

1. Enabling Statute: New York Insurance Exchange

New York Insurance Law – Article 62

GUIDENOTE: The New York Insurance Law was recodified effective September 1, 1984. Prior to this recodification, Article 62 was Insurance Law Section 425-a. References to the New York Insurance Law in the ensuing Insurance Department Regulations and New York Insurance Exchange documents may be to the law before recodification.

Article 62

NEW YORK INSURANCE EXCHANGE

Section

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| 6201. | New York insurance exchange. |
| 6202. | Constitution and by-laws. |
| 6203. | Miscellaneous. |
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§ 6201. New York insurance exchange

(a) Notwithstanding the provisions of section six thousand one hundred sixteen of this chapter, the New York insurance exchange, shall be continued, subject to such regulations as may be promulgated by the superintendent.

(b) The purposes of the exchange shall be:

(1) to provide a facility for the underwriting of:

(A) reinsurance of all kinds of insurance;

(B) direct insurance of all kinds on risks located entirely outside the United States;

(C) direct insurance of all kinds on risks located in the United States other than in this state, provided that such risk qualifies for placement pursuant to the excess and surplus lines requirements of the jurisdiction in which the risk is located; the superintendent may permit the exchange or its syndicates, or both, to take such steps as may be necessary to qualify as an excess and surplus lines insurer in such jurisdiction;

(D) risks which shall have been submitted to and certified as having

been rejected by a committee representative of insurers licensed by the superintendent under article sixty-three of this chapter, subject to conditions imposed by the superintendent pursuant to regulation; and

(2) to manage the facility authorized by this article, in accordance with regulations promulgated by the superintendent.

History.—L. 1984, c. 367, § 1.

§ 6202. Constitution and by-laws

(a) The exchange shall function under its constitution and by-laws which it may amend pursuant to the terms thereof.

(b) Notwithstanding the authority granted to the exchange pursuant to the provisions of the constitution and by-laws to amend, replace or add provisions, the constitution and by-laws shall at all times provide for but not be limited to:

(1) the election of not less than six nor more than thirteen governors at least one-third of whom shall not be members of the exchange and who shall be public representatives;

(2) the location of the principal offices of the exchange and its members to be within this state for the purpose of the transaction of the types of business described in subsection (b) of section six thousand two hundred one of this article;

(3) the submission by members and all applicants for membership on the exchange of such financial information required by the superintendent;

(4) the establishment by the exchange of a security fund in a form and amount approved by the superintendent;

(5) the voting power of members who are underwriting syndicates;

(6) the voting power and other rights granted under the provisions of the not-for-profit corporation law to participate in the conduct and management of the affairs of the exchange by brokers, agents and intermediaries transacting business on the exchange, each of whom shall be considered "members" only under the provisions of such law; and

(7) the rights and duties of exchange members, which may include

but shall not be limited to the manner and form of conducting business, financial stability, dues, membership fees, mandatory arbitration and all other matters necessary or appropriate to conduct any business permitted by this article.

(c) Any amendments to the constitution and by-laws shall be subject to the approval of the superintendent.

(d) At least two-thirds of the governors shall be citizens of the United States.

(e) For the purposes of this section, a principal office shall be one where officers and qualified personnel who are engaged in the administration, underwriting, claims, policyholders' service, marketing, accounting, record-keeping and all supportive services shall be located.

History.—L. 1984, c. 367, § 1.

§ 6203. Miscellaneous

(a) The New York insurance exchange shall not be subject to any state or local taxes or fees measured by income, premiums or gross receipts, except that for purposes of taxation under section one thousand five hundred ten of the tax law, direct premiums written, procured or received by a member or members through the exchange on risks located in this state shall be deemed written, procured or received by the exchange and the premium tax due on said premium shall be reported and paid by the exchange.

(b) The exchange shall reimburse the superintendent for any expenses incurred by him relating to the regulation of the exchange and its members.

(c) This chapter and regulations thereunder shall apply to the exchange, its members, and the insurance or reinsurance written through the exchange, except as may be exempted by the superintendent pursuant to regulation; provided that no such exemption shall be unfairly discriminatory or detrimental to the solvency of licensed insurers.

(d) The superintendent may establish limitations on investments in members of the exchange. The investment in any member by brokers, agents and intermediaries transacting business on the exchange, and the investment in any such broker, agent or intermediary by any member, directly or indirectly, all as defined by

regulation, shall in each case be limited in the aggregate to less than twenty percent (or such lesser amount as determined by the superintendent) of the total investment in such member, broker, agent or intermediary.

(e) For purposes of paragraph fourteen of subsection (a) of section one thousand three hundred one of this chapter, reinsurance written by members of the exchange shall be deemed to have been written by an insurer authorized to transact insurance in this state.

(f) The performance of the contractual obligations of the exchange or its members entered into pursuant to section six thousand two hundred one of this article shall not be covered by any of the New York state security or guaranty funds.

History.—L. 1984, c. 367, § 1.

2. New York Insurance Department Regulations

Part 18. New York Insurance Exchange Inc.

Part 19. Interface of Special Risk Insurers with the New York Insurance Exchange, Inc.

GUIDENOTE: The New York Insurance Law was recodified effective September 1, 1984. The following Regulations have not been amended to reflect the recodification and, therefore, all references contained in these regulations to provisions of the Insurance Law are to the Law in effect prior to the recodification. Amended Regulations are reportedly being drafted and will be included in this volume when promulgated.

CODES, RULES AND REGULATIONS OF THE STATE OF NEW YORK

TITLE 11. INSURANCE

CHAPTER 1. GENERAL PROVISIONS

Part 18

New York Insurance Exchange, Inc.

SUBPART 18-1

GENERAL

(Regulation 89)

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(Regulation 89-a)

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18-2.0.	Introduction.

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Section	
18-2.1.	Definitions.
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SUBPART 18-3

**CRITERIA FOR ELIGIBILITY FOR THE POSITION OF PUBLIC GOVERNOR
(Regulation 89-b)**

Section	
18-3.0.	Introduction.
18-3.1.	Definitions.
18-3.2.	Eligibility for the position of public governor.

§ 18-1.0. Introduction

(a) Section 425-a of the Insurance Law was added by chapter 480 of the Laws of 1978, effective July 20, 1978, and was amended by chapter 11 of the Laws of 1979, effective February 28, 1979. Subdivision 1 of section 425-a provides for the creation of a New York insurance exchange, subject to such regulations as may be promulgated by the superintendent; subdivision 6 of section 425-a makes the Insurance Law and regulations promulgated thereunder applicable to the exchange, its members, and the insurance or reinsurance written through the exchange except as may be exempted by the superintendent pursuant to regulation; provided, however, that no such exemption shall be unfairly discriminatory or detrimental to the solvency of licensed insurers.

(b) This Part is promulgated to implement the provisions of section 425-a by specifying sections of the Insurance Law and regulations promulgated thereunder which shall not apply, in whole or in part, to the New York Insurance Exchange and its members, and to the insurance and reinsurance written through the exchange.

Stat. Authority.—Insurance Law, §§ 201, 301, 6201 to 6203.

History.—Sec. added by renum. 18.0, filed June 14, 1979; repealed, new filed Jan. 23, 1980 eff. Jan. 23, 1980.

Parallel Citation.—Regulation 89.

§ 18-1.1. Definitions

- (a) *Exchange* means the New York Insurance Exchange, Inc.
- (b) *Constitution* means the constitution and bylaws of the exchange.

(c) *Board* means the board of governors of the New York Insurance Exchange, Inc. then in office.

(d) *Board of directors* means the board of directors of the Security Fund as described in article 13, section 9 of the constitution.

(e) *Superintendent* means the Superintendent of Insurance of the State of New York.

(f) *Insurance Law* means the Insurance Law of the State of New York.

(g) *Underwriting member* shall have the meaning as set forth in paragraph (a), section 1, article VII of the constitution.

(h) *Broker member* shall have the meaning as set forth in paragraph (b), section 1, article VII of the constitution.

(i) *Member* shall mean an underwriting member or broker member.

(j) *Associate broker* shall have the meaning as set forth in section 2, article VII of the constitution.

(k) *Underwriting manager* shall have the meaning as set forth in section 3, article XI of the constitution.

(l) *Subscriber* shall have the meaning as set forth in section 3, article VII of the constitution.

(m) *Security Fund* means the NYIE Security Fund, Inc. as set forth in section 1, article XIII of the constitution.

(n) *Exchange contract* shall have the meaning as set forth in section 1, article IX of the constitution.

(o) *Earned surplus* shall have the meaning as set forth in section 102 (a)(6) of the New York Business Corporation Law.

(p) *Life department* means that portion of business of a life and property and casualty syndicate, as referred to in paragraph (3) of subdivision (h) of section 18-1.2 of this Subpart, that can be attributed to life insurance and reinsurance.

(q) *Deputy or deputies* shall mean a natural person or persons to

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whom binding authority has been delegated by an underwriting manager pursuant to section 3, article IX of the Constitution.

Stat. Authority.—Insurance Law, §§ 201, 301, 6201 to 6203.

History.—Sec. added by renum. 18.1, filed June 14, 1979; repealed, new filed Jan. 23, 1980; amd. filed April 22, 1980 eff. April 22, 1980. Added (q).

Parallel Citation.—Regulation 89.

§ 18-1.2. General provisions

(a) Except as hereinafter provided and subject to section 425-a of the Insurance Law, any person, firm, corporation or other entity may become an underwriting member. However, no insurer licensed under the laws of this State, any other state, territory or possession of the United States, or under the laws of a foreign country, shall become an underwriting member of the exchange. Nothing contained herein, however, shall prohibit any such insurer from owning the stock of a corporation which is an underwriting member or of a corporation which is a partner in an underwriting member of the exchange, subject to the applicable provisions of the Insurance Law.

(b) (1) No rule, regulation or plan of operation of the Security Fund shall become effective unless copy of said rule, regulation or plan of operation has been submitted to the superintendent at least 30 days prior thereto, or such shorter period as he may permit, and he has not disapproved it within such period.

(2) In the reporting of data for the annual statement pursuant to section 26 of the Insurance Law, underwriting members shall use statutory insurance accounting principles.

(c) Whenever the term *insurer, insurance company or corporation* appears in the Insurance Law, it shall apply to an underwriting member. Any underwriting member shall be deemed a domestic insurer as defined in subdivision 15, section 4 of the Insurance Law for the purposes of the application of the provisions of the Insurance Law and related statutes, and this Part.

(d)(1) The term *insurance contract* as defined in subdivision 1 of section 41 of the Insurance Law shall be deemed to include an exchange contract as referred to in section 1, article IX of the constitution. However, in no event shall the exchange be a party to an exchange contract or have any liability thereunder.

(2) The term *doing an insurance business* as defined in subdivision 3

of section 41 of the Insurance Law shall be deemed to include the making of, or proposing to make, an exchange contract.

(e) Whenever the terms *license*, *licensee*, or *licensed* appear in the Insurance Law in reference to insurers, such terms shall be deemed to apply to an underwriting member approved by the board pursuant to section 7, article VII of the constitution.

(f) Notwithstanding the exemptions from the Insurance Law granted hereinafter, any business underwritten pursuant to subdivision 1 (a)(iii) of section 425-a of the Insurance Law shall be subject to all applicable provisions of the Insurance Law, except as provided under section 168-d thereof and Insurance Department Regulation No. 86 (11 NYCRR Part 16).

(g) The prohibition contained in section 18-1.3 (a)(5)(ii) of this Subpart shall be applicable to any person, firm, corporation or other entity who or which is a member, associate broker, underwriting manager or subscriber of the exchange.

(h) (1) An underwriting member authorized by the exchange to write the kinds of insurance other than life and annuities shall be deemed a casualty insurance company and a surety company within the meaning of section 310, a fire insurance company and a marine insurance company within the meaning of section 340, and an accident and health company within the meaning of subdivision 2 of section 190 of the Insurance Law, as applicable, and shall be known as a *property and casualty syndicate*. Except with respect to life insurance and annuities, title insurance, mortgage guaranty insurance and life of property insurance, such syndicate may reinsure risks of every kind or description and may write any and all kinds of insurance on risks outside of the United States, its territories or possessions.

(2) An underwriting member authorized to write life insurance, annuities and accident and health insurance shall be deemed a life insurance company within the meaning of subdivision 1 of section 190 of the Insurance Law and shall be known as a *life syndicate*.

(3) An underwriting member authorized to write all the kinds of insurance specified in paragraphs (1) and (2) of his subdivision shall be known as a *life and property and casualty syndicate*.

(4) An underwriting member shall provide the initial paid-in capital and surplus and thereafter maintain the minimum surplus to policyholders as required pursuant to section 6, article VII of the

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constitution. The surplus to policyholders of an underwriting member which is a stock corporation authorized to transact business as a property and casualty syndicate or as a life syndicate shall at all times include a paid-in capital of at least \$500,000; if authorized to transact business as a life and property and casualty syndicate, \$1,000,000.

(5) After satisfying the requirements for minimum capital investments specified in section 18-1.3 of this Subpart, a life and property and casualty syndicate shall invest its life department reserves and liabilities only as provided in section 80(1)(a) of the Insurance Law.

(i) The provisions of subdivisions 1 and 2 of section 26, subdivisions 1 and 2(a) of section 28, section 29, and article XVI of the Insurance Law shall apply to the exchange, the Security Fund and to any other corporation established by the exchange.

(j) Any request made pursuant to section 27 of the Insurance Law shall be directed to the exchange except where the superintendent deems a direct request to the member necessary, in which case a copy of such request will be sent to the exchange.

(k) (1) Notwithstanding the provisions of sections 110, 113, and 115 of the Insurance Law, a person acting as an underwriting manager or deputy thereof pursuant to the authority conferred by section 3, article IX of the constitution shall not be required to obtain a license to act as an insurance agent.

(2) (i) Notwithstanding the provisions of subdivision 9 of section 46-a and subdivision 7 of section 85-a of the Insurance Law, an insurer authorized in this State may act as an underwriting manager of an underwriting member or underwriting members.

(ii) An insurer not authorized in this State may become an underwriting manager of an underwriting member only upon such underwriting member's application to the superintendent and his written approval thereof.

(iii) No insurer may act as an underwriting manager of an underwriting member unless so designated by the exchange pursuant to section 3, article IX of the constitution.

(iv) Any insurer approved by the exchange as an underwriting

manager must maintain books and records which separately account for such business.

Stat. Authority.—Insurance Law, §§ 201, 301, 6201 to 6203.

History.—Sec. added by renum. 18.2, filed June 14, 1979; repealed, new filed Jan. 23, 1980; amd. filed April 22, 1980 eff. April 22, 1980. Added (k).

Parallel Citation.—Regulation 89.

§ 18-1.3. Organization, licensing, corporate procedures and capital and surplus requirements for underwriting members

(a) Underwriting members shall be subject to the provisions of all sections of article IV of the Insurance Law, except as follows:

(1) (i) subdivision 1-4 of section 40;

(ii) subdivision 5 of section 40, except that whenever the superintendent shall determine, after notice and hearing, that any underwriting member is doing business in a manner detrimental to the people of this State, or its further conduct of business may jeopardize the interests of other members, associate brokers or policyholders or has failed or refused to take such steps as may be necessary to remove from office any officer or director of such underwriting member whom the superintendent has found, after notice and hearing, to be a dishonest or untrustworthy person, he may remove, with respect to such underwriting member, any exemptions granted in this Subpart and proceed according to article XVI of the Insurance Law; the superintendent shall furnish the exchange with a copy of any notice issued pursuant to this subparagraph;

(iii) subdivision 6 and 7 of section 40; or

(iv) subdivision 9 of section 40, except that no entity which is controlled through stock ownership, by management contract or otherwise, by another state of the United States or by a foreign government or by any political subdivision of either, or which is an agency of any such state, government or subdivision, may become an underwriting member of the exchange without the prior approval of the superintendent; provided, however, that no underwriting member which was not so controlled at the time it was admitted as an underwriting member of the exchange, and which thereafter becomes so controlled, may continue as an underwriting member of the exchange unless it has received the prior approval of the superintendent.

(2) section 42;

(3) section 43, except that no individual underwriting member shall be permitted to do business in the exchange under a corporate or fictitious name or under any name, style or title other than the true name of such individual;

(4) sections 44; 44-a; 45;

(5) section 48, provided that if the applicant for underwriting membership is a corporation the following conditions are met:

(i) that this exemption is for the limited purpose of permitting formation of a corporation under section 402 of the New York Business Corporation Law or for the limited purpose of granting a foreign corporation authority to do business in this State under section 1304 of said law;

(ii) that the corporate name of such corporation shall not include the word *exchange*, *reinsurance* or any word prohibited by section 301(a)(5) of the New York State Corporation Law;

(iii) that this exemption neither authorizes nor licenses said corporation to transact an insurance business in this State, except to participate as or to be a participant in an underwriting member of the exchange;

(iv) that this exemption shall terminate simultaneously with the termination of the authority granted to the corporate underwriting syndicate pursuant to the constitution; and

(v) that upon termination of the underwriting member's authority granted pursuant to the constitution, the certificate of incorporation of the member shall be amended to delete the corporate purpose to participate as an underwriting member of the exchange;

(6) sections 48-a; 49; 51; 52; 53; 53-a; section 59, provided that each underwriting member designates the exchange as its lawful agent for receipt of service upon any such underwriting member; sections 59-a; 63; 64; and 66.

(b) An underwriting member of the exchange shall be exempt from the capital and surplus requirements of the Insurance Law and shall be subject to the capital and surplus requirements of section 6, article VII of the constitution.

(c) The capital and surplus amounts required for approval by the board to be an underwriting member shall consist of United States

currency, securities of the types described under paragraph (a), (b) or (c) of section 79 of the Insurance Law (valued at market at the time deposited) or a letter of credit or a surety bond, equal in the aggregate to such required amounts. Such currency, securities or letter of credit shall be on deposit in accordance with rules and regulations adopted by the board. No underwriting member shall transact any business on the exchange until the amount of capital and surplus required pursuant to the constitution is on deposit for the amount of the underwriting member with a solvent financial institution which is either a member of the Federal Reserve System or a bank licensed by the New York State Banking Department, in United States currency or in securities permitted under paragraphs (a), (b) and (c) of section 79 of the Insurance Law. The provisions of this subdivision shall not be applicable to the initial deposit required pursuant to section 4, article XIII of the constitution.

Stat. Authority.—Insurance Law, §§ 201, 301, 6201 to 6203.

History.—Sec. added by renum. 18.3, filed June 14, 1979; repealed, new filed Jan. 23, 1980 eff. Jan. 23, 1980.

Parallel Citation.—Regulation 89.

§ 18-1.4. Exemptions from other provisions of the Insurance Law

The exchange, its members and the insurance or reinsurance written through the exchange shall be subject to all the provisions of the Insurance Law and regulations promulgated thereunder, except as provided in section 18-1.3 of this Subpart and the specified sections of the following articles of the Insurance Law: ✓

(a) article III: subdivision 2 of section 28 except as provided in section 18-1.2 of this Subpart; section 32-a, except as provided in subdivision 5 of section 425-a of the Insurance Law, and except for business written pursuant to section 42501(1)(a)(iii); sections 32-b; 33; 33-a; and 36-a;

(b) article III-A: section 37 through 37-q;

(c) article IV-A: sections 69-a through 69-k, provided the exchange adopts rules requiring members to register, report or otherwise disclose information substantially equivalent to that required under article IV-A and Regulation 52 (11 NYCRR 80);

(d) article V:

(1) section 76, only to the extent that the approvals required of the superintendent shall become the responsibility of the exchange;

(2) subdivisions 4, 5 and 6 of section 77, provided the exchange adopts substantially equivalent rules to regulate the reinsurance transactions therein described and such other rules as may be required:

(i) to achieve the legislative intent of creating additional capacity for buyers of insurance and reinsurance and maintaining within the United States insurance business now exported to other countries;

(ii) to prevent the use of the reinsurance mechanism as a means for insurers not authorized in this State to effectively transact an insurance business in this State; and

(iii) to preclude the making of, or entering into, any reinsurance agreement or other arrangement by an underwriting member which may diminish, weaken or impair the undertaking of such underwriting member, as a primary insurer to indemnify its policyholders or as a reinsurer to fulfill its obligations to ceding insurers;

(3) section 77-a; section 78, provided the exchange adopts rules to accomplish the intent and purposes of this section; section 79 except that the provisions of section 18-1.3 (c) of this Subpart shall apply; sections 96; 98; 99; 100; 101; 102; 103; 104;

(e) article VI: sections 115-a; 115-b;

(f) article VI-A: sections 133 through 139-c;

(g) article VII: sections 142; 143; 144; 145; 146; 147; 148; 149; 150; 151; 152; 153; 154; 155; 156; 157; 158; 159; 160; 161; 162; 162-a; 163; 164; 164-a; 165; section 167, provided that the exchange adopts rules and standards for policy forms; sections 167-a; 167-aa; 167-b; 167-c; 167-d; 167-e; section 168, provided that the exchange adopts rules and standards for policy forms; sections 168-a; 168-b; 168-e; 168-f; 168-g; 168-h; 169; 170; 171; 172; 173; 174-a; and 174-b;

(h) articles VII-A and VIII: sections 175 through 189, provided that the exchange adopts rules to accomplish the intent and purposes of these articles;

(i) article IX-A: sections 191; 191-a; 192; subdivisions 1 and 2 of section 193; section 194; section 195, provided the exchange adopts rules to accomplish the intent and purposes of this section; sections

198-a; 199; 200; 201; 202; 203; 204; 207; section 212, provided the exchange adopts rules to accomplish the intent and purposes of this section; sections 213; 213-a; 214; section 216; provided the exchange adopts rules to accomplish the intent and purposes of this section; subdivisions 2, 3, 7, 8, 9, 10 of section 217; sections 221; 221-a; 222; 223; 224;

(j) article IX-B: sections 232 through 248;

(k) article IX-C: sections 250 through 260;

(l) article X: sections 311; 312; sections 313, provided the exchange adopts rules to accomplish the intent and purposes of this section; section 314, except for the provisions in the last sentence thereof requiring that dividends to policyholders shall be declared and paid only out of earned surplus; subdivision 2 of section 327; section 329; section 330; subdivisions 2, 4 and 5 of section 331; subdivision 4 of section 331-a, except that the last sentence thereof shall remain applicable; section 333; section 334;

(m) article IX-A: section 341; section 342, except for the provision of the last sentence thereof requiring that dividends to policyholders shall be declared and paid only out of earned surplus; section 343; provided the exchange adopts rules to accomplish the intent and purposes of this section; section 354;

(n) article XII: sections 410 through 425;

(o) article XV: sections 480 through 504, provided the exchange adopts rules to accomplish the intent and purposes of these sections;

(p) article XV-A: sections 550 through 509;

(q) article XVII-A: sections 600 through 626;

(r) article XVII-B: sections 651 through 658;

(s) article XVII-C: sections 659 through 662;

(t) article XVIII: sections 670 through 678; and

(u) article XIX: sections 681 through 695.

Stat. Authority.— Insurance Law, §§ 201, 301, 6201 to 6203.

History.— Sec. added by renum. 18.4, filed June 14, 1979; repealed, new filed Jan. 23, 1980 eff. Jan. 23, 1980.

Parallel Citation.— Regulation 89.

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§ 18-1.5. Filing and notification requirements

(a) The superintendent may, from time to time, prescribe that copies of statements, reports and other information be submitted by the exchange to him. The exchange shall furnish copies of any such statements, reports and other information to the superintendent within 10 days from the date such material becomes available to it, unless a different time limit is indicated by the superintendent.

(b) No rule, regulation or plan of operation of the exchange proposed pursuant to the provisions of the constitution shall be implemented unless a copy of said rule, regulation or plan of operation is submitted to the superintendent. Such rule, regulation or plan of operation shall include, but not be limited to, those proposed pursuant to section 1, article II; section 5, article VII; section 3, article IX; section 3, article X; section 1, article XII; section 7 (a), article XII; and section 2, article XIV of the constitution.

Stat. Authority.—Insurance Law, §§ 201, 301, 6201 to 6203.

History.—Sec. filed Jan. 23, 1980 eff. Jan. 23, 1980.

Parallel Citation.—Regulation 89.

**SUBPART 18-2
INVESTMENTS IN UNDERWRITING MEMBERS,
BROKER MEMBERS AND ASSOCIATE BROKERS**

(Regulation 89-a)

§ 18-2.0. Introduction

(a) Section 425-a of the Insurance Law was added by chapter 480 of the Laws of 1978, effective July 20, 1978, and was amended by chapter 11 of the Laws of 1979, effective February 28, 1979. Subdivision 1 of section 425-a provides for the creation of a New York insurance exchange, subject to such regulations as may be promulgated by the superintendent; subdivision 6 of section 425-a gives the superintendent authority to establish limitations on investments in members of the exchange.

(b) This Subpart is promulgated to implement the provisions of subdivision 6 of section 425-a of the Insurance Law by establishing

the limitations on investments as set forth in section 18-2.2 of this Subpart.

Stat. Authority.—Insurance Law, §§ 201, 301, 6201 to 6203.

History.—Sec. filed June 25, 1979 as emergency measure; made permanent by order filed Aug. 21, 1979 eff. Aug. 21, 1979.

Parallel Citation.—Regulation 89-a.

§ 18-2.1. Definitions

- (a) *Exchange* means the New York Insurance Exchange, Inc.
- (b) *Constitution* means the constitution and bylaws of the exchange.
- (c) *Board* means the board of governors of the New York Insurance Exchange, Inc. then in office.
- (d) *Initial board* means the initial board of governors as described in article XVII, section 1 of the constitution.
- (e) *Superintendent* means the Superintendent of Insurance of the State of New York.
- (f) *Insurance Law* means the Insurance Law of the State of New York.
- (g) *Underwriting member* shall have the meaning as set forth in paragraph (a), section 1, article VII of the constitution.
- (h) *Broker member* shall have the meaning as set forth in paragraph (b), section 1, article VII of the constitution.
- (i) *Associate broker* shall have the meaning as set forth in section 2, article VII of the constitution.
- (j) *Person* shall, for purposes of this Subpart, mean and include an individual, a partnership, a corporation, a trust, a joint venture, an unincorporated organization, and a government or any agency or department thereof.
- (k) *Indebtedness* shall, for purposes of this Subpart, mean and include all obligations of such person which would, in accordance with applicable accounting principles, be classified upon a balance sheet of such person as liabilities of such person, and in any event shall include:
 - (l) all indebtedness guaranteed, directly or indirectly, in any manner by such person or endorsed (otherwise than for collection or

deposit in the ordinary course of business) or discounted with recourse;

(2) all indebtedness in effect guaranteed, directly or indirectly, by such person through an agreement, contingent or otherwise:

(i) to purchase such indebtedness or to advance or supply funds for the payment or purchase of such indebtedness; or

(ii) to purchase, sell or lease (as lessee or lessor) property, products, materials or supplies; or to purchase or sell transportation or services, primarily for the purpose of enabling the debtor to make payment of such indebtedness or to assure the owner of such indebtedness against loss, regardless of the delivery or nondelivery for any reason of the property, products, materials or supplies, or the furnishing or nonfurnishing for any reason of the transportation or services; or

(iii) to make any loan, advance, capital contribution or other investment in the debtor for the purpose of assuring a minimum equity, asset base, working capital or other balance sheet condition for any date, or to provide funds for the payment of any liability, dividend or stock liquidation payment, or otherwise to supply funds to or in any manner invest in the debtor;

(3) indebtedness of any joint venture, partnership or other person for which such person is liable;

(4) all indebtedness of such person created or arising under any conditional sale agreement or other title retention agreement, even though the rights and remedies of the seller or lender or lessor under such agreement or lease in the event of default are limited to repossession or sale of property; and

(5) all indebtedness secured by any mortgage, lien, pledge, charge, security interest or other encumbrance upon or in property owned by such person, even though such person has not assumed or become liable for the payment of such indebtedness.

For the purpose of computing the indebtedness of any person, there shall be excluded any particular indebtedness if, upon or prior to the maturity thereof, there shall have been irrevocably deposited with the proper depository in trust the necessary funds (or evidences of such indebtedness, or other securities, if permitted by the instrument creating such indebtedness) for the payment, redemption or satisfaction

of such indebtedness; and thereafter such funds, evidences of indebtedness and securities so deposited shall not be included in any computation of the assets of such person.

(l) The term *indebtedness for money borrowed* of any person shall, for purposes of the foregoing, mean and include:

(1) all indebtedness of such person, current or funded, secured or unsecured, incurred in connection with borrowings (including the sale of debt securities);

(2) all indebtedness of such person issued, incurred or assumed in respect of the purchase price of property, except for trade accounts payable incurred in the ordinary course of business; and

(3) any guarantee or other obligation specified in paragraph (1) or (2) of subdivision (k) of this section in respect of indebtedness of any other person of any of the types specified in paragraphs (1) and (2) of this subdivision.

Stat. Authority.—Insurance Law, §§ 201, 301, 6201 to 6203.

History.—Sec. filed June 25, 1979 as emergency measure; made permanent by order filed Aug. 21, 1979 eff. Aug. 21, 1979.

Parallel Citation.—Regulation 89-a.

§ 18-2.2. Investments in members and associate brokers

(a) (1) No broker member or associate broker and no person which controls, is controlled by or is under common control with a broker member or associate broker may have an investment, directly or indirectly, of 20 percent or more in an underwriting member.

(2) No underwriting member and no person which controls, is controlled by or is under common control with an underwriting member may have an investment, directly or indirectly, of 20 percent or more in a broker member or an associate broker.

(b) For purposes of subdivision (a) of this section, control of any person shall mean an investment, directly or indirectly, of 20 percent or more in another person if such person either:

(c) A person shall be deemed to have an investment of 20 percent or more in another person if such person either:

(1) owns, or has the right to exercise voting power with respect to,

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20 percent or more of the outstanding securities, partnership interests or other investment interests of such other person which have ordinary voting power for the election of members of the board of directors or other governing body of such other person; or

(2) owns securities, partnership interests or other investment interests or any evidences of indebtedness of such other person having a value (securities, partnership interests or other investment interests being valued at book value and evidences of indebtedness being valued at the face amount thereof) of 20 percent or more of the aggregate amount of capital and surplus and indebtedness for money borrowed of such other person, all as set forth in the most recent quarterly balance sheet of such other person prepared in accordance with the accounting principles applied by such person in the preparation of its financial statements.

Stat. Authority.—Insurance Law, §§ 201, 301, 6201 to 6203.

History.—Sec. filed June 25, 1979 as emergency measure; made permanent by order filed Aug. 21, 1979 eff. Aug. 21, 1979.

Parallel Citation.—Regulation 89-a.

**SUBPART 18-3
CRITERIA FOR ELIGIBILITY FOR THE POSITION
OF PUBLIC GOVERNOR**

(Regulation 89-b)

§ 18-3.0. Introduction

(a) Section 425-a of the Insurance Law was added by chapter 480 of the Laws of 1978, effective July 20, 1978, and was amended by chapter 11 of the Laws of 1979, effective February 28, 1979. Subdivision 1 of section 425-a provides for the creation of a New York insurance exchange, subject to such regulations as may be promulgated by the superintendent.

(b) This Subpart is promulgated to implement the provisions of subdivision 2 of section 425-a of the Insurance Law, as amended by chapter 11 of the Laws of 1979, effective February 28, 1979, by establishing criteria which will enable the initial board of governors

or the nominating committees to determine the eligibility of nominees for the positions of public governor of the exchange.

Stat. Authority.—Insurance Law, §§ 201, 301, 6201 to 6203.

History.—Sec. filed June 25, 1979 as emergency measure; made permanent by order filed Aug. 21, 1979 eff. Aug. 21, 1979.

Parallel Citation.—Regulation 89-b.

§ 18-3.1. Definitions

(a) *Exchange* means the New York Insurance Exchange, Inc.

(b) *Constitution* means the constitution and bylaws of the exchange.

(c) *Board* means the board of governors of the New York Insurance Exchange, Inc. then in office.

(d) *Initial board* means the initial board of governors as described in article XVII, section 1 of the constitution.

(e) *Superintendent* means the Superintendent of Insurance of the State of New York.

(f) *Insurance Law* means the Insurance Law of the State of New York.

(g) *Nominating committees* shall have the meaning as set forth in sections 1 and 2 of article VI of the constitution.

(h) *Governor* means a member of the board as defined in article III of the constitution.

(i) *Public governor* means a governor elected pursuant to section 2(d), article VI, or section 3(d)(iii), article XVII of the constitution.

(j) *Member* means both an underwriting member and a broker member of the exchange as defined in sections 1(a) and 1(b), respectively, of article VII of the constitution.

(k) *Associate broker* shall have the meaning as set forth in section 2, article VII of the constitution.

(l) *Affiliated person* of another person means:

(1) any person directly or indirectly controlling, controlled by or under common control with, such other person;

(2) any officer, director, partner, member or employee of such other person; and

(3) any officer, director, partner, member or employee of any affiliated person of such other person.

(m) *Company* means a corporation, a partnership, an association, a joint-stock company, a trust, a fund or any organized group of persons whether incorporated or not; or any receiver, trustee in bankruptcy or similar official or any liquidating agent for any of the foregoing in his capacity as such.

(n) *Control, controlling, controlled by and under common control with another person* means:

(1) directly or indirectly owning, controlling or holding with power to vote, 10 percent or more of the outstanding voting securities of such other person; or

(2) directly or indirectly owning, controlling or holding outstanding securities of such other person having a value (valued at the higher of book value or the face amount thereof) of 20 percent or more of the aggregate amount of capital and surplus and indebtedness for money borrowed of such other person, as of the date of such other person's most recently prepared fiscal year-end balance sheet; or

(3) the possession, directly or indirectly, of the power to cause the direction of the management and policies of such other person, whether through the ownership of voting securities, by contract or otherwise.

(o) *Entity of the insurance industry* shall mean:

(1) any person or company which is an insurance company, insurer or company engaged in insurance-related activities;

(2) any governmental body or authority, or any political subdivision, having executive, legislative or regulatory jurisdiction, authority or power over or with respect to any insurance company, insurer or company engaged in insurance-related activities or the exchange; or

(3) any company comprised primarily of natural persons and/or companies engaged in "the doing of an insurance business" and/or acting as an "agent", "insurance broker", "insurance consultant", "re-insurance intermediary" or "adjuster", as such terms are used in sections 41(3), 110, 111, 112-a, 122a and 123, respectively, of the New York Insurance Law, whether transacted within or without the State of New York.

(p) *Indebtedness* of any person means all obligations of such person would, in accordance with applicable accounting principles, be classified upon a balance sheet of such person as liabilities of such person, and in any event shall include:

(1) all indebtedness guaranteed, directly or indirectly, in any manner by such person or endorsed (otherwise than for collection or deposit in the ordinary course of business) or discounted with recourse;

(2) all indebtedness in effect guaranteed, directly or indirectly, by such person through an agreement, contingent or otherwise, (i) to purchase such indebtedness or to advance or supply funds for the payment or purchase of such indebtedness, or (ii) to purchase, sell or lease (as lessee or lessor) property, products, materials or supplies, or to purchase or sell transportation or services, primarily for the purpose of enabling the debtor to make payment of such indebtedness or to assure the owner of such indebtedness against loss, regardless of the delivery or nondelivery for any reason of the property, products, material or supplies or the furnishing or nonfurnishing for any reason of the transportation or services, or (iii) to make any loan, advance, capital contribution or other investment in the debtor for the purpose of assuring a minimum equity, asset base, working capital or other balance sheet condition for any date, or to provide funds for the payment of any liability, dividend or stock liquidation payment, or otherwise to supply funds to or in any manner invest in the debtor;

(3) indebtedness of any joint venture, partnership or other person for which such person is liable;

(4) all indebtedness of such person created or arising under any conditional sale agreement or other title retention agreement, even though the rights and remedies of the seller or lender or lessor under such agreement or lease in the event of default are limited to repossession or sale of property; and

(5) all indebtedness secured by any mortgage, lien, pledge, charge, security interest or other encumbrance upon or in property owned by such person, even though such person has not assumed or become liable for the payment of such indebtedness.

For the purpose of computing the "indebtedness" of any person, there shall be excluded any particular indebtedness if, upon or prior to the maturity thereof, there shall have been irrevocably deposited with the proper depository in trust the necessary funds (or evidences

of such indebtedness, or other securities, if permitted by the instrument creating such indebtedness) for the payment, redemption or satisfaction of such indebtedness; and thereafter such funds, evidences of indebtedness and securities so deposited shall not be included in any computation of the assets of such person.

(q) *Indebtedness for money borrowed* of any person means:

(1) all indebtedness of such person, current or funded, secured or unsecured, incurred in connection with borrowings (including the sale of debt securities);

(2) all indebtedness of such person issued, incurred or assumed in respect of the purchase price of property except for trade accounts payable incurred in the ordinary course of business; and

(3) any guarantee or other obligation specified in paragraph (1) or (2) of subdivision (p) of this section in respect of indebtedness of any other person of any of the types specified in paragraphs (1) and (2) of this subdivision.

(r) *Insurance company, insurer and company engaged in insurance-related activities* means any person or company, a substantial portion of the business of which, whether transacted within or without the State of New York, constitutes, individually or in the aggregate, one or more of the following:

(1) the *doing of an insurance business* as such term is defined in section 41(3) of the New York Insurance Law;

(2) acting as an *insurance broker* as such term is defined in section 111 of the New York Insurance Law;

(3) acting as an *insurance agent* as such term is defined in section 110 of the New York Insurance Law;

(4) acting as an *insurance consultant* as such term is defined in section 112-a of the New York Insurance Law;

(5) acting as a *reinsurance intermediary* as such term is defined in section 122-a of the New York Insurance Law;

(6) acting as an *adjuster* as such term is defined in section 123 of the New York Insurance Law; or

(7) acting as a *rating service* or an *advisory organization* as such terms are defined in article VIII of the Insurance Law.

(s) *Person* means a natural person or company.

(t) *Substantial portion of the business* of a company shall be deemed to exist if any of the following are met:

(1) either the gross assets (valued at book value) of such company devoted to such business constituted more than 10 percent of total gross assets (similarly valued) of such company, as of the date of such company's most recently prepared fiscal year-end balance sheet; or

(2) either the revenues derived from or attributable to such business by such company in any of its last two fiscal years ending more than 90 days prior to the date of any determination hereunder constituted more than 10 percent of such revenues of such company of such fiscal year.

(u) *Security* means any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas, or other mineral rights, or, in general, any interest or instrument commonly known as a "security", or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing; provided, however, that any mortgage note secured by a residential housing unit shall not be a security.

(v) *Voting security* means any security presently entitling the owner or holder thereof to vote for the election of directors or other governing body of a company. A *specified percentage* of the outstanding voting securities of a company means such amount of its outstanding voting securities as entitles the holder or holders thereof to cast said specified percentage of the aggregate votes which the holders of all the outstanding voting securities of such company are entitled to cast.

Stat. Authority.—Insurance Law, §§ 201, 301, 6201 to 6203.

History.—Sec. filed June 25, 1979 as emergency measure; made permanent by order filed Aug. 21, 1979 eff. Aug. 21, 1979.

Parallel Citation.—Regulation 89-b.

§ 18-3.2. Eligibility for the position of public governor

(a) No person nominated for the position of, or serving as, public governor shall be employed by or otherwise affiliated with members,

associate brokers, insurers, insurance agents, brokers and producers, or entity of the insurance industry (individually an "insurance organization" and collectively "insurance organizations").

(b) A person shall be deemed to be employed by or otherwise affiliated with a member, associate broker, insurer, insurance agent, broker and producer or entity of the insurance industry, if:

(1) such person is an affiliated person of any insurance organization; provided, however, that if such person is not an officer, director, partner, member or employee of, and does not control, any insurance organization, such person shall not, by reason of this paragraph, be deemed to be so employed or affiliated as long as any company of which he is an officer, director, partner, member or employee, or which he controls, is not an insurance organization or controlled by an insurance organization; or

(2) such person, or any company of which such person is an officer, director, partner, member or employee or which such person controls, is, and shall have been at any time since the beginning of such person's or such company's immediately preceding fiscal year ending at least 90 days prior to the date of any determination hereunder, employed or retained to perform legal, accounting, actuarial, claims adjustment, consulting or financial advisory services (whether as an employee, an agent, an independent contractor, or otherwise) by one or more insurance organizations, and such employment or retention shall have resulted in such person or such company having received revenues as a result thereof which constituted, in the aggregate, more than three percent of the revenues of such person or company for such fiscal year, or

(3) such person is found by the board of governors of the exchange (including, without limitation, the initial board of governors) or the nominating committees to be employed by or otherwise affiliated with an insurance organization.

(c) Any determination, by the board of governors of the exchange (including, without limitation, the initial board of governors) or the nominating committees, that a person meets the qualifications set

forth in section 2(d) of article VI of the constitution and bylaws of the exchange to be a public governor shall be conclusive.

Stat. Authority.— Insurance Law, §§ 201, 301, 6201 to 6203.

History.— Sec. filed June 25, 1979 as a emergency measure; made permanent by order filed Aug. 21, 1979 eff. Aug. 21, 1979.

Parallel Citation.— Regulation 89-b.

PART 19

Interface of Special Risk Insurers With the New York Insurance Exchange, Inc.

(Regulation 86-A)

Section	
19.0.	Introduction.
19.1.	Definition.
19.2.	Creation and composition of a representative committee of special risk insurers.
19.3.	Powers and duties of the representative committee.
19.4.	Initial representative committee of special risk insurers.
19.5.	Election of representative committee.
19.6.	Secretary of the initial and representative committee.
19.7.	Responsibilities of the special risk insurers.
19.8.	Documentation of the rejection.
19.9.	Exhibits.

§ 19.0. Introduction

This Part is promulgated to implement the provisions of section 425-a(1)(a)(iii) of the Insurance Law of the State of New York by establishing procedures, and forms for the placement with the New York Insurance Exchange, Inc. (established pursuant to section 425-a of the Insurance Law of the State of New York) of risks which have been submitted to and certified as having been rejected by a committee representative of special risk insurers licensed under section 168-d of the Insurance Law of the State of New York.

Stat. Authority.—Insurance Law, §§ 201, 301, 6301 and 6201.

History.—Sec. filed Feb. 11, 1980; repealed, new filed March 19, 1980 as emergency measure; made permanent by order filed May 16, 1980 eff. May 16, 1980.

Parallel Citation.—Regulation 86-A.

§ 19.1. Definitions

For purposes of this Part, the following terms shall have the meanings indicated below. All sections refer to those contained in the New York Insurance Law.

(a) *Insurance broker*, as defined in section 111 (2).

(b) *Authorized insurer*, as defined in section 4(6).

(c) *Special risk insurer*, an authorized insurer licensed pursuant to section 168-d(3).

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(d) *Affiliated insurer*, and owned or controlled insurer as defined in section 4(2) or having common management as described in section 69-a(1)(b).

Stat. Authority.—Insurance Law, §§ 201, 301, 6301 and 6201.

History.—Sec. filed Feb. 11, 1980; repealed, new filed March 19, 1980 as emergency measure; made permanent by order filed May 16, 1980 eff. May 16, 1980.

Parallel Citation.—Regulation 86-A.

§ 19.2. Creation and composition of a representative committee of special risk insurers

A representative committee of special risk insurers composed of five members, shall be elected by those insurers licensed as special risk insurers. Each member shall be a natural person, over 18 years of age, and an officer or employee of a special risk insurer. Each group of affiliated special risk insurers may be represented by no more than one member of the committee. There shall be a representative from at least one mutual insurer and one stock insurer. Each elected member must designate a regular proxy to attend meetings in his or her absence. The term of office of a committee member shall be two years except for these members elected for a one-year term at the first election. Members shall be eligible for reelection. The representative committee shall meet at least once a month to evaluate the functioning of the interface mechanism and to oversee the conduct of the secretary. A quorum for the transaction of business shall consist of at least three members.

Stat. Authority.—Insurance Law, §§ 201, 301, 6301 and 6201.

History.—Sec. filed Feb. 11, 1980; repealed, new filed March 19, 1980 as emergency measure; made permanent by order filed May 16, 1980 eff. May 16, 1980.

Parallel Citation.—Regulation 86-A.

§ 19.3. Powers and duties of the representative committee

The representative committee shall:

(a) aid the insurance brokers in placing business with the Special Risk Insurer eligible to write the class of business the insurance broker seeks to place;

(b) establish rules governing committee procedures;

(c) supervise the maintenance of a Roster of kinds and classifications of risks and the name and address of each Special Risk Insurer seeking to write such kinds or classifications. The Representative Committee is authorized to consider recommendations of the Secretary or any other person to remove the name of any Special Risk Insurer from the Roster if it regularly rejects applications for the particular line for which it is listed. All such removals shall be in accordance with procedures to be established by the Representative Committee and shall be subject to review by the Superintendent;

(d) establish rules and guidelines pursuant to which the Secretary shall certify rejections under section 19.6(c) of this Part. Such rules and guidelines shall become effective when filed with the Superintendent of Insurance;

(e) collect funds for the operation of the Representative committee by an annual assessment based on direct special risk premiums written but not less than a minimum amount to be established by the Committee annually per licensed special risk insurer;

(f) establish a code of ethics governing all operations of the representative committee; and

(g) do any and all things incidental to the operation of the representative committee.

Stat. Authority.—Insurance Law, §§ 201, 301, 6301 and 6201.

History.—Sec. filed Feb. 11, 1980; repealed, new filed March 19, 1980 as emergency measure; made permanent by order filed May 16, 1980 eff. May 16, 1980; amd. filed April 20, 1983, eff. April 22, 1983.

Parallel Citation.—Regulation 86-A.

§ 19.4. Initial representative committee of special risk insurers

An initial representative committee of special risk insurers (initial committee) consisting of five members shall be appointed by the Superintendent of Insurance of the State of New York. The initial committee shall have the same powers, limitations and responsibilities as the representative committee as hereinabove specified and do

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all things incidental to the operation of the initial committee and serve until the representative committee is elected and takes office.

Stat. Authority.—Insurance Law, §§ 201, 301, 6301 and 6201.

History.—Sec. filed Feb. 11, 1980; repealed, new filed March 19, 1980 as emergency measure; made permanent by order filed May 16, 1980 eff. May 16, 1980.

Parallel Citation.—Regulation 86-A.

§ 19.5. Election of representative committee

There shall be an annual meeting of Special Risk Insurers for the purpose of electing members of the Representative Committee and for the transaction of such other business as is appropriate.

(a) Within thirty (30) days after the Initial Committee is appointed, the Superintendent of Insurance of the State of New York shall give notice to all Special Risk Insurers of the time and place for the first meeting of Special Risk Insurers. At that first meeting of Special Risk Insurers and at each annual meeting held thereafter, they shall elect the members of the Representative Committee. The names of all nominees for election shall be submitted in writing to the Secretary of the Representative Committee no later than ten (10) days prior to the meeting of Special Risk Insurers. There shall be an aggregate number of votes equal to twice the number of Special Risk Insurers. Each Insurer shall have at least one vote; the remaining votes shall be allocated to each Insurer in the same proportion that its Special Risk net premiums bear to the total of such premiums written by all such Insurers during the twelve month period ending the preceding December 31st except that such remaining votes at the first meeting of Special Risk Insurers shall be based upon net writings for the six month period ending June 30, 1980. At the first meeting, the five persons receiving the highest number of votes shall be declared elected to the Representative Committee. At the first election and at each election thereafter, the following restrictions shall apply:

(1) no more than one member of the Representative Committee may represent the same affiliated Special Risk Insurers; and

(2) the Representative Committee must contain at least one representative of a stock insurer and at least one representative of a mutual insurer.

At the first election, the three persons qualifying, and receiving the highest number of votes shall be elected for a two year term; the

remaining two shall serve for one year. At each annual meeting after the first meeting, members elected to replace those whose terms expire at such annual meeting shall be elected to hold office until the second succeeding annual meeting. Each member shall hold office until the expiration of the term for which he is elected, and until his successor has been elected and qualified. In the case of a tie vote, the names of the nominees involved shall be referred to the incumbent Representative committee who shall make a selection by majority vote, excluding any member involved in the tie.

(b) Each member of the Representative Committee shall serve at the pleasure of the Special Risk Insurer by whom he is employed. Any vacancy on the Representative Committee shall be filled for the unexpired term by the Special Risk Insurer which employed the member being replaced.

Stat. Authority.—Insurance Law, §§ 201, 301, 6301 and 6201.

History.—Sec. filed Feb. 11, 1980; repealed, new filed March 19, 1980 as emergency measure; made permanent by order filed May 16, 1980 eff. May 16, 1980; amd. filed and eff. April 20, 1983.

Parallel Citation.—Regulation 86-A.

§ 19.6. Secretary of the initial and representative committee

(a) The members of the Representative Committee shall elect a Chairperson from among their number. The Chairperson shall serve for a term of one year. The Committee shall also appoint a Secretary. The Representative Committee shall have a continuous duty to monitor the conduct of the Secretary.

(b) The Secretary shall establish and maintain a Roster of Classification of Risks, indicating under each classification the name and address of each Special Risk Insurer that seeks to write such class. The Secretary shall use the Roster to verify the validity of the rejections of risks made by Special Risk Insurers. Rejections by insurers of risks for which they are listed shall be monitored by the Secretary and upon filing that a Special Risk Insurer has been arbitrarily rejecting risks the Secretary shall recommend to the Representative Committee that any further rejection by the Special Risk Insurer shall not be counted as a bona-fide rejection for the purpose of certifying a risk as having been rejected.

(c) All requests for Certification of Rejection shall be submitted to the Secretary in the form of an "Application Requesting Certification

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of Rejection," contained in Section 19.9(a) of this Part. The Secretary shall review each Request for Certification and upon determination by the Secretary that bona-fide attempts to place the risk with Special Risk Insurers have failed, the Secretary shall certify the risk as having been rejected.

(d) The number of rejections currently necessary to certify a risk shall be as follows:

(1) Class One Risks currently insured by an authorized insurer require five rejections from Special Risk Insurers.

(2) Class One Risks currently insured by an unauthorized insurer or not now insured required three rejections from Special Risk Insurers.

(3) Class Two Risks require three rejections from Special Risk Insurers.

Any risk currently insured simultaneously by both authorized and unauthorized insurers shall be deemed to be insured by an authorized insurer if fifty percent or more of the premium was paid or is payable to the authorized insurer(s).

(e) The Secretary shall file a copy of the Application Requesting Certification with the New York Insurance Department.

(f) The Secretary shall maintain the proper books and records reflecting the transactions of the Initial Committee and Representative Committee and provide the Superintendent with reports when requested by the Superintendent.

(g) The Chairperson shall call all meetings of the Representative Committee to insure the proper interface between Special Risk Insurers and the New York Insurance Exchange, Inc.

Stat. Authority.—Insurance Law, §§ 201, 301, 6301 and 6201.

History.—Sec. filed Feb. 11, 1980; repealed, new filed March 19, 1980 as emergency measure; made permanent by order filed May 16, 1980 eff. May 16, 1980; amd. filed and eff. April 20, 1983.

Parallel Citation.—Regulation 86-A.

§ 19.7. Responsibilities of the special risk insurers

All insurers licensed pursuant to section 168-d of the Insurance Law shall file with the secretary at the first meeting of special risk

insurers a listing of the kinds, classes and limits of insurance it seeks to underwrite as class one business. With respect to class two business, the list shall contain the specific risks (as coded in section 16.11[b] of Regulation 86 11 NYCRR Part 16) the company seeks to write. It shall be the responsibility of the special risk insurer to keep the secretary informed of any changes in the filed listings.

Stat. Authority.—Insurance Law, §§ 201, 301, 6301 and 6201.

History.—Sec. filed Feb. 11, 1980; repealed, new filed March 19, 1980 as emergency measure; made permanent by order filed May 16, 1980 eff. May 16, 1980.

Parallel Citation.—Regulation 86-A.

§ 19.8. Documentation of the rejection

Upon certification by the representative committee, the secretary of the representative committee shall provide the insurance broker with a certification of rejection, contained in section 19.9(b) of this Part. This certificate shall constitute the evidence of rejection by special risk insurers in accordance with the provisions of section 425-a(1)(a)(iii) of the Insurance Law of the State of New York.

Stat. Authority.—Insurance Law, §§ 201, 301, 6301 to 6201.

History.—Sec. filed Feb. 11, 1980; repealed, new filed March 19, 1980 as emergency measure; made permanent by order filed May 16, 1980 eff. May 16, 1980.

Parallel Citation.—Regulation 86-A.

§ 19.9. Exhibits

The following forms are hereby approved for use as specified in this Part.

[See Page IV-NY-36]

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(a) Form SRI-1:

APPLICATION REQUESTING
CERTIFICATION OF REJECTION

I _____ certify that I am a duly licensed insurance broker having my principal place of business at

Street and Number _____ City or Village _____ State _____ ZIP Code _____
and that I was engaged by the insured named to obtain \$ _____ of insurance against the risk described in (a) below:

(a) Name of Insured _____ Description of Property _____
Location of Risk _____ Type of Insurance _____

(b) Is any part of this Risk insured? Yes _____ No _____
If yes, give name and address of carrier(s) below and answer question (d).

Name and Address of Carrier

(c) State below in column (1) the name and address of each insurer licensed by the superintendent under section 163(d) of the Insurance Law of the State of New York to which the risk described in (a) above was submitted, and in column (2) the name of the officer or other responsible employee in charge of Special Risk Insurance Office, and in Column (3) the action taken by such insurer.

Name and Address of Special Risk Insur- ance Office (1)	Name of Officer (2)	Action taken by Company and Date (3)
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

(d) If, less than the full amount of insurance required to cover the risk has been placed in one or more licensed insurers of groups, state below the name of the insurers or groups, the amount of insurance accepted, the percent of the total risk this amount represents, the inception date of the policy or policies, the terms of the policy or policies, and other premium.

LICENSED INSURERS ACCEPTING PART OF THE RISK

Name of Insurer	Amount of Insurance Accepted	Percent of Total	Inception Date of the Policy	Term of Policy	Premium

My signature hereon represents certification of the statements herein.

 (Name of Individual Partnership, or Corporate Licensee)

By _____
 (Signature of Individual Licensee, Partnership Sub-Licensee or Corporate Sub-Licensee)

(b) Form SRI-2:

CERTIFICATION OF REJECTION
 REPRESENTATIVE COMMITTEE OF SPECIAL RISK INSURERS

Address _____

I, _____ Secretary of the Representative Committee of Special Risk insurers certify that the following risk:

NAME OF INSURED _____
 LOCATION OF RISK _____
 DESCRIPTION OF PROPERTY _____
 TYPE OF INSURANCE _____
 NAME OF BROKER _____

has been submitted by said insurance broker and has been rejected by insurers licensed under section 163(d) of the Insurance Law.

Date _____ By _____
 Secretary
 Representative Committee
 of Special Risk Insurers

Stat. Authority.—Insurance Law, §§ 201, 301, 6301 and 6201.

History.—Sec. filed Feb. 11, 1980; repealed, new filed March 19, 1980 as emergency measure; made permanent by order filed May 16, 1980 eff. May 16, 1980.

Parallel Citation.—Regulation 86-A.