability insurance issued by stock, mutual, and advance premium insurers are subject to Insurance Law § 2305(a), which means they can be filed and used without DFS's prior approval. However, companies often opt to wait for DFS to acknowledge a filing before they actually place it into effect. It should be noted that section 2305(a) is subject to expiration and must be reauthorized by the Legislature on a periodic basis (it's currently effective until June 30, 2029).

Personal automobile insurance, referred to as non-commercial auto insurance, is subject to Insurance Law§ 2305(b), which establishes prior approval for rates for thirteen lines of insurance (including private passenger automobile insurance). This section of law provides that rate filings must be filed with the superintendent. The superintendent has 30 days, which may with cause be extended an additional 30 days and with further cause extended an additional 15 days to approve or disapprove the filing. This implies that once the requisite time periods have elapsed and a filing has not been disapproved, the filing may be implemented by the insurer. Disapproval is a formal (but undefined) term; it is not synonymous with a pending rate application that has not yet been approved. Objections made to filings do not reset the cumulative 75-day period, and an objection response may be considered accepted if no new objection is made within 30 days, provided the filer has responded to all the items in the objection letter timely.

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Personal automobile insurance is further subject to “flex rating” under Insurance Law § 2350. There is a flex band of plus or minus 5 percent, which is subject to regulatory limitations. Refer to 11 NYCRR 163 for more information about the requirements. Pursuant to legislation adopted through the 2027 budget act, after November 27, 2026, only rate decreases in the 5 percent band will be allowed by this section. The section is scheduled for repeal in its entirety on May 27, 2030.

It should also be noted that as part of the 2025–2026 fiscal year budget, Insurance Law § 2328 was amended to permit flex rating of for-hire vehicle insurance rates. The law took effect on December 1, 2025, allowing for a flex band for increases of up to 5 percent in relation to for-hire vehicles. Amendments were made to 11 NYCRR 161 and 11 NYCRR 163 implementing the new law.

Commercial auto, and most other commercial property and casualty policies, are subject to Insurance Law § 2344, which delegates to DFS the ability to set flex bands pursuant to Regulation 129 (11 NYCRR 161). There are several commercial lines that remain open to file and use, and are exempted from flex rating, including commercial fire, farmowner, ocean marine, inland marine, earthquake, fidelity, surety, aircraft, glass, burglary and theft, boiler and machinery, and credit. There are also other commercial markets, listed in 11 NYCRR 161.3, that are open to file and use.

The flex bands are outlined in 11 NYCRR 161.4; the relevant regulation is excerpted below. The list includes the applicable lines and the corresponding flex bands. The regulation also indicates that the flex bands will be periodically reviewed by the Superintendent based on the following factors:

- the extent and nature of competition; size and significance of the coverage
- level and range of rates and rate changes among insurers
- investment and underwriting experience of insurers
- reinsurance availability
- consumer complaints
- extent of denials and restrictions of coverage
- volume of cancellations and nonrenewals
- changing conditions in the economic, judicial and social environment.

Flex-bands define the extent to which, during a one-year period in connection with a particular market, rate level increases or decreases may take effect without prior approval. The following flex-bands became effective beginning September 26, 1986, regarding the specified markets:

(1)	municipal liability	±15%
(2)	public school liability	±15%
(3)	childcare liability	±10%
(4)	nonprofit philanthropic and civic activity liability	±15%
(5)	public officials liability	±15%
(6)	nonprofit IRC section 501(c)(3) directors and officers	±10%
(7)	other directors and officers liability	±20%
(8)	professional liability	±20%
(9)	other errors and omissions liability	±20%
(10)	recreational liability	±15%
(11)	other owners, landlords and tenants liability	±15%
(12)	other manufacturers and contractors liability	±15%
(13)	products liability	±20%
(14)	completed operations liability	±20%
(15)	liquor law liability	±15%
(16)	non-livery commercial motor vehicle	±15%
(17)	CMP combined effect (see section 161.3[b][2][i] exception)	±15%
(18)	business owners policies (BOP)	±15%
(19)	business auto policies (BAP)	±15%
(20)	high limits excess liability renewal policies	±30%
(21)	‘a’ rated renewal policies	±30%
(22)	all other liability	±20%

Filings with overall rate effects within the applicable flex band for the commercial lines listed above, may be placed in effect without prior approval. Notably, filings with rate effects outside the applicable flex band may be deemed approved if DFS does not disapprove the filing within a specified time. Insurance Law § 2344(d)(1) allows a carrier to deem if not disapproved within 30 days of filing, (which can be extended; see below):

(d)(1) Notwithstanding any other provisions of this article, in any market governed by such regulation and not exempted by the superintendent pursuant to this section, filings that produce rate level changes within the limitations specified in such regulation shall become effective without prior approval pursuant to subsection (a) of section two thousand three hundred five of this article; filings which produce rate level changes beyond such limitations shall not become effective until approved by the superintendent pursuant to subsection (b) of section two thousand three hundred five of this article, except that filings shall be deemed approved unless disapproved by the superintendent within thirty days, which the superintendent may with cause extend an additional thirty days and with further cause extend an additional fifteen days.

The above provisions apply to rates. Rating plans are subject to Section 161.8 of Regulation No. 129. For rating territories and classifications, the law allows a carrier to implement a filing after 90 days if not disapproved by DFS. The standard for disapproval is that the class or territory is not unfairly discriminatory or violative of public policy, as indicated in Insurance Law § 2307(a).

Policy forms may be placed in effect 30 days after filing if not disapproved as misleading or violative of public policy, for any carrier except cooperative assessment companies.

Companies should ensure they are familiar with Insurance Law § 2320, which establishes penalties for failure to follow the rules where prior approval is not required. The superintendent has broad latitude to examine insurers to ascertain whether their rating and underwriting practices are in accordance with the law. The superintendent may require, following a hearing, that a rate be disapproved and premium restored to the previously filed rate (Insurance Law § 2320(b)(1)). Section 2320 sets forth the potential fines along with the procedural rights carriers have to dispute any negative findings, including a right to hearing.

In summary, there are options a company can consider when determining how to file certain rates, forms, manuals, and plans. This document is not legal or regulatory advice, so companies are encouraged to consider the specific circumstances and business considerations surrounding any individual filing. NYIA believes it is also important to keep an open line of communication with DFS.

Below is a concise summary of the above discussion of filing mechanisms that are provided in statute by line of insurance.

- Homeowners insurance rates and rating plans except those of assessment cooperatives can be filed and used (Insurance Law § 2305).

- Personal automobile insurance, referred to as non-commercial auto insurance, is subject to a flex band of plus or minus 5 percent (Insurance Law § 2350), but is being phased out as a result of legislation passed as part of the fiscal year 2026–2027 budget.

- Beginning December 1, 2025, for-hire vehicles are subject to a flex band for increases up to 5 percent (Insurance Law § 2328).

- Commercial auto and most other commercial property and casualty policies are subject to file-and-use flex bands of differing proportions. Please see 11 NYCRR 161.4 for the specific percentage of each band according to filing category.

- Commercial fire and farmowner, among others, are exempted from flex bands and are subject to file and use. Refer to 11 NYCRR 161.3 for a full list of exempt markets.

- Commercial rates beyond an applicable flex band qualify for deeming, allowing a carrier to implement a filing that is not disapproved within 30 days of filing, which can be extended (Insurance Law § 2344(d)(1)).

- Carriers may place rating territories and classifications filings into effect after 90 days if not disapproved by DFS (Insurance Law § 2307(a)).

- Carriers, except assessment cooperatives, may place policy forms into effect after 30 days if not disapproved as misleading or violative of public policy (Insurance Law § 2307(b)). Assessment cooperative policy forms are subject to prior approval pursuant to Insurance Law § 6609.

Note that there a number of rating provisions in statute that could sunset but are typically extended.