

ii. An insurer which acts as a replacement carrier for the private passenger automobile insurance business from which the applicant seeks to withdraw assumes all of the legal rights, duties and obligations associated with the participation of private passenger automobile insurers in the automobile insurance market in this State.

2. An applicant shall be required to accept the quotas established by N.J.S.A. 17:33B-11(c)5 unless the applicant specifically requests and the Commissioner agrees to a waiver of this requirement.

(b) The Commissioner shall not consider any replacement carrier or carriers acceptable for the purposes of (a) above unless the applicant certifies that it will take any action(s) necessary to ensure that such replacement carrier(s) will maintain a net premium-to-surplus ratio not to exceed 2.5 to one. Where the replacement carrier is an affiliate of the applicant, the applicant shall provide a guarantee from its ultimate parent that such parent will take any action necessary to ensure the requirements set forth in this subsection are met.

1. The duration of the guarantee requirement set forth in (b) above shall be for a period not less than one or more than five years, such period to be coterminous with the remaining portion of the withdrawal period determined by the Commissioner pursuant to (a)1i above.

2. If the replacement carrier(s) is not an affiliate of the applicant, the Commissioner may waive the requirement set forth in (b) above if the applicant demonstrates to the Commissioner that the financial capacity of replacement carrier(s) to service the business to be assumed is equal to or greater than that of the withdrawing carrier, and that the financial condition and methods of operation of the proposed replacement carrier(s) is not such that the assumption of the applicant's book of business would render the replacement carrier's condition or operations hazardous to the public or policyholders of this State.

(c) If an applicant's request to withdraw involves other than private passenger automobile insurance, the applicant may be subject to conditions addressed either in the approved plan or, if the plan is waived pursuant to N.J.A.C. 11:2-29.3(a), in a reasonable substitute withdrawal procedure approved by the Commissioner.

Amended by R.1995 d.577, effective November 6, 1995.
See: 27 N.J.R. 2533(a), 27 N.J.R. 4311(a).

11:2-29.6 Confidentiality of plan of orderly withdrawal

(a) All data or information contained in the plan is confidential and will not be disclosed by the Department to any person other than its employees and representatives, except the following items, but only upon written, specified request and upon notice to the insurer/applicant:

1. N.J.A.C. 11:2-29.4(a)3i—Description of current and prior authority to do business by jurisdiction;
2. N.J.A.C. 11:2-29.4(a)4—Organizational chart;
3. N.J.A.C. 11:2-29.4(a)4i—Lines of insurance written by each affiliate;

4. N.J.A.C. 11:2-29.4(a)4v—Agency relationships of affiliates by agent name, to the extent available through the Department's licensing system;

5. N.J.A.C. 11:2-29.4(a)5—Premium volume, number of current policyholders, market share and number of producers by line of business;

6. N.J.A.C. 11:2-29.4(a)6—Address of applicant's offices in this State;

7. N.J.A.C. 11:2-29.4(a)7—Policyholder nonrenewal and producer termination notices;

8. N.J.A.C. 11:2-29.4(a)9—Name and address of each insurance producer to the extent available through the Department's licensing system;

9. N.J.A.C. 11:2-29.4(a)11—Copies of all correspondence and notices sent to various entities, as approved, to which the applicant owes a financial obligation;

10. N.J.A.C. 11:2-29.4(a)12—Certified statement of New Jersey incurred liabilities and reserves;

11. N.J.A.C. 11:2-29.4(a)14—Deposits held by a custodian on behalf of the Commissioner; and

12. N.J.A.C. 11:2-29.4(a)17—Establishment of special deposits or equivalent performance bonds as approved.

11:2-29.7 Fines and penalties

Failure to comply with this subchapter may result in the imposition of sanctions by the Department including, but not limited to, sanctions pursuant to N.J.S.A. 17:33-2.

Case Notes

Ability to pay should not be considered in ordering restitution of misappropriated funds in trucking insurance fraud scheme. *Fortunato v. Pappas Trucking Insurance Agency, Inc.*, 96 N.J.A.R.2d (INS) 1.

11:2-29.8 Severability

If any provision of this subchapter or its application to any person or circumstance is held invalid, such determination shall not affect other provisions or applications of this subchapter which can be given effect without the invalid provision or application, and to that end the provisions of this subchapter are separable.

SUBCHAPTER 30. (RESERVED)

SUBCHAPTER 31. MANNER OF DETERMINING PREMIUM FOR PERPETUAL HOMEOWNERS INSURANCE

11:2-31.1 Purpose

This subchapter sets forth the manner of determining premium for perpetual homeowners insurance for any applicable statutory fee, surcharge, tax or assessment.

11:2-31.2 Scope

The provisions of this subchapter apply to all insurers transacting the business of perpetual homeowners insurance in this State, including all perils insured thereunder.

11:2-31.3 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

“Annual adjustments” means any adjustments in the perpetual deposit account during the calendar year, exclusive of dividends. Increases include any additions to the account, such as policy fees and premium assessments. Decreases include the return of perpetual deposits, in whole or in part, due to the termination of policies and any other decreases, exclusive of dividends.

“Commissioner” means Commissioner of the New Jersey Department of Banking and Insurance.

“Insurer” means an insurance company licensed to transact the business of perpetual homeowners insurance in this State.

“Net perpetual deposits” means the total perpetual deposits received by an insurer for perpetual homeowners insurance increased or decreased by annual adjustments.

“Perpetual deposit” means a payment by a policyholder for perpetual homeowners insurance.

“Perpetual homeowners insurance” means a homeowners policy and related endorsements, including all perils insured thereunder, which remains continuously in effect until cancelled, and is paid for with one lump sum deposit with no additional payment required, notwithstanding any subsequent fees or assessments.

Amended by R.2001 d.6, effective January 2, 2001.
See: 32 N.J.R. 3530(a), 33 N.J.R. 85(a).

11:2-31.4 Determination of premium

(a) For the purposes of any statutory fee, surcharge, tax or assessment based on premium and applicable to perpetual homeowners insurance, premium is:

1. The sum of the net perpetual deposits received for perpetual homeowners insurance from the inception of the policy through the calendar year immediately preceding the date that such applicable statutory fee, surcharge, tax or assessment is due, multiplied by:

2. The average annual interest rate on one-year U.S. Treasury bills for the calendar year in question.

(b) The premium base for any applicable statutory fee, surcharge, tax or assessment is calculated annually as set forth in (a) above less any so-called dividends returned or credited to policyholders during the calendar year in question.

11:2-31.5 Data filed; examination

(a) Each insurer shall include with the annual statement filed with the Commissioner, a list of the lines of business under which perpetual homeowners insurance is written, on form(s) prescribed by the Commissioner.

(b) All data submitted is examined by the Commissioner and he or she may make any further audit or investigation or reaudit as necessary. An insurer shall pay the reasonable expenses of any examination, pursuant to N.J.S.A. 17:23-4.

11:2-31.6 Penalties

Failure to comply with these provisions may result in the imposition of sanctions by the Department including, but not limited to, sanctions pursuant to N.J.S.A. 17:33-2.

SUBCHAPTER 32. CUSTODIAL DEPOSITS**11:2-32.1 Purpose and scope**

(a) The purpose of this subchapter is to set forth the procedures for the holding by the Commissioner of any required deposits and to establish the fees to be charged the depositor for the services of the custodian of such deposits pursuant to N.J.S.A. 17:20-1 et seq., 17:46B-1 et seq., 17:50-6, and 17B:18-37 et seq.

(b) This subchapter applies to all insurers required by the laws of this State to make a security deposit to be held for the benefit and security of all the policyholders of the company making such deposit. This subchapter also applies to any other entity required to make a deposit with the Commissioner in order to transact business in this State. This subchapter does not apply to any insurer under liquidation pursuant to N.J.S.A. 17:30C-1 et seq. or 17B:32-1 et seq., as applicable.

Amended by R.1996 d.3, effective January 2, 1996.
See: 27 N.J.R. 3278(b), 28 N.J.R. 152(b).

11:2-32.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

“Bank” means a State or Federally chartered bank, savings bank, or savings and loan association which has trust powers and which has its principal office in New Jersey.