

i. For financial information, seven years from the date of their creation; for claims information, seven years after all claims for that year have been fully paid; or

ii. Until the completion and filing of the next financial condition examination of the fund by the Commissioner.

(h) Each fund shall maintain written minutes of its meetings and shall file such approved, ratified and adopted minutes with the Commissioner within 30 days after such minutes are approved, ratified and adopted.

(i) A joint insurance fund shall provide its members with periodic reports covering the activities and status of the fund for the reporting period. Such reports shall be made at least quarterly and may be made more frequently at the discretion of the joint insurance fund commissioners and shall include, but not be limited to, the minutes, the administrator's or lead agency's report and a summation of fund activity, including comments on previously reported claims and newly reported claims, and any other information required by the fund commissioners, but excluding any closed session minutes of portions of a meeting as provided in N.J.S.A. 10:4-12b. The Department may require that such reports be submitted to the Department if it is deemed necessary to ensure compliance with these reporting requirements. Such reports shall also be made available to the Department for review during any examination of the joint insurance fund. The Department may also require that copies of closed session minutes be filed for its review. Copies of closed session minutes filed with the Department shall be held confidential by the Department and shall not be subject to public inspection or copying pursuant to the "Right-to-Know" law, N.J.S.A. 47:1A-1 et seq.

(j) All officers, employees and agents of the joint insurance fund, including the administrator and servicing organization of the fund, on the final day of their contract or employment shall surrender and deliver to their successors all accounts, funds, property, records, books and any other material relating to their contract or employment.

(k) A joint insurance fund may utilize the services of a member to serve as lead agency for the fund.

1. A lead agency may be compensated for its reasonable expenses incurred in administering the affairs of a joint insurance fund. Any administrative costs agreed upon to be paid to a lead agency shall be received by it as a Miscellaneous Revenue and be available for expenditure through the budget appropriation method.

2. A lead agency shall not advance funds of its own to cover a purchase on behalf of the fund or the other participating units.

Amended by R.1991 d.16, effective January 7, 1991.
See: 22 N.J.R. 16(a), 23 N.J.R. 112(a).

At (g) added "fund administrator" as retainer of records and at (i) added specifications to reports.

Amended by R.1995 d.408, effective August 7, 1995.

See: 26 N.J.R. 2725(a), 26 N.J.R. 3592(a), 27 N.J.R. 2938(a).

At (a) added requirements for provision of environmental impairment liability coverage; at (e) required custodian of funds to be a certified municipal finance officer; at (f) changed the basis on which the annual budget is prepared; at (g) added 1.i and 1.ii; and at (k) amended duties of the lead agency.

Amended by R.1996 d.534, effective November 18, 1996.

See: 28 N.J.R. 4027(a), 28 N.J.R. 4877(a).

Case Notes

County insurance fund established as joint municipal pool was entitled to immunity from antitrust liability, despite fact that it was neither insurance company nor insurer under state law; fund was subject to Commissioner's regulation and was designed to spread self-insurance risks of municipal governments. *Shapiro v. Middlesex County Mun. Joint Ins. Fund*, 704 A.2d 1316, 307 N.J.Super. 453 (A.D. 1998).

11:15-2.5 Bylaws and plan of risk management; filing requirements

(a) Each joint insurance fund shall file with the Department for approval by the Commissioner and the Commissioner of the Department of Community Affairs, as provided in N.J.S.A. 40A:10-41, its bylaws and plan of risk management and any amendments thereto. In addition, the initial filing shall contain and be accompanied by the information and documentation specified at N.J.A.C. 11:15-2.6, and such other information as the Commissioner may request. All filings shall be in loose-leaf form inserted into standard two-ring or three-ring binders tabbed or otherwise indexed to correspond to the requirements set forth in N.J.A.C. 11:15-2.6. The loose-leaf sheets used shall be eight and one-half inches wide by 11 inches long and punched for two-ring and three-ring binders, as appropriate. The fund shall submit five copies of a filing in the format set forth in this subsection to the Department and one copy to the Department of Community Affairs. All information shall be submitted completely and accurately.

(b) All of the information and documentation set forth in N.J.A.C. 11:15-2.6 shall constitute the fund's bylaws and plan of risk management for purposes of N.J.S.A. 40A:10-41. No joint insurance fund shall begin providing insurance coverage to its member units until its bylaws and plan of risk management, including all of the information required pursuant to N.J.A.C. 11:15-2.6, have been approved by the Commissioner.

(c) No amendment to a fund's bylaws or plan of risk management shall take effect until such amendment is approved by the Commissioner.

(d) Within 10 days following any change in the information or documentation required to accompany the filing of the fund's bylaws or amendments thereto, as provided in (a) above, the fund shall file notice of the change, with the Department and the Department of Community Affairs.

(e) The bylaws and plan of risk management and all information required to accompany the initial filing shall set forth an identifying number or code and the filing date on each page of the specific document filed. For example, each page of the bylaws shall set forth an identifying number or code; each page of the plan of risk management shall set forth a different identifying number or code; the sample resolution and trust agreement shall set forth a different identifying number or code; etc. Any amendment or supplemental form to any information previously filed shall contain the original identifying number or code, indicate that the document is an amendment or supplement to the information previously filed, and set forth the date of revision.

(f) In addition to the information set forth in N.J.A.C. 11:15-2.6, the fund shall provide a cover letter stating the name, telephone number(s) and telefax number(s) of two contact persons (one primary, one secondary) familiar with the filing to whom the Department may direct any questions, as well as the fund's official mailing address for the purpose of disseminating Department information, in accordance with N.J.A.C. 11:1-25.

(g) All information required to be submitted shall be sent to the Department and the Department of Community Affairs at:

1. New Jersey Department of Banking and Insurance

Division of Financial Examinations
Attn: Municipal JIF Admissions
20 West State Street
PO Box 325
Trenton, NJ 08625-0325; and

2. New Jersey Department of Community Affairs

Division of Local Government Services
101 South Broad Street
PO Box 803
Trenton, NJ 08625-0803

Emergency amendment, R.1984 d.616, effective December 24, 1984 (expires February 22, 1985).

See: 17 N.J.R. 218(a).

(a) substantially amended.

Adopted by R.1985 d.128, effective February 22, 1985.

See: 17 N.J.R. 218(a), 17 N.J.R. 709(a).

Amended by R.1995 d.408, effective August 7, 1995.

See: 26 N.J.R. 2725(a), 26 N.J.R. 3592(a), 27 N.J.R. 2938(a).

Substantially amended (a) and (b) and added (e) through (g).

Amended by R.1996 d.534, effective November 18, 1996.

See: 28 N.J.R. 4027(a), 28 N.J.R. 4877(a).

11:15-2.6 Bylaws and plan of risk management; contents

(a) The commissioners of a joint insurance fund shall prepare and, after the approval, by resolution, of the governing body of each participating local governmental unit, shall adopt bylaws for the joint insurance fund. The bylaws shall include, but not be limited to:

1. Procedures for the organization and administration of the joint insurance fund, the insurance fund commissioners and alternates and, if appropriate, the executive committee of the fund and alternates. The procedures may include the designation of one member local unit to serve as the lead agency;

2. Procedures for the assessment of members for their contributions to the fund and for the collection of contributions in default;

3. Procedures for the establishment, maintenance and administration of appropriate reserves in accordance with sound actuarial principles;

4. Procedures for the purchase of direct insurance or reinsurance if any;

5. Contingency plans for paying losses in the event that the fund is exhausted, including provision for supplemental assessments as provided at N.J.A.C. 11:15-2.16;

6. Procedures governing loss adjustment and legal fees;

7. Procedures for the joining of the fund by a non-member local unit;

8. Procedures in compliance with N.J.A.C. 11:15-2.10 for the withdrawal or expulsion from the fund by a local unit, including any requirement that a terminated or withdrawing member provide security in a form and amount acceptable to the Commissioner and fund commissioners as applicable, as a guarantee for the continued payment of the member's obligations pursuant to N.J.A.C. 11:15-2.10(c);

9. Procedures for the termination and liquidation of the joint insurance fund and the payment of its outstanding obligations; and

10. Procedures governing trust fund accounts, including transfers, withdrawals and distribution of surplus therefrom and supplemental assessments.

(b) In addition, the bylaws shall:

1. Include the fund's name, location of its principal office, date of organization, and name and address of each initial member;

2. Specify the insurance coverages to be provided by the fund and the minimum participation required of any member;

3. Describe the responsibilities and obligations of the participants, the terms and conditions of continued participation and discontinuance of participation in the fund;

4. Be accompanied by a pro forma financial statement, with underlying assumptions and methodology, on a form acceptable to the Commissioner showing the financial strength and liquidity of the fund to assure that all obligations will be met promptly;

5. Where self-insured, provide a plan for specific and aggregate excess insurance or reinsurance and for retention in accordance with sound actuarial principles and the plan of risk management;

6. Be accompanied by proof of competent personnel and ample facilities within the fund organization with respect to claims administration, underwriting matters, loss prevention and safety engineering or present a contract with a servicing organization for the provision of such services;

7. Establish the claims handling procedure to be utilized by the fund which procedure shall provide for the prompt, fair and equitable settlement of claims;

8. Establish the complaint handling procedure to be utilized by the fund;

9. Be accompanied by a sample copy of the resolution and written agreement adopted by each participating local unit as specified at N.J.A.C. 11:15-2.3. Within 30 days of approval, the fund shall send certified copies of the resolution and written agreement from each participant to the Commissioner and to the Commissioner of the Department of Community Affairs;

10. Be accompanied by a sample copy of its indemnity and trust agreement as defined in N.J.A.C. 11:15-2.2, and in a form satisfactory to the Commissioner.

i. The agreement shall create a trust and govern the operation thereof under which monies shall be held by the fund commissioners as fiduciaries for the benefit of fund claimants.

ii. Where a fund, other than an environmental impairment liability fund, shall provide for the retention on a self-insured basis of any or all of the risks or liabilities specified in (b)10ii(1) through (4) below, the agreement shall require and provide for the establishment of separate trust accounts from which monies shall be disbursed solely for the payment of claims, allocated claims expenses and excess insurance or reinsurance premiums for each risk or liability, and may provide for the establishment of contingency accounts, each by fund year, as follows:

(1) Workers' compensation and employers' liability;

(2) Liability, other than motor vehicle;

(3) Property damage, including automobile physical damage;

(4) Automobile liability;

(5) General contingencies, if deemed appropriate by the fund, to replenish the administrative account established pursuant to N.J.A.C. 11:15-2.14 for that specific fund year; and

(6) Loss fund contingencies, if deemed appropriate by the fund, to replenish a trust account established pursuant to (b)10ii(1) through (4) above for that specific fund year; and where the total amount of monies assessed and allocated to the accounts established pursuant to (b)10ii(1) through (4) and this subparagraph (b)10ii(6) are utilized to satisfy the amounts estimated by the fund's actuary to be necessary to pay claims, allocated claims expenses and excess insurance or reinsurance premiums for each risk or liability set forth in (b)10ii(1) through (4) above for that fund year.

iii. Where an environmental impairment liability fund shall provide for the retention on a self-insured basis of any or all of the risks or liabilities specified in (b)10iii(1) through (3) below, or where the fund has issued bonds pursuant to N.J.S.A. 40A:10-38.1 and this subchapter, the agreement shall require and provide for the establishment of separate trust accounts from which monies shall be disbursed solely for the payment of claims, allocated claims expenses and excess insurance or reinsurance premiums for each risk or liability, and for the service of the debt on any bonds issued, and may provide for the establishment of contingency accounts, each by fund year, as follows:

(1) Legal or defense services;

(2) Environmental management or risk management services;

(3) Any bodily injury or property damage liability or other coverages, separated by specific coverage, for which individual members join the fund for coverage, including, but not limited to, above-ground/underground storage tank and/or off-site storage/spills, sudden and accidental spills, and third-party liability;

(4) Debt service for any bonds issued pursuant to N.J.S.A. 40A:10-38.1;

(5) General contingencies, if deemed appropriate by the fund, to replenish the administrative account for that specific fund year as set forth in (b)10ii(5) above; and

(6) Loss fund contingencies, if deemed appropriate by the fund, to replenish a trust account established pursuant to (b)10iii(1) through (3) above for that specific fund year; and where the total amount of monies assessed or raised through the issuance of any bonds and allocated to the accounts established pursuant to (b)10iii(1) through (3) and this subparagraph (b)10iii(6) are utilized to satisfy the amounts estimated by the fund's actuary to be necessary to pay claims, allocated claims expenses and excess insurance or reinsurance premiums for each risk or liability set forth in (b)10iii(1) through (3) above for that fund year.

iv. In addition to the accounts set forth in (b)10iii above, an environmental impairment liability fund that issues bonds shall establish a separate contingency account in accordance with N.J.A.C. 11:15-2.13(b).

v. A fund shall not be otherwise required to establish separate trust accounts as required by (b)10ii or iii above for each fund year, or for each risk or liability as specified in (b)ii and (b)iii above, provided the fund provides a plan in its bylaws which provides for the recording and accounting of all transactions by fund year for each risk or liability as specified in (b)ii and (b)iii above, as applicable.

vi. Within 30 days of approval, the fund shall send certified copies of the indemnity and trust agreement from each participant to the Commissioner and the Commissioner of the Department of Community Affairs;

11. Provide procedures for the establishment, maintenance and administration of reserves for unearned assessments, loss reserves and loss expense reserves and for the determination and distribution of assessment and/or investment refunds, in accordance with sound actuarial principles;

12. With respect to the funds providing for self-insurance of workers' compensation liabilities, the bylaws of each fund shall:

i. Guarantee benefit levels equal to those required by the workers' compensation law and other applicable statutes and provide a plan for the prompt payment of such benefits. Information documenting an individual member's financial strength and liquidity shall be made available to the Department upon the Department's written request and in a form specified by the Department;

ii. Mandate a minimum contribution of at least \$250,000 for the fund's first year of operation and thereafter the minimum contribution shall be at least \$500,000 for each subsequent year of operation unless approved by the Commissioner;

iii. Unless otherwise approved by the Commissioner, provide for assessments based upon the Experience Rating Plan provided for in the New Jersey Workers' Compensation and Employers' Liability Insurance Manual on file with the Commissioner;

13. Be accompanied by copies of duly executed resolutions by two or more local units evidencing their intent to form the fund; and

14. Be accompanied by a non-refundable filing fee in the amount of \$1,500.

(c) The bylaws shall be accompanied by the following information and documentation and any amendments thereto:

1. Designation of the fund commissioners, executive committee, if any, chairman, secretary, administrator and custodian of the fund's assets;

2. Copies of the fund's prospective and executed agreements or contracts and any renewal or new agreements or contracts with any administrator, servicing organization or custodian of the fund's assets. Such agreements or contracts shall specify the duties of, and compensation to be paid to, each such entity. Copies of the above shall be accompanied by a list of all parties having or deriving any interest, right or benefit in the servicing organization or administrator, as well as any services to be performed which are subcontracted;

i. To the extent the terms and conditions of any renewal agreement or contract and the parties thereto remain unchanged from the prior year, a copy of the renewal agreement or contract shall not be required. In lieu of filing a copy of the renewal agreement or contract, the fund shall file a notice with the Department and Department of Community Affairs in the format of Exhibit A in the Appendix, incorporated herein by reference, that the agreement has been renewed, and that the terms and conditions of the agreement or contract and parties thereto remain unchanged from the prior year.

ii. Copies of any changes to the agreements or contracts shall be filed with the Department and Department of Community Affairs within 10 days after such changes are approved by the fund;

3. A fidelity bond for all persons handling fund assets in a form and amount acceptable to the Commissioner;

4. A surety bond for the claims administrator or any other servicing organization deemed necessary by the Commissioner in a form and amount acceptable to the Commissioner; and a surety bond for any other servicing organization as deemed appropriate by the fund commissioners in a form and amount acceptable to the fund commissioners;

5. Evidence of errors and omissions insurance coverage for the servicing organization(s), administrator and producer, if employed by the fund, who negotiates excess insurance or reinsurance on behalf of the fund;

6. A designation and appointment of an agent in New Jersey to receive service of process on behalf of the fund as well as the address in this State where the books and records of the fund will be maintained at all times;

7. A list of commissioners, officers and executive committee members, updated annually;

8. Data forms, in the format set forth in Exhibit B in the Appendix, incorporated herein by reference, incorporating the appropriate and necessary professional qualifications for senior officers and directors of the administrator and servicing organizations providing services to the fund updated and submitted to the Commissioner annually. An entity providing services to more than one fund may submit one data form for all funds formed pursuant to this subchapter which the entity services;

i. To the extent the information contained in the data forms remains unchanged from the prior year, the fund need not file updated forms, provided that the fund files a notice with the Department and Department of Community Affairs, in the format of Exhibit C in the Appendix, incorporated herein by reference, that the same individuals are utilized and that the information in the data forms remains unchanged from the prior year.

9. Copies of each insurance or reinsurance policy purchased by the fund;

10. A description of any producer arrangement plan by which producers, who shall be licensed pursuant to N.J.S.A. 17:22A-1 et seq., represent members in their dealings with the fund. The description shall include, but not be limited to, copies of all producer contracts, which shall include a description of the producer's obligations, responsibilities and compensation; the duration of such contracts; and an indication whether the contracts are subject to renewal. Copies of renewal contracts or a notice of renewal shall also be provided consistent with the requirements set forth in (c)2 above.

i. The compensation paid to producers shall be reasonable. The Commissioner may disapprove any arrangement if he or she determines that the terms of the arrangement are unreasonable;

11. A cash management plan, which shall include the designation of depository institution(s) for the holding of fund monies and the fund's investment policy; and

12. A copy of the application form to be utilized by the fund for prospective new members applying for membership in the fund.

(d) Each joint insurance fund shall, concurrently with the filing of its bylaws as provided at N.J.A.C. 11:15-2.5(a), file its plan of risk management and any amendment thereto with the Department as provided in N.J.S.A. 40A:10-41 containing the information as specified in (e) below.

(e) The commissioners shall prepare, or cause to be prepared a plan of risk management for the joint insurance fund. The plan description shall include, but not be limited to:

1. The perils or liability to be insured against;
2. The limits of coverage, whether self-insurance, direct insurance purchased from a commercial carrier, or reinsurance;
3. The amount of risk to be retained by the fund;
4. The amount of unpaid claims to be established;
5. The proposed method of assessing contributions to be paid by each member of the fund;
6. Procedures governing loss adjustment and legal fees;
7. Coverage to be purchased from a commercial insurer, if any;
8. Reinsurance to be purchased, if any, and the amount of premium therefor.
9. Procedures for the closure of fund years including the maintenance of all relevant accounting records;

10. The assumptions and methodology used for the calculation of appropriate reserves required to be established, maintained and administered in accordance with sound actuarial principles pursuant to (a)3 above;

11. The maximum amount a certifying and approving officer may approve for payment pursuant to N.J.A.C. 11:15-2.22; and

12. For environmental impairment liability funds, a full description of all coverages to be provided, including, but not limited to, defense services, environmental management or risk management services, above-ground/underground storage tank and/or off-site storage/spills involving sudden and accidental claims, and third-party liability claims.

(f) The Commissioner may, at the time of filing of the bylaws and plan of risk management and whenever thereafter he deems it expedient, but at a minimum not less frequently than once every five years, make or cause to be made, an examination of the assets and liabilities, financial condition, method of conducting business and all other affairs of any fund. For the purpose of the examination, the Commissioner may retain attorneys, appraisers, independent actuaries, independent certified public accountants or other professionals or specialists as examiners, or may request the fund commissioners or the executive committee, if any, to authorize and employ such person or persons to conduct the same or to assist therein as he deems advisable. The reasonable expenses of the examination shall be fixed and determined by the Commissioner, and such expenses shall be paid by the fund examined to the appropriate entity or person upon presentation of a detailed account.

1. For purposes of completing an examination of any fund pursuant to N.J.S.A. 40A:10-47 and this subchapter, the Commissioner may examine or investigate any person, or the business of any person, insofar as such examination or investigation is, in the sole discretion of the Commissioner, necessary or material to the examination of the fund.

2. Every fund or person from whom information is sought, including its officers, directors and agents, shall provide the Commissioner or other person appointed as an examiner pursuant to this subsection, timely, convenient, and free access at all reasonable hours at its offices to all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the fund being examined.

3. The administrator and servicing organization(s), and their officers, directors, employees and agents, or other person, shall facilitate the examination and aid in the examination so far as it is in their power to do so. The Commissioner may, in accordance with the procedures set forth in N.J.A.C. 11:15-2.8, suspend or terminate the authority of any fund, if the fund, by its administrator, servicing organizations, or officers, directors, employees, or agents thereof, refuses to submit to an examination or to comply with any reasonable request of the examiners.

Amended by R.1991 d.16, effective January 7, 1991.

See: 22 N.J.R. 16(a), 23 N.J.R. 112(a).

Added new (c)8 and 9; made more specific various provisions throughout.

Amended by R.1995 d.408, effective August 7, 1995.

See: 26 N.J.R. 2725(a), 26 N.J.R. 3592(a), 27 N.J.R. 2938(a).

Combined (a)8 and (a)9 as (a)8; redesignated (a)10 as (a)9; added a new (a)10; added (b)10.i through (b)10.vi, (b)13, (b)14, (c)2.i, (c)8.i, (c)10, (c)11, (e)9 through (e)12 and (f)1 through (f)3 and made other minor amendments.

Amended by R.1996 d.534, effective November 18, 1996.

See: 28 N.J.R. 4027(a), 28 N.J.R. 4877(a).

Amended by R.1999 d.350, effective October 18, 1999.

See: 31 N.J.R. 2125(b), 31 N.J.R. 3091(a).

In (b)9, deleted references to ordinances throughout.

11:15-2.7 Disapproval of bylaws and plan of risk management

If the Commissioner determines that the bylaws or plan of risk management of the fund or any subsequent amendments thereto do not contain all of the information set forth in N.J.A.C. 11:15-2.6, are not submitted in the proper format set forth in N.J.A.C. 11:15-2.5, or otherwise do not meet the requirements of N.J.S.A. 40A:10-36 et seq. or this subchapter, the Commissioner shall disapprove the bylaws or plan of risk management and notify the fund in writing, which notice shall contain the specific reasons for disapproval, and the requirements to be met before approval may be granted. If not disapproved by the Commissioner within 30 working days of receipt of the bylaws and plan of risk management or any amendments or changes thereto, which contain all of the information and documentation set forth in N.J.A.C. 11:15-2.6, in the format set forth in N.J.A.C. 11:15-2.5, and which meet the requirements of N.J.S.A. 40A:10-36 et seq. and this subchapter, the bylaws and plan shall be deemed approved.

Amended by R.1995 d.408, effective August 7, 1995.

See: 26 N.J.R. 2725(a), 26 N.J.R. 3592(a), 27 N.J.R. 2938(a).

Provided citations to appropriate N.J.S.A. sections and made minor changes.

Amended by R.1996 d.534, effective November 18, 1996.

See: 28 N.J.R. 4027(a), 28 N.J.R. 4877(a).

11:15-2.8 Revocation of approval

(a) After notice and opportunity for a hearing, the Commissioner may suspend or terminate the authority of any fund, or direct or take any action deemed necessary for good cause, to enable a fund to meet its obligations, cover its expected losses, or to liquidate, rehabilitate or otherwise modify its affairs if a fund:

1. Is found to be insolvent or has experienced a deterioration in financial condition to the extent that it causes or may cause an adverse affect upon the ability of the fund to pay expected losses;
2. Fails to pay any fee or assessment;
3. Fails to pay any claim within 30 days after a final judgment is rendered against the fund or the fund's obligation for such claim otherwise becomes final;
4. Fails to comply with any of the provisions of N.J.S.A. 40A:10-36 et seq. or this subchapter, or with any lawful order of the Commissioner with the time prescribed; or

5. Fails to follow its approved bylaws or plan of risk management.

(b) In addition, the Commissioner may suspend or terminate a fund's authority if, after notice and opportunity for hearing, he or she finds that:

1. There was a material misrepresentation in any of the information supplied to the Commissioner or the Commissioner of the Department of Community Affairs;
2. The fund, or any of its commissioners, administrator, servicing organization or agents has otherwise shown itself to be untrustworthy or incompetent; or
3. The fund, its commissioners, administrator, servicing organization or agents has misappropriated, converted, illegally withheld, or refused to pay over upon proper demand any monies that belong to a member, an employee of a member, or a person otherwise entitled thereto.

Amended by R.1995 d.408, effective August 7, 1995.

See: 26 N.J.R. 2725(a), 26 N.J.R. 3592(a), 27 N.J.R. 2938(a).

Expanded Commissioners' powers in (a) and including servicing organizations and their agents in (b).

Amended by R.1996 d.534, effective November 18, 1996.

See: 28 N.J.R. 4027(a), 28 N.J.R. 4877(a).

11:15-2.9 Approval of nonmembers

(a) Prospective new members of the fund shall submit an application for membership to the fund's commissioners, or executive committee, as applicable, on a form acceptable to the Commissioner. Such application shall include a copy of the resolution of participation and executed indemnity trust agreement. The commissioners or executive committee may approve or disapprove the application for additional members, pursuant to the bylaws of the fund.

(b) Any application approved by the fund shall within 15 days of approval by the fund be filed with the Department and the Department of Community Affairs and shall be accompanied by a revised budget with assessment detail, if otherwise required pursuant to N.J.A.C. 11:15-2.4(f)6, an actuarial statement regarding the adequacy of the member's assessment to cover anticipated losses; and any amendments to the fund's bylaws and plan of risk management as may be necessary. The fund shall file only the specific changes to the bylaws or risk management program in effect for the current fund year. Where a fund purchases direct insurance, or where an actuary has determined a "per capita" rate for the member's assessment to cover anticipated losses which has been previously filed with the Department, actuarial certification of the adequacy of these same rates for each new member is not required. The Commissioner may nevertheless require actuarial certification of a per capita rate for the new member's assessment to cover anticipated losses if, in his or her opinion, the new member will impose an extraordinary impact on the exposure of the fund. In addition, the fund shall file the following information in the form of Exhibit D in the Appendix incorporated herein by reference with the Department and Department of Community Affairs within 15 days after approval of a new member:

1. The name and address of the new member;
2. The effective date of coverage;
3. The name of the new member's risk manager;
4. The name of the new member's fund commissioners and alternates in accordance with N.J.A.C. 11:15-2.6(a);
5. The lines of coverage for which the new member participates;

(f) Notwithstanding the requirements in (a) through (e) above:

1. A fund shall not be required to maintain single accident (single occurrence) excess insurance if the fund's

single accident (single occurrence) limit of liability as set forth in its approved plan of risk management is equal to or less than its single accident (single occurrence) self-insured retention as approved by the Department.

2. In lieu of maintaining aggregate excess insurance as provided in (a) through (e) above, a fund may establish and provide for the funding of an aggregate excess loss contingency fund. The fund shall make annual contributions to the loss contingency fund, the amount of which shall be based on the fund's cumulated budgeted losses and specific per occurrence retention, and determined in accordance with Exhibit G in the Appendix incorporated herein by reference. The required contribution for the current fund year shall be the current fund year's budgeted losses, multiplied by the appropriate factor in Appendix Exhibit G. To the extent the fund has different specific per occurrence retentions for different lines, the fund shall utilize the highest specific occurrence retention. To the extent the specific per occurrence retention is not specified in Exhibit G, the fund shall interpolate the appropriate percentage from the percentages indicated. For any fund year, the loss contingency fund shall include the required annual contribution for the current fund year and for the fund year immediately preceding. Such contingency fund may be utilized solely for the replenishment of a claim or loss retention fund account for losses in excess of budgeted losses for a fund year. A fund shall notify the Department within 30 days of the transfer of monies from the aggregate excess loss contingency fund to a claim or loss retention fund account. Annual contributions for the second preceding fund year, and fund years prior to the second preceding fund year, which have not been utilized to replenish a claim or loss retention fund account, may be released without restriction. The fund, however, shall notify the Department in writing within 30 days of any release of prior contributions.

3. A fund may obtain aggregate excess insurance in accordance with (a) through (e) above for some lines of coverage for a particular fund year. For lines of coverage that are not covered by aggregate excess insurance, the fund shall provide a loss contingency fund pursuant to (f) above. For purposes of determining the annual contribution, the fund shall utilize its cumulated budget losses for all lines to determine the appropriate factor in Appendix Exhibit G, and shall multiply that factor by the budgeted losses only for those lines of coverage for which the loss contingency fund is established.

4. If a fund seeks to purchase aggregate excess insurance, but such coverage is only available at a retention greater than 125 percent, the fund shall establish a modified loss contingency fund at an amount determined as follows:

- i. 125 percent shall be subtracted from the attachment point of the aggregate excess insurance purchased;
- ii. 125 percent shall be subtracted from the minimum reinsurance cap required for the fund determined pursuant to Appendix Exhibit F;

iii. The dollar amount of a loss contingency fund, as if established and determined pursuant to (f)2 above, shall be multiplied by 125 percent; and

iv. The amount of the loss contingency fund required shall be equal to the amount obtained by multiplying the result in (f)4iii above by the result in (f)4i above, and dividing that result by the result in (f)4ii above. In no event shall the modified loss contingency fund required by (f)4 above be required to be greater than that required to be established pursuant to (f)2 and 3 above.

(g) For purposes of this section:

1. "Budgeted losses" means the amount established in the fund's budget for losses anticipated for a particular fund year, as annually certified by the fund's actuary; and

2. "Cumulated budgeted losses" means the fund's budgeted losses for the current fund year plus the four fund years immediately preceding. For a fund in existence for less than three years, cumulated budgeted losses shall be based on an estimate of three years budgeted losses pro rata for that period. For example, a newly formed fund would multiply its cumulated budgeted losses by three, a fund with two years experience would multiply it cumulated budgeted losses by 1.5, and so on. Any fund with three years or more of experience shall base its cumulated budgeted losses on its actual years of experience, not to exceed five years.

(h) Any fund approved by the Commissioner prior to November 18, 1996 shall secure specific and aggregate excess insurance coverage in accordance with (a) through (e) above, or provide for aggregate excess losses pursuant to (f) above, to be effective no later than January 1, 1998. Such funds shall file an amendment to their bylaws or plan of risk management for approval pursuant to N.J.A.C. 11:15-2.5 to provide a plan for specific and aggregate excess insurance or reinsurance pursuant to N.J.A.C. 11:15-2.6(a)6. The amendments to the fund's bylaws or plan of risk management as set forth herein shall be filed with the Commissioner within 10 days of such amendment but not later than 30 days prior to the effective date of the plan.

(i) Nothing in this section shall be construed as prohibiting a fund from establishing an aggregate excess insurance cap or a loss contingency fund, as applicable, in amounts greater than that required by this section.

Amended by R.1991 d.16, effective January 7, 1991.
See: 22 N.J.R. 16(a), 23 N.J.R. 112(a).

Added references to "commercially insured" at (a).
Amended by R.1995 d.408, effective August 7, 1995.
See: 26 N.J.R. 2725(a), 26 N.J.R. 3592(a), 27 N.J.R. 2938(a).

Provided for changes in the terms or limits of excess insurance and reinsurance at (e).

Amended by R.1996 d.534, effective November 18, 1996.
See: 28 N.J.R. 4027(a), 28 N.J.R. 4877(a).

11:15-2.24 Financial statement and reports

(a) An annual certified report in a form acceptable to the Commissioner shall be prepared by each fund, filed concurrently with the Department and Department of Community Affairs and made available to each fund member on or before June 30 of each year. The report shall include:

1. An annual audited statement of the financial condition of the fund prepared by an independent certified public accountant or registered municipal accountant and performed in accordance with generally accepted accounting principles and N.J.S.A. 40A:10-46, which shall include a statement of the organization of the fund indicating the persons who perform each function for the fund and the relationship and interdependency of each function, and including its balance sheet and revenue and expense for the preceding year;
2. Reports of outstanding liabilities by line of coverage showing the number of claims, amounts paid to date and current reserves for unpaid losses, claims and unearned assessments as certified by an actuary;
3. A certification by the chairman or administrator that periodic reports were made to fund members in the form and manner required by N.J.A.C. 11:15-2.4(i);
4. Any material changes in information from that previously submitted; and
5. Such other information, as may be required by the Department upon request from a particular fund.

(b) In addition to the reports required pursuant to (a) above, for the initial two fiscal years of a fund, a fund shall file with the Department quarterly unaudited statements of the financial condition of the fund in a form acceptable to the Commissioner within 60 days after the end of each calendar quarter. After the initial two years, a fund shall file with the Department semiannual unaudited statements of the financial condition of the fund in a form acceptable to the Commissioner within 60 days after the end of each six month period. The semiannual report covering of the six-month period ending December 31 shall include a compilation of the results reported in the semiannual report for the period ending June 30 immediately preceding. All statements filed pursuant to this subsection shall include the information set forth in (a) above, except that certification by a certified public accountant, registered municipal accountant, or the actuarial opinion statement shall not be required.

Amended by R.1995 d.408, effective August 7, 1995.
See: 26 N.J.R. 2725(a), 26 N.J.R. 3592(a), 27 N.J.R. 2938(a).

Added new (a)3 and (a)4 and renumbered former (a)3 as (a)5, and added (b) requiring unaudited statements of the financial condition of the fund.

Amended by R.1996 d.534, effective November 18, 1996.
See: 28 N.J.R. 4027(a), 28 N.J.R. 4877(a).

11:15-2.25 Examination of funds possibly in financial condition detrimental to the public

(a) In addition to any examination conducted pursuant to N.J.A.C. 11:15-2.6(f), the Commissioner may conduct an examination of any fund as he or she deems necessary, or at any time the Commissioner has reasonable cause to believe the fund may be insolvent or in a financial condition detrimental to its members or to the public. It shall be the duty of the fund members, commissioners, executive committee, administrator and chairman to notify the Commissioner of any information indicating that any fund may be insolvent or in a financial condition detrimental to the fund's members or the public.

(b) The fund members, commissioners or executive committee may, upon majority vote, request that the Commissioner order an examination of any fund member which the fund, commissioners or executive committee, in good faith believes may be in a financial condition detrimental to the fund's members or to the public.

(c) Any examination made pursuant to N.J.S.A. 40A:10-36 et seq. and this subchapter shall be conducted in accordance with the procedures set forth in N.J.A.C. 11:15-2.6(f).

Amended by R.1995 d.408, effective August 7, 1995.
See: 26 N.J.R. 2725(a), 26 N.J.R. 3592(a), 27 N.J.R. 2938(a).
Substantially amended (a) through (c).

11:15-2.26 Servicing organizations; administrator

(a) No servicing organization of a fund, or producer that may be appointed pursuant to N.J.A.C. 11:15-2.6(c)10, or their employees, officers or directors shall have either a direct or indirect financial interest in the administrator of that fund or be an employee, officer or director of the administrator, unless notice of such interest has been provided to the fund commissioners and members.

(b) No administrator of a fund, or its employees, officers or directors shall be an employee, officer or director of, or have either a direct or indirect financial interest in, a servicing organization of that fund, or the insurance producer that may be appointed by that fund pursuant to N.J.A.C. 11:15-2.6(c)10, unless notice of such interest has been provided to the fund commissioners and members.

(c) Each service contract shall include a clause stating, "Unless the fund commissioners otherwise permit, the servicing organization shall handle to their conclusion all claims and other obligations incurred during the contract period."

(d) The fund commissioners shall notify the Department and the Department of Community Affairs within 10 days of any determination to terminate or nonrenew any agreement with a servicing organization. The notification shall include a detailed statement that sets forth the manner and method by which claims handling and other obligations performed by the servicing organization will be provided or a statement that sets forth the reasons why the fund commissioners believe that the particular service is no longer necessary.

(j) All officers, employees and agents, including the administrator, servicing organization and program manager of the joint insurance fund, on the final day of their contract or employment shall surrender and deliver to their successors all accounts, funds, property, records, books and any other material relating to their contract or employment.

(k) A joint insurance fund may utilize the services of a member to serve as lead agency for the fund.

1. A lead agency may be compensated for its reasonable expenses incurred in administering the affairs of a joint insurance fund. Any administrative costs agreed upon to be paid to a lead agency shall be received by it as a Miscellaneous Revenue and be available for expenditure through the budget appropriation method.

2. A lead agency shall not advance funds of its own to cover a purchase on behalf of the fund or the other participating units.

(l) Each fund shall cover a minimum of 1,000 employees in a self-funded health care plan providing hospital, surgical and medical benefits. A fund may cover less than 1,000 employees with the approval of the Commissioner if he or she determines that the proposed risk retention is actuarially sound in relationship to the projected employee participation.

Amended by R.1996 d.535, effective November 18, 1996.
See: 28 N.J.R. 4036(a), 28 N.J.R. 4885(a).

11:15-3.5 Bylaws and plan of risk management; filing requirements

(a) Each joint insurance fund shall file with the Department for approval by the Commissioners of Banking and Insurance and Community Affairs, as provided in N.J.S.A. 40A:10-41, its bylaws and plan of risk management and any subsequent amendments thereto. In addition, the initial filing shall contain and be accompanied by the information and documentation specified at N.J.A.C. 11:15-3.6, and such other information the Commissioner may request. All filings shall be in loose-leaf form inserted into standard two-ring or three-ring binders tabbed or otherwise indexed to correspond to the requirements set forth in N.J.A.C. 11:15-3.6. The loose-leaf sheets used shall be eight and one-half inches wide and 11 inches long and punched for two-ring and three-ring binders, as appropriate. The fund shall submit five copies of a filing in the format set forth in this section. All information shall be submitted completely and accurately.

1. All filings and accompanying documents shall be submitted to the Department and the Department of Community Affairs.

(b) All of the information and documentation set forth in N.J.A.C. 11:15-3.6 shall constitute the fund's bylaws and plan of risk management for purposes of N.J.S.A. 40A:10-41. In order to facilitate the filing and review

process, the review of a filing shall be separated into two stages. The information set forth in N.J.A.C. 11:15-3.6(a) through (d) constitutes the initial stage. Within 90 days of the Commissioner's acceptance of the initial information filed, the fund shall complete the filing process by submitting the information set forth in N.J.A.C. 11:15-3.6(e). Failure to file the required subsequent information within 90 days may result in the disapproval of the fund's filing. No joint insurance fund shall insure, contract or provide insurance coverage to its members until its bylaws and plan of risk management and other information required pursuant to N.J.A.C. 11:15-3.6 have been approved by the Commissioner and such approval becomes effective pursuant to (c) below.

(c) In order to provide a sufficient time for transition from the plan for the provision of health or term life benefits in effect immediately prior to joining the fund to the plan for the provision of such benefits through the fund, any approval of a fund's bylaws and plan of risk management shall take effect and become operative 60 days after the date of approval.

(d) No amendment to a fund's bylaws or plan of risk management, or change in the information or documentation required to accompany the filing of the fund's bylaws or plan of risk management as provided in (a) above, shall take effect until the amendment or change is approved by the Commissioner and the Commissioner of the Department of Community Affairs.

(e) The bylaws and plan of risk management and all information required to accompany the initial filing shall set forth an identifying number or code and the filing date on each page of the specific document filed. For example, each page of the bylaws shall set forth an identifying number or code; each page of the plan of risk management shall set forth a different identifying number or code; the sample resolution and trust agreement shall set forth a different identifying number or code; etc. Any amendment or supplemental form to any information previously filed shall contain the original identifying number or code, indicate that the document is an amendment or supplement to the information previously filed, and set forth the date of revision.

(f) In addition to the information set forth in N.J.A.C. 11:15-3.6, the fund shall provide a cover letter stating the name, telephone number(s) and telefax number(s) of two contact persons (one primary, one secondary) familiar with the filing to whom the Department may direct any questions; as well as the fund's official mailing address for the purpose of disseminating Department information, in accordance with N.J.A.C. 11:1-25.

(g) All information required to be submitted shall be sent to:

1. New Jersey Department of Banking and Insurance

Division of Life and Health
 Attn. Municipal Health JIF Admissions
 20 West State Street
 PO 325
 Trenton, NJ 08625-0325; and

2. New Jersey Department of Community Affairs

Division of Local Government Services
 101 South Broad Street
 PO 803
 Trenton, New Jersey 08625-0803.

Amended by R.1996 d.535, effective November 18, 1996.

See: 28 N.J.R. 4036(a), 28 N.J.R. 4885(a).

Amended by R.1999 d.350, effective October 18, 1999.

See: 31 N.J.R. 2125(b), 31 N.J.R. 3091(a).

In (a), changed N.J.A.C. reference in the second sentence of the introductory paragraph.

11:15-3.6 Bylaws and plan of risk management; contents

(a) The prospective commissioners of a joint insurance fund shall prepare and, after the approval by resolution of the governing body of each participating local governmental unit, adopt bylaws for the joint insurance fund. The bylaws shall include, but not be limited to:

1. Procedures for the organization and administration of the joint insurance fund, the insurance fund commission and alternate commissioners and, if appropriate, the executive committee of the fund and alternates. The procedures may include the designation of one member local unit to serve as the lead agency;

2. Procedures for the assessment of members for their contributions to the fund and for the collection of contributions in default;

3. Procedures for the establishment, maintenance and administration of appropriate reserves in accordance with sound actuarial principles, including the assumptions and methodology to be used for the calculation of policy and claim reserves;

4. Procedures for the purchase of direct insurance, or reinsurance, if any;

5. Contingency plans for paying losses in the event that the fund is exhausted, including provision for supplemental assessments as provided at N.J.A.C. 11:15-3.16;

6. Procedures governing loss adjustment and legal fees;

7. Procedures and admissions criteria for the joining of the fund by a non-member local unit;

8. Procedures in compliance with N.J.A.C. 11:15-3.10 for the withdrawal from the fund by a local unit;

9. Procedures for the expulsion of a member local unit;

10. Procedures for the termination and liquidation of the joint insurance fund and the payment of its outstanding obligations; and

11. Procedures governing trust fund accounts, including transfers, withdrawals and distribution of surplus therefrom and supplemental assessments.

(b) In addition, the bylaws shall:

1. Include the fund's name;

2. Provide that upon each fiscal year renewal of the fund, coverages and benefit levels as may be determined and specified by the fund and its members; provided the affected persons receive written notice of any changes in coverage or benefit levels at least 30 days prior to taking effect and that a copy of the written notice and the relevant rate changes shall be filed with the Department 30 days prior to taking effect;

3. Specify the subrogation rights of the fund;

4. Describe the responsibilities and obligations of the participants, the terms and conditions of continued participation and discontinuance of participation in the fund;

5. Be accompanied by a sample copy of the resolution or ordinance and written agreement adopted by each participating local unit as specified at N.J.A.C. 11:15-3.3. Within 30 days of approval, the fund shall send certified copies of the resolution or ordinance and written agreement from each participant to the Commissioner and the Department of Community Affairs;

6. Be accompanied by a sample copy of its indemnity and trust agreement as defined in N.J.A.C. 11:15-3.2, and in a form satisfactory to the Commissioner.

i. The agreement shall create a trust and govern the operation thereof under which monies shall be held by the fund commissioners as fiduciaries for the benefit of fund claimants.

ii. Where the fund shall provide for the retention on a self-insured basis of any or all of the risks or liabilities specified below, the agreement shall require and provide for the establishment of separate trust accounts by fund year for each of the following from which monies shall be disbursed solely for the payment of claims, allocated claim expenses and stop-loss insurance or reinsurance premiums for each risk or liability:

(1) Employer contributions to group health insurance;

(2) Employee contributions to contributory group health insurance;

(3) Employer contributions to group term life insurance;

(4) Employee contributions to contributory group term life insurance;

(5) Employer contributions to contingency accounts;

(6) Employee contributions to contingency accounts; and

(7) Other trust accounts as required by the Commissioner.

iii. Notwithstanding (b)6ii above to the contrary, a fund shall not be required to establish separate trust accounts for employee contributions, provided the fund provides a plan in its bylaws as required by (b)7 below which provides for the recording and accounting of the employee contributions of each member.

iv. A fund shall not otherwise be required to establish separate trust accounts as required by (b)6ii above for each fund year, provided the fund provides a plan in its bylaws which provides for the recording and accounting of all transactions by fund year;

v. Within 30 days of approval, the fund shall send certified copies of the indemnity and trust agreement from each participant to the Commissioner;

7. If applicable pursuant to (b)6iii or iv above, be accompanied by a plan which provides for the recording and accounting of the employee contributions of each member, including, but not limited to, the collection and distribution of such employee contributions, and/or a plan for the recording and accounting of all transactions by fund year;

8. Be accompanied by a copy of a resolution of intent to form the fund from at least two members;

9. Be accompanied by a feasibility study which shall include, but not be limited to:

i. The proposed date that the fund intends to begin providing coverage;

ii. The proposed location of the fund's principal office;

iii. The name and address of the fund's prospective charter members;

iv. The pro forma budget and assessments for the fund's first fiscal year;

v. A certification by an actuary that the pro forma budget is actuarially sound; and

vi. The minimum number of employees to be covered before the fund begins to provide coverage. Funds providing health or life insurance on a self-insured basis shall have membership resolutions from local units representing at least 1,000 covered employees before beginning to provide coverage; and

10. Be accompanied by a non-refundable filing fee in the amount of \$1,500.

(c) Each joint insurance fund shall, concurrently with the filing of its bylaws as provided in (a) above, file its plan of risk management and any amendments thereto with the

Department as provided in N.J.S.A. 40A:10-41 containing the information as specified in (d) below.

(d) The commissioners shall prepare, or cause to be prepared, a risk management program for the joint insurance fund. The plan description shall include, but not be limited to:

1. The lines of coverage to be provided and the minimum participation required of any member which, for the initial fiscal year of the fund, shall be the coverages and benefit levels of the member local units immediately prior to joining the fund unless changes in the coverages or benefit levels are approved by the Commissioner pursuant to N.J.A.C. 11:15-3.7;

2. The limits of coverage, whether self-insurance, insurance purchased from an insurer, or reinsurance;

3. The amount of risk to be retained by the fund on a self insured basis, which for group term life insurance shall not exceed a face amount of \$5,000 per covered employee;

4. The assumptions and methodology to be used to calculate the policy and claims reserves;

5. The proposed method of assessing contributions to be paid by each member of the fund;

6. Coverage to be purchased from an insurer if any;

7. Stop-loss insurance or reinsurance to be purchased, as required pursuant to N.J.A.C. 11:15-3.23, and the amount of premium therefor;

8. The initial and renewal assessment methodologies, including rating methodologies, for the plan and individual members including actuarial principles, assumptions and methods of calculations in sufficient detail to enable the Commissioner to determine that the charges are not excessive, inadequate or unfairly discriminatory;

9. The rating periods for initial members and for members joining the fund during the fund's fiscal year;

10. The adjusted assessments and the underlying factors considered in the development of the adjusted rates, if the rates for members joining the fund during the fund's fiscal year are to be adjusted;

11. Provision of preferred provider, managed care and health maintenance organization networks and copies of any proposed and executed contracts or agreements for such services;

12. Procedures for open enrollment for all covered individuals not later than the first month of the fund's initial fiscal year, and annually thereafter for each subsequent fiscal year;

13. Options for the conversion of benefits, if any, and a detailed description of procedures for continuation of coverage for former employees of a member which terminates its membership in the fund;

14. The disclosure of all benefit limits for all covered benefits in plan booklets, certificates or other documents made available to covered participants;

15. The participation rules when all or part of the premium is to be derived from funds contributed by covered employees;

16. Retirees coverage including the assessment and rating plan for such coverage;

17. The limits of coverage for newborn or adopted children, which shall be automatic from birth or adoption for 31 days and which may include an additional assessment for coverage beyond 31 days;

18. Provision for plan documents, benefit plan booklets and specimens of such which must contain at least the following information and be provided to all fund participants within 30 days of membership or renewal:

i. General information, including the following:

- (1) Enrollment procedures and eligibility;
- (2) Dependent eligibility;
- (3) The time coverage begins;
- (4) Timeframes within which coverage may be changed;
- (5) The time coverage ends;
- (6) Provisions for continuation of coverage;
- (7) Conversion privileges; and
- (8) The forms and instructions for enrollment;

ii. A description of benefits, including the following:

- (1) Definitions;
- (2) A description of each benefit, including the following:

- (A) Eligible services and supplies;
- (B) Deductibles and co-payments; and
- (C) Examples of the above as needed; and

(3) Exclusions;

iii. Claim procedures, including the following:

- (1) Submission of claims;
- (2) Proof of loss;
- (3) Complaint and internal appeal procedures; and

iv. Cost containment programs, including the following:

- (1) Pre-admission programs;
- (2) Second surgical opinion programs;
- (3) Other cost containment programs; and

(4) Application and level of employee penalties (if any);

19. A summary statement which describes the benefits currently provided to covered employees by each prospective member of the fund, and the benefits proposed to be provided by the fund;

20. The procedures for the closure of fund years including the maintenance of all relevant accounting records;

21. The maximum amount a certifying and approving officer may approve for payment pursuant to N.J.A.C. 11:15-5.21;

22. Whether the fund will be responsible for the "run-in" or "run-out" liability of each member;

i. If the fund is responsible for the "run-in" or "run-out" liability of a member, or both, the fund shall demonstrate that it has so notified all prospective members of this obligation, and the fund shall demonstrate that it has made adequate provision for the funding of those obligations, which shall not be on a cash flow basis, and which shall be certified by an actuary; and

ii. If the fund does not assume either the "run-in" or "run-out" liability of a member, the fund shall indicate the manner by which these obligations will be satisfied; and

23. Provision for a claim audit to be performed by an individual or corporation with experience in auditing self-insured health plans.

i. Such claims audit shall be performed upon completion of the first fund year after the fund's inception, and at least once every three years thereafter, or at such time as may be required by the Commissioner.

(e) The Commissioner shall notify the fund in writing whether the initial information submitted pursuant to (a) through (d) above meets the requirements of N.J.S.A. 40A:10-36 et seq. and this subchapter and whether the initial information has been accepted. If the Commissioner does not reject the initial information within 30 working days, the initial information shall be deemed accepted. Within 90 calendar days of the Commissioner's acceptance of the information submitted pursuant to (a), (b), (c) and (d) above, the fund shall complete the application process by submitting the following additional information and documentation:

1. The location of the fund's principal office, date of organization, and name and address of each initial member;

2. Designation of the fund commissioners, executive committee, if any, chairman, secretary, administrator and custodian of the fund's assets;

3. Copies of the fund's prospective and executed agreements or contracts, and any renewal or new agreements or contracts with any administrator, servicing organization or program manager. Such agreements or contracts shall specify the duties of, and the compensation to be paid to, each such entity. Copies of the above shall be accompanied by a list of all parties having or deriving any interest, right or benefit in the servicing organization, program manager or administrator, as well as any services to be performed which are subcontracted.

i. To the extent the terms and conditions of any renewal agreement or contract and the parties thereto remain unchanged from the prior year, a copy of the renewal agreement or contract shall not be required. In lieu of filing a copy of the renewal agreement, the fund shall file a notice with the Department and Department of Community Affairs in the format set forth in Exhibit A in the Appendix incorporated herein by reference, that the agreement has been renewed, and that the terms and conditions of the agreement or contract and parties thereto remain unchanged from the prior year;

ii. Copies of any changes to the agreements or contracts shall be filed with the Department and Department of Community Affairs within 10 days after such changes are approved by the fund;

4. A cash management plan, which shall include the designation of depository institution(s) for the holding of fund monies and the fund's investment policy;

5. A fidelity bond for all persons handling fund assets in a form and amount acceptable to the Commissioner;

6. A surety bond for the claims administrator or any other servicing organization deemed necessary by the Commissioner in a form and amount acceptable to the Commissioner; and a surety bond for any other servicing organization as deemed appropriate by the fund commissioners in a form and amount acceptable to the fund commissioners;

7. Errors and omissions coverage for the servicing organization, program manager, administrator, and producer who negotiates stop-loss or reinsurance on behalf of the fund;

8. A designation and appointment of an agent in New Jersey to receive service of process on behalf of the fund as well as the address in this State where the books and records of the fund will be maintained at all times;

9. A list of commissioners, officers, executive committee members, and servicing organizations, updated annually;

10. Data forms, in the format set forth in Exhibit B in the Appendix incorporated herein by reference, incorporating the appropriate and necessary professional qualifications for senior officers and directors of the administrator and servicing organizations providing services to the

fund, updated and submitted to the Commissioner annually. An entity providing services to more than one fund may submit one data form for all funds formed pursuant to this subchapter which the entity services;

i. To the extent the information contained in the data forms remains unchanged from the prior year, the fund need not file updated forms provided that the fund files a notice with the Department and Department of Community Affairs, in the format set forth in Exhibit C in the Appendix incorporated herein by reference, that the same individuals are utilized and that the information in the data forms remains unchanged from the prior year;

11. Copies of each insurance and reinsurance policy purchased by the fund, including a copy of the cover note or binder;

12. A pro forma financial statement based on the fund's actual membership on a form acceptable to the Commissioner showing the financial strength and liquidity of the fund to assure that all obligations will be met promptly;

13. Where self-insured, a plan for specific and aggregate stop-loss insurance or reinsurance and/or for retention in accordance with sound actuarial principles and the plan of risk management;

14. Proof of competent personnel and ample facilities within the fund organization with respect to claims administration, including a claims processing manual, and underwriting matters, or present a contract with a qualified servicing organization(s) for the provision of such services specifying compensation schedules and standards of performance;

15. A description of any producer arrangement plan by which producers, who shall be licensed pursuant to N.J.S.A. 17:22A-1 et seq., represent members in their dealings with the fund. The description shall include, but not be limited to, copies of all producer contracts, which shall include a description of the producers' obligations, responsibilities and compensation; the duration of such contracts; and an indication whether the contracts are subject to renewal. Copies of renewal contracts or a notice of renewal shall also be provided consistent with the requirements set forth in (e)3 above.

i. The compensation paid to producers shall be reasonable. The Commissioner may disapprove any arrangement if he or she determines that the terms of the arrangement are unreasonable;

16. The claims handling procedure to be utilized by the fund which shall provide for the prompt, fair, equitable and confidential settlement of claims and which shall be administered in compliance with N.J.S.A. 17B:30-13.1 and 13.2, and N.J.A.C. 11:2-17 and 11:15-3.22;

17. The complaint handling procedure to be utilized by the fund which shall provide for the confidentiality of the

claimant's identity in compliance with N.J.A.C. 11:15-3.22 and including, but not limited to, procedures for the resolution of disputed claims operated and adjudicated by an independent organization or arbitrator, which shall be at no cost to the claimant; and

18. A copy of the application form to be utilized by the fund for prospective new members applying for membership in the fund.

(f) The Commissioner may, at the time of filing of the bylaws and plan of risk management and whenever thereafter he or she deems it expedient, but at a minimum not less frequently than once every five years, make or cause to be made, an examination of the assets and liabilities, financial condition, method of conducting business and all other affairs of any fund. For the purpose of the examination, the Commissioner may retain attorneys, appraisers, independent actuaries, independent certified public accountants or other professionals or specialists as examiners, or may request the fund commissioners or the executive committee, if any, to authorize and employ such person or persons to conduct the same or to assist therein as he or she deems advisable. The reasonable expenses of the examination shall be fixed and determined by the Commissioner, and such expenses shall be paid by the fund examined to the appropriate entity or person upon presentation of a detailed account.

1. For purposes of completing an examination of any fund pursuant to N.J.S.A. 40A:10-36 et seq. and this subchapter, the Commissioner may examine or investigate any person, or the business of any person, insofar as such examination or investigation is, in the sole discretion of the Commissioner, necessary or material to the examination of the fund.

2. Every fund or person from whom information is sought, including its officers, directors and agents, shall provide the Commissioner or other person appointed as an examiner pursuant to this subsection, timely, convenient, and free access at all reasonable hours at its offices to all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the fund being examined.

3. The administrator and servicing organization(s), and their officers, directors, employees and agents, or other person, shall facilitate the examination and aid in the examination so far as it is in their power to do so. The Commissioner may, in accordance with the procedure set forth in N.J.A.C. 11:15-3.8, suspend or terminate the authority of any fund, if the fund, by its administrator, servicing organizations, or officers, directors, employees, or agents thereof, refuses to submit to an examination or to comply with any reasonable request of the examiners.

Amended by R.1996 d.535, effective November 18, 1996.
See: 28 N.J.R. 4036(a), 28 N.J.R. 4885(a).

Amended by R.1999 d.350, effective October 18, 1999.
See: 31 N.J.R. 2125(b), 31 N.J.R. 3091(a).
In (b)8, deleted a reference to ordinances.

11:15-3.7 Disapproval of bylaws and plan of risk management

(a) If the Commissioner determines that the bylaws or plan of risk management of the fund and all other information required pursuant to N.J.A.C. 11:15-3.6, or any subsequent amendments or changes thereto, do not contain all of the information set forth in N.J.A.C. 11:15-3.6, is not submitted in the proper format set forth in N.J.A.C. 11:15-3.5, or otherwise do not meet the requirements of N.J.S.A. 40A:10-36 et seq. or this subchapter, the Commissioner shall disapprove the bylaws or plan of risk management and shall notify the fund in writing, which notice shall contain the specific reasons for disapproval, and the requirements to be met before approval may be granted.

(b) If, after submission of all of the information set forth in N.J.A.C. 11:15-3.6, the bylaws and plan of risk management containing all of the information required by N.J.A.C. 11:15-3.6, in the format required by N.J.A.C. 11:15-3.5, are not disapproved by the Commissioner within 30 working days of receipt of the supplemental information set forth in N.J.A.C. 11:15-3.6(e), the bylaws and plan shall be deemed approved, pursuant to N.J.S.A. 40A:10-41c. Such approval shall become effective 60 days after the date of approval pursuant to N.J.A.C. 11:15-3.3(c).

Amended by R.1996 d.535, effective November 18, 1996.
See: 28 N.J.R. 4036(a), 28 N.J.R. 4885(a).

11:15-3.8 Suspension, termination, assumption of control, or other action by Commissioner

(a) After notice and opportunity for a hearing, the Commissioner may suspend or terminate the authority of any joint insurance fund, or direct or take any action deemed necessary for good cause, to enable a fund to meet its obligations, cover its expected losses, or to liquidate, rehabilitate or otherwise modify its affairs if a fund:

1. Is found to be insolvent or has experienced a deterioration in financial condition to the extent that it causes an adverse effect upon the ability of the fund to pay expected losses;
2. Fails to timely pay any fee or assessment, as required under this subchapter;
3. Fails to comply with any of the provisions of N.J.S.A. 40A:10-36 et seq. or this subchapter, or with any lawful order of the Commissioner within the time prescribed; or
4. Fails to follow its approved bylaws or plan of risk management.

(b) In addition, the Commissioner may terminate or suspend a fund's authority if, after notice and opportunity for a hearing, he or she finds that:

11:15-3.22 Confidentiality of claims

(a) Employee claims information is privileged and confidential and shall not be included as a part of any open public record.

(b) Fund commissioners and the officials of the member shall not have access to any employee claim information which reveals the identity of any individual plan participant.

(c) All claims are to be filed, and all inquiries are to be handled, directly by the designated claims' administrator. All employees of the administrator shall execute a non-disclosure statement to protect the identity of the plan participants.

(d) Only executive committee members and necessary fund professionals shall participate in any closed session discussion of claims. These claims discussions, whether general or specific to a coverage dispute, shall at all times be confidential and anonymous so that the identity of the municipality and claimant cannot be ascertained. The anonymity of the claimant shall be accomplished by assigning a blind claim number and deleting all references to the individual's name and place of employment. Only the claimant may demand, by written notice, that the matter be handled with disclosure of his identity.

(e) Documents identifying the employee, or from which the employee's identity might be deduced, shall not be accessible to any persons other than the administrator, program manager, fund attorney, or appointed claim auditors when such records are needed to verify the accuracy of claim data as part of an audit.

(f) Any person having access to claim information must sign a written non-disclosure statement.

11:15-3.23 Stop-loss insurance and/or reinsurance

(a) Each fund providing primary or underlying coverage on a self-insured basis shall secure stop-loss insurance or reinsurance in a form and amount acceptable to the Commissioner from an insurer authorized or admitted to transact life or health insurance, as applicable, in the State.

(b) Certificates of stop-loss insurance and/or reinsurance showing policy limits and other information shall be available for the inspection of each member and shall be filed with the Commissioner.

(c) Losses in excess of the established self-insurance retention amount shall be borne by the stop-loss carrier(s) according to the terms and conditions of the stop-loss contract(s).

(d) Any proposed change in the terms or limits of stop-loss insurance and/or reinsurance shall be submitted to the Department and the Department of Community Affairs for approval at least 30 days prior to the effective date of the proposed change.

(e) The Commissioner shall waive the requirement set forth in (a) above if such stop-loss insurance or reinsurance is not commercially available or is unreasonably priced, as determined by the fund's executive committee for each fund year, and as approved by the Department and the Department of Community Affairs, and the fund otherwise demonstrates to the Commissioner that it has made adequate provision for excess losses.

1. Any approval by the Department pursuant to (a) above shall be for a period not to exceed either the longer of 12 months from the date of approval or the end of the next succeeding fund year. Any fund seeking to extend the period of the approval shall notify the Department not later than 45 days prior to the expiration of the term of the approval. The notification shall specify the basis upon which the executive committee has determined that stop-loss insurance or reinsurance required pursuant to (a) above is not commercially available or is not reasonably priced, and shall include all actions taken by the fund to obtain required stop-loss insurance or reinsurance. The notification shall also describe actions taken by the fund to provide for excess losses, including, but not limited to, the establishment of contingency reserves, and funding above the level of expected losses.

Amended by R.1996 d.535, effective November 18, 1996.
See: 28 N.J.R. 4036(a), 28 N.J.R. 4885(a).

11:15-3.24 Financial statement and reports

(a) A sworn annual report in a form acceptable to the Commissioner shall be prepared by each fund, filed currently with the Department and Department of Community Affairs and made available to each fund member not later than 120 days after the end of the immediately preceding fiscal year. The report shall include:

1. An annual audited statement of the financial condition of the fund prepared by an independent certified public accountant or registered municipal accountant and performed in accordance with generally accepted accounting principles and N.J.S.A. 40A:10-46, which shall include a statement of the organization of the fund, including its balance sheet and receipts and disbursements for the preceding year;

2. Reports of outstanding liabilities by line of coverage showing the number of claims, amounts paid to date and current reserves for losses, claims and unearned assessments as certified by a qualified actuary;

3. Reports of all incurred but not reported liabilities certified by a qualified actuary;

4. Any material changes in information from that previously submitted;

5. The number of covered individuals by line of coverage; and

6. Such other information, as may be requested by the Department from a particular fund.

(b) In addition to the reports required pursuant to (a) above, a fund shall file quarterly unaudited statements of the financial condition of the fund in a form acceptable to the Commissioner with the Department and Department of Community Affairs within 60 calendar days after the end of each calendar quarter. The statements filed pursuant to this subsection shall include the information set forth in (a) above, except that certification by a certified public accountant or a qualified actuary shall not be required.

Amended by R.1996 d.535, effective November 18, 1996.
See: 28 N.J.R. 4036(a), 28 N.J.R. 4885(a).

11:15-3.25 Examination of funds possibly in financial condition detrimental to the public

(a) The Commissioner may conduct an examination of any fund as he or she deems necessary, or at any time the Commissioner has reasonable cause to believe the fund may be insolvent or in a financial condition detrimental to its members or to the public. It shall be the duty of the fund members, commissioners or executive committee to notify the Commissioner of any information indicating that any fund may be insolvent or in a financial condition detrimental to the fund's members or the public.

(b) The fund members, commissioners or executive committee may, upon majority vote, request that the Commissioner order an examination of any fund member which the fund, commissioners or executive committee, if any, in good faith believes may be in a financial condition detrimental to other fund members or to the public.

(c) Any examination made pursuant to N.J.S.A. 40A:10-36 et seq. and this subchapter shall be conducted in accordance with the procedures set forth in N.J.A.C. 11:15-3.6(f).

Amended by R.1996 d.535, effective November 18, 1996.
See: 28 N.J.R. 4036(a), 28 N.J.R. 4885(a).

11:15-3.26 Servicing organizations; administrator

(a) No servicing organization or program manager of a fund, or producer appointed by a fund pursuant to N.J.A.C. 11:15-3.6(e)15, or their employees, officers or directors shall have either a direct or indirect financial interest in the administrator of that fund, or be an employee, officer or director of the administrator, unless written notice of such interest has been provided to the fund commissioners and members.

(b) No administrator of a fund, or its employees, officers or directors shall be an employee, officer or director of, or have either a direct or indirect financial interest in, a servicing organization or program manager of that fund, or the insurance producer appointed by that fund pursuant to N.J.A.C. 11:15-3.6(e)15, unless written notice of such interest has been provided to the fund commissioners and members.

(c) Each contract with a servicing organization or program manager shall include a clause stating, "Unless the fund commissioners otherwise permit, the servicing organization (or program manager, as applicable) shall handle to their conclusion all claims and other obligations incurred during the contract period."

(d) The fund commissioners shall notify the Department within 10 days of any determination to terminate or nonrenew any agreement with a servicing organization. The notification shall include a detailed statement that sets forth the manner and method by which claims handling and other obligations performed by the servicing organization will be provided or a statement that sets forth the reasons why the fund commissioners believe that the particular service is no longer necessary.

(e) The fund commissioners or the executive committee, if any, may designate an administrator or lead agency to carry out the policies established by the commissioners or the executive committee, if any, and to provide day-to-day management of the fund. The minutes of the commissioners or executive committee meetings, if any, shall detail the areas of authority delegated to the administrator.

(f) Any employee, officer or director of an administrator, servicing organization, program manager or insurance producer appointed pursuant to N.J.A.C. 11:15-3.6(e)15 shall disclose to the fund commissioners or executive committee, as applicable, any direct or indirect financial interest such employee, officer or director has in any other administrator, servicing organization, program manager or insurance producer.

Amended by R.1996 d.535, effective November 18, 1996.
See: 28 N.J.R. 4036(a), 28 N.J.R. 4885(a).

11:15-3.27 Conflict of interest

All officials or employees of a participating local unit or any members of the family of such officials or employees shall comply with N.J.S.A. 40A:9-22.1 et seq., (the "Local Government Ethics Law").

11:15-3.28 Notice and hearings

(a) The Commissioner shall give prior written notice of any proposed suspension of authority, revocation, cease and desist order, or other enforcement action to the fund commissioners, its executive committee or member local unit as the case may be, or to any person to whom the proposed enforcement action applies specifically. The notice shall be served personally or by certified or registered mail upon all interested parties, shall set forth the grounds for the proposed enforcement action, and shall inform the interested party of their right to request a hearing on the proposed enforcement action.

(c) No amendment to a fund's bylaws or risk management program shall take effect until such amendment is approved by the Commissioner.

(d) Within 10 days following any change in the information or documentation required to accompany the filing of the fund's bylaws or amendments thereto, as provided in (a) above, the fund shall file notice of the change with the Department.

(e) The bylaws and risk management program and all information required to accompany the initial filing shall set forth an identifying number or code and the filing date on each page of the specific document filed. For example, each page of the bylaws shall set forth an identifying number or code; each page of the risk management program shall set forth a different identifying number or code; the sample resolution and trust agreement shall set forth a different identifying number or code; etc. Any amendment or supplemental form to any information previously filed shall contain the original identifying number or code, indicate that the document is an amendment or supplement to the information previously filed, and set forth the date of revision.

(f) In addition to the information set forth in N.J.A.C. 11:15-4.6, the fund shall provide a cover letter stating the name, telephone number(s) and telefax number(s) of two contact persons (one primary, one secondary) familiar with the filing to whom the Department may direct any questions, as well as the fund's official mailing address for the purpose of disseminating Department information, in accordance with N.J.A.C. 11:1-25.

(g) All information required to be submitted shall be sent to the Department at:

New Jersey Department of Banking and Insurance
Division of Financial Examinations
Attn: School Board P/C JIF Admissions
20 West State Street
PO Box 325
Trenton, NJ 08625-0325.

Amended by R.1999 d.350, effective October 18, 1999.
See: 31 N.J.R. 2125(b), 31 N.J.R. 3091(a).

In (a), inserted N.J.S.A. reference in the first sentence, and changed N.J.A.C. reference in the second sentence.

11:15-4.6 Bylaws and risk management program; contents

(a) The trustees shall prepare and, after the approval by resolution of the governing body of each participating member, shall adopt bylaws for the joint insurance fund. The bylaws shall:

1. Set forth a statement of purpose of the group;
2. Set forth provisions for organization of the group, including governance by a board of trustees;

3. Provide for the delivery of a risk management program in conjunction with any joint self-insurance fund or funds which the board of trustees shall establish;

4. Set forth procedures to enforce the collection of any contributions or payments in default;

5. Set forth membership standards as required in N.J.S.A. 18A:18B-3;

6. Require that, for each joint self-insurance fund, a contract or contracts of specific and aggregate excess insurance or reinsurance is maintained;

7. Set forth procedures for:

i. Withdrawal from the group and a fund by a member, including any requirement that a terminated or withdrawing member provide security in a form and amount acceptable to the Commissioner or trustees, as applicable, as a guarantee for the continued payment of the member's obligations pursuant to N.J.A.C. 11:15-4.10(c);

ii. Termination of the group or fund and disposition of assets; and

iii. Determining the obligations, if any, of a member in the event that the group is unable to pay indemnification obligations and expenses payable from a fund administered by it;

8. Require an annual certified audit and an actuarial opinion statement on loss reserves pursuant to the Loss Reserve Opinions rules, N.J.A.C. 11:1-21, to be prepared and filed with the Commissioner;

9. Require an annual, supplemental semi-annual, and quarterly financial reporting schedule, as applicable, to be filed on a form prescribed by the Commissioner;

10. Require that any joint self-insurance fund or funds be developed and operated in accordance with accepted and sound actuarial practices;

11. Provide that any expenditure of moneys in a fund be in furtherance of the purpose of the fund;

12. Provide for expulsion of a member;

13. Provide procedures governing trust fund accounts, including transfers, withdrawals and distribution surplus therefrom and supplemental assessments; and

14. Set forth other provisions as desired for operation and governance of the group.

(b) The bylaws of a joint insurance fund shall provide for governance of the fund by a board of trustees selected in accordance with the provisions of the bylaws. The bylaws shall provide for trustee powers and duties and shall include, but not be limited to, the following powers of the board of trustees:

1. To determine and establish contributions and rates, loss reserves, surplus, limits of coverage, limits of excess

insurance or reinsurance, coverage documents, refunds and other financial and operating policies of the group or fund;

2. To invest moneys held in trust under any fund in investments which are approved for investment by regulation of the State Investment Council for surplus public moneys of the State or, at the discretion of the board, to transfer moneys held in trust under any fund to the Director of the Division of Investment in the Department of the Treasury for investment on behalf of the board in accordance with the standards governing the investment of other funds which are managed under the rules and regulations of the State Investment Council. However, any moneys transferred to the Director for investment may not thereafter be withdrawn except upon withdrawal of a member from the group or a fund or termination of the group or a fund or in specific amounts in payment of specific claims, administrative expenses or member dividends upon affidavit of the director or other chief executive officer of the group;

3. To purchase, acquire, hold, lease, sell and convey real and personal property, all of which property shall be exempt from taxation under N.J.S.A. 54:4-1 et seq.;

4. To collect and disburse all money due to or payable by the fund, or authorize such collection and disbursement;

5. To enter into contracts with other persons or with public bodies of this State for any professional, administrative or other services as may be necessary to carry out the purposes of the fund;

6. To purchase and serve as the master policyholders, if desired, for any insurance, including excess insurance or reinsurance;

7. To prepare, or cause to be prepared, a risk management program for the joint insurance fund;

8. As the need arises, from time to time, to amend the bylaws and risk management program of the fund pursuant to N.J.S.A. 18A:18B-4 and this subchapter; and

9. To do all other things necessary and proper to carry out the purposes for which the fund is established.

(c) In addition, the bylaws shall:

1. Include the fund's name, location of its principal office, date of organization, and name and address of each initial member;

2. Specify the insurance coverages to be provided by the fund and the minimum participation required of any member;

3. Describe the responsibilities and obligations of the participants, the terms and conditions of continued participation and discontinuance of participation in the fund;

4. Be accompanied by a pro forma financial statement, with underlying assumptions and methodology, on a form acceptable to the Commissioner showing the financial strength and liquidity of the fund to assure that all obligations will be met promptly;

5. Where self-insured, provide a plan for specific and aggregate excess insurance or reinsurance and for retention in accordance with sound actuarial principles and the risk management program;

6. Be accompanied by proof of competent personnel and ample facilities within the fund organization with respect to claims administration, underwriting matters, loss prevention and safety engineering or present a contract with a servicing organization(s) for the provision of such services;

7. Establish the claims handling procedure to be utilized by the fund which procedure shall provide for the prompt, fair and equitable settlement of claims;

8. Establish the complaint handling procedure to be utilized by the fund;

9. Be accompanied by a sample copy of the resolution and written agreement adopted by each participating member as specified at N.J.A.C. 11:15-4.3. Within 30 days of approval, the fund shall send certified copies of the resolution and written agreement from each participant to the Commissioner;

10. Be accompanied by a sample copy of its indemnity and trust agreement as defined in N.J.A.C. 11:15-4.2, and in a form satisfactory to the Commissioner.

i. The agreement shall create a trust and govern the operation thereof under which monies shall be held by the trustees as fiduciaries for the benefit of fund claimants.

ii. Where a fund shall provide for the retention on a self-insured basis of any or all of the risks or liabilities specified below, the agreement shall require and provide for the establishment of separate trust accounts from which monies shall be disbursed solely for the payment of claims, allocated claims expenses and excess insurance or reinsurance premiums for each risk or liability, and may provide for the establishment of contingency accounts, each by fund year, as follows:

(1) Workers' compensation and employers' liability;

(2) Liability, other than motor vehicle;

(3) Property damage, including automobile physical damage;

(4) Automobile liability;

(5) Defense costs for claims against the board, district, officer, employee or servant pursuant to N.J.S.A. 18A:18B-2e;

(6) General contingencies, if deemed appropriate by the fund, to replenish the administrative account established pursuant to N.J.A.C. 11:15-4.14 for that specific fund year; and

(7) Loss fund contingencies, if deemed appropriate by the fund, to replenish a trust account established pursuant to (c)10ii(1) through (5) above for that specific fund year; and where the total amount of monies assessed and allocated to the accounts established pursuant to (c)10ii(1) through (5) and this subparagraph are utilized to satisfy the amounts estimated by the fund's actuary to be necessary to pay claims, allocated claims expenses and excess insurance or reinsurance premiums for each risk or

liability set forth in (c)10ii(1) through (5) above for that fund year.

iii. A fund shall not be otherwise required to establish separate trust accounts as required by (c)10ii above for each fund year, or for each risk or liability as specified in (c)10ii above, provided the fund provides a plan in its bylaws which provides for the recording and accounting of all transactions by fund year for each risk or liability as specified in (c)10ii above, as applicable.

iv. Within 30 days of approval, the fund shall send certified copies of the indemnity and trust agreement from each participant to the Commissioner;

11. Provide procedures for the establishment, maintenance and administration of reserves for unearned assessments, loss reserves and loss expense reserves and for the determination and distribution of assessment and/or investment refunds, in accordance with sound actuarial principles, including the assumptions and methodology used;

12. With respect to funds providing for self-insurance of workers' compensation liabilities, the bylaws of each fund shall:

i. Guarantee benefit levels equal to those required by the workers' compensation law and other applicable statutes and provide a plan for the prompt payment of such benefits. Information documenting an individual member's financial strength and liquidity shall be made available to the Department upon the Department's written request and in a form specified by the Department;

ii. Mandate a minimum contribution of at least \$250,000 for the fund's first year of operation and thereafter the minimum contribution shall be at least \$500,000 for each subsequent year of operation unless otherwise approved by the Commissioner; and

iii. Unless otherwise approved by the Commissioner, provide for assessments based upon the Experience Rating Plan provided for in the New Jersey Workers' Compensation and Employers' Liability Insurance Manual on file with the Commissioner; and

13. Be accompanied by a nonrefundable filing fee in the amount of \$1,500.

(d) The bylaws shall be accompanied by the following information and documentation and any amendments thereto:

1. Designation of the trustees, administrator and custodian of the fund's assets, as well as the chairman and secretary, if any;

2. Copies of the fund's prospective and executed agreements or contracts and any renewal or new agreements or contracts with any administrator, servicing organization or custodian of the fund's assets. Such agreements or contracts shall specify the duties of, and compensation to be paid to, each such entity. Copies of the above shall be accompanied by a list of all parties having or deriving any interest, right or benefit in the servicing organization or administrator;

i. To the extent the terms and conditions of any renewal agreement or contract and the parties thereto remain unchanged from the prior year, a copy of the renewal agreement or contract shall not be required. In lieu of filing a copy of the renewal agreement or contract, the fund shall file a notice with the Department in the format of Exhibit A in the Appendix incorporated herein by reference, that the agreement or contract and parties thereto remain unchanged from the prior year;

ii. Copies of any changes to the agreements or contracts shall be filed with the Department within 10 days after such changes are approved by the fund;

3. A fidelity bond for all persons handling fund assets in a form and amount acceptable to the Commissioner;

4. A surety bond for the claims administrator, or any other servicing organization deemed necessary by the Commissioner in a form and amount acceptable to the Commissioner, and a surety bond for any other servicing organization as deemed appropriate by the trustees in a form and amount acceptable to the trustees;

5. Evidence of errors and omissions insurance coverage for the servicing organization(s), administrator and producer, if employed by the fund, who negotiates excess insurance or reinsurance on behalf of the fund;

6. A designation and appointment of an agent in New Jersey to receive service of process on behalf of the fund as well as the address in this State where the books and records of the fund will be maintained at all times;

7. A list of the board of trustees and executive officers, updated annually;

8. Data forms, in the format set forth in Exhibit B in the Appendix incorporated herein by reference, incorporating the appropriate and necessary professional qualifications for senior officers and directors of the administrator and servicing organizations providing services to the fund updated and submitted to the Commissioner annually. An entity providing services to more than one fund may submit one data form for all funds formed pursuant to this subchapter which the entity services;

i. To the extent the information contained in the data forms remains unchanged from the prior year, the fund need not file updated forms, provided that the fund files a notice with the Department, in the format of Exhibit C in the Appendix incorporated herein by reference, that the same individuals are utilized and that the information in the data forms remains unchanged from the prior year;

9. Copies of each insurance policy or excess insurance contract purchased by the fund, including a copy of the cover note or binder; and

10. A description of any producer arrangement plan by which producers, who shall be licensed pursuant to N.J.S.A. 17:22A-1 et seq., represent members in their dealings with the fund. The description shall include, but not be limited to, copies of all producer contracts, which shall include a description of the producer's obligations, responsibilities and compensation; the duration of such contracts; and an indication whether the contracts are subject to renewal. Copies of renewal contracts or a notice of renewal shall also be provided consistent with the requirements set forth in (d)2 above.

i. The compensation paid to producers shall be reasonable. The Commissioner may disapprove any arrangement if he or she determines that the terms of the arrangement are unreasonable;

11. A cash management plan, which shall include the designation of depository institution(s) for the holding of fund monies and the fund's investment policy; and

12. A copy of the application form to be utilized by the fund for prospective new members applying for membership in the fund.

(e) Each joint insurance fund shall, concurrently with the filing of its bylaws as provided at N.J.A.C. 11:15-4.6(a), file its risk management program and any amendments thereto with the Department as specified in (f) below.

(f) The trustees shall prepare, or cause to be prepared, a risk management program for the joint insurance fund. The program description shall include, but not be limited to:

1. The perils or liabilities to be insured against;
2. The limits of coverages, whether self-insurance, direct insurance purchased from a commercial carrier, or reinsurance;
3. The amount of risk to be retained by the fund;
4. The amount of unpaid claims to be established;
5. The proposed method of assessing contributions to be paid by each member of the fund;
6. Procedures governing loss adjustment and legal fees;
7. Coverage to be purchased from a commercial insurer, if any;
8. Reinsurance to be purchased, if any, and the amount of premium therefor;
9. Procedures for the closure of fund years including the maintenance of all relevant accounting records;
10. The assumptions and methodology used for the calculation of appropriate reserves required to be established, maintained and administered in accordance with sound actuarial principles pursuant to (a)10 above; and
11. The maximum amount a certifying and approving officer may approve for payment pursuant to N.J.A.C. 11:15-4.22.

(g) The Commissioner may, at the time of filing of the bylaws and risk management program and whenever thereafter he deems it expedient, but at a minimum not less frequently than once every five years, make or cause to be made, an examination of the assets and liabilities, financial condition, method of conducting business and all other affairs of any fund. For the purpose of the examination, the Commissioner may retain attorneys, appraisers, independent actuaries, independent certified public accountants or other professionals or specialists as examiners, or may request the trustees to authorize and employ such person or persons to conduct the same or to assist therein as he or she deems advisable. The reasonable expenses of the examination shall be fixed and determined by the Commissioner, and such expenses shall be paid by the fund examined to the appropriate entity or person upon presentation of a detailed account.

1. For purposes of completing an examination of any fund pursuant to N.J.S.A. 18A:18B-7 and this subchapter, the Commissioner may examine or investigate any person, or the business of any person, insofar as such examination or investigation is, in the sole discretion of the Commissioner, necessary or material to the examination of the fund.

2. Every fund or person from whom information is sought, including its officers, directors and agents, shall provide the Commissioner or other person appointed as an examiner pursuant to this subsection, timely, convenient, and free access at all reasonable hours at its offices to all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the fund being examined.

3. The administrator and servicing organization(s), and their officers, directors, employees and agents, or other person, shall facilitate the examination and aid in the examination so far as it is in their power to do so. The Commissioner may, in accordance with the procedures set forth in N.J.A.C. 11:15-4.8, suspend or terminate the authority of any fund, if the fund, by its administrator, servicing organizations, or officers, directors, employees, or agents thereof, refuses to submit to an examination or to comply with any reasonable request of the examiners.

11:15-4.7 Disapproval of bylaws and risk management program

If the Commissioner determines that the bylaws or risk management program of the fund or any subsequent amendments thereto do not contain all of the information set forth in N.J.A.C. 11:15-4.6, are not submitted in the proper format set forth in N.J.A.C. 11:15-4.5, or otherwise do not meet the requirements of N.J.S.A. 18A:18B-1 et seq. or this subchapter, the Commissioner shall disapprove the bylaws or risk management program and notify the fund in writing, which notice shall contain the specific reasons for disapproval, and the requirements to be met before approval may be granted. If not disapproved by the Commissioner within 60 days of receipt of the bylaws and risk management program or any amendments or changes thereto, which contain all of the information and documentation set forth in N.J.A.C. 11:15-4.6, in the format set forth in N.J.A.C. 11:15-4.5, and which meet the requirements of N.J.S.A. 18A:18B-1 et seq. and this subchapter, the bylaws and program shall be deemed approved.

11:15-4.8 Revocation of approval

(a) After notice and opportunity for a hearing, the Commissioner may suspend or terminate the authority of any fund, or direct or take any action deemed necessary for good cause, to enable a fund to meet its obligations, cover its expected losses, or to liquidate, rehabilitate or otherwise modify its affairs if a fund:

4. Any material changes in information from that previously submitted; and

5. Such other information as may be requested by the Department from a particular fund.

(b) In addition to the reports required pursuant to (a) above, for the initial two fiscal years of a fund, a fund shall file with the Department quarterly unaudited statements of the financial condition of the fund in a form acceptable to the Commissioner within 60 days after the end of each calendar quarter. After the initial two years, a fund shall file with the Department semiannual unaudited statements of the financial condition of the fund in a form acceptable to the Commissioner within 60 days after the end of each six-month period. The semi-annual report covering the six-month period ending June 30 shall include a compilation of the results reported in the semi-annual report for the period ending December 31 immediately preceding. All statements filed pursuant to this subsection shall include the information set forth in (a) above, except that certification by a certified public accountant or the actuarial opinion statement shall not be required.

11:15-4.25 Examination of funds

(a) In addition to any examination conducted pursuant to N.J.A.C. 11:15-4.6(g), the Commissioner may conduct an examination of any fund as he or she deems necessary, or at any time the Commissioner has reasonable cause to believe the fund may be insolvent or in a financial condition detrimental to its members or the public. It shall be the duty of the fund members, trustees, and administrator to notify the Commissioner of any information indicating that any fund may be in a financial condition detrimental to the fund's members or the public.

(b) The members or trustees may, upon majority vote, request that the Commissioner order an examination of any fund member which the trustees in good faith believe may be in a financial condition detrimental to other fund members or to the public.

(c) Any examination made pursuant to N.J.S.A. 18A:18B-7 and this subchapter shall be conducted in accordance with the procedures set forth in N.J.A.C. 11:15-4.6(g).

11:15-4.26 Servicing organizations; administrator

(a) No servicing organization of a fund or producer appointed pursuant to N.J.A.C. 11:15-4.6(d)10, or their employees, officers or directors shall have either a direct or indirect financial interest in the administrator of that fund, or be an employee, officer or director of the administrator, unless notice of such interest has been provided to the trustees and members.

(b) No administrator of a fund, or its employees, officers or directors shall be an employee, officer or director of, or

have either a direct or indirect financial interest in, a servicing organization of that fund, or an insurance producer appointed by that fund pursuant to N.J.A.C. 11:15-4.6(d)10, unless notice of such interest has been provided to the trustees and members.

(c) Each contract with a servicing organization providing claims adjustment and administration services shall include a clause stating: "Unless the trustees otherwise permit, the servicing organization shall handle to their conclusion all claims and other obligations incurred during the contract period."

(d) The fund commissioners shall notify the Department within 10 days of any determination to terminate or nonrenew any agreement with a servicing organization. The notification shall include a detailed statement that sets forth the manner and method by which claims handling and other obligations performed by the servicing organization will be provided or a statement that sets forth the reasons why the fund commissioners believe that the particular service is no longer necessary.

(e) The trustees may designate an administrator to carry out the policies established by the trustees and to provide day-to-day management of the fund. The minutes of the trustees' meetings shall detail the areas of authority delegated to the administrator.

(f) Any employee, officer or director of an administrator, servicing organization, or producer appointed pursuant to N.J.A.C. 11:15-4.6(d)10 shall disclose to the trustees any direct or indirect financial interest such employee, officer or director has in any other administrator, servicing organization or insurance producer.

11:15-4.27 Conflict of interest

All school officials and members of their immediate families shall comply with N.J.S.A. 18A:12-21 et seq. (the "School Ethics Act"), and any other applicable law governing the conduct of members, officers or employees of school boards.

11:15-4.28 Notice and hearing

(a) The Commissioner shall give prior written notice of any proposed suspension, revocation of authority, cease and desist order, or other enforcement action to the trustees or member as the case may be, or to any person to whom the proposed enforcement action applies specifically. Such notice shall be served personally or by certified or registered mail upon all interested parties, shall set forth the grounds for the proposed enforcement action, and shall inform the interested party of its right to request a hearing on the proposed enforcement action.

(b) The interested party involved shall have 20 days from the mailing of the notice to request a hearing on the proposed enforcement action. Such a hearing shall be

conducted in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and Uniform Administrative Procedure Rules, N.J.A.C. 1:1. Failure to mail a request for a hearing within the time prescribed shall result in the suspension, revocation, monetary penalty or cease and desist order becoming effective 30 days from issuance of the original notice. In no event shall any revocation become effective prior to the date that a hearing is scheduled.

11:15-4.29 Orders

(a) After notice and opportunity for a hearing, as provided in 11:15-4.28, the Commissioner may issue an order revoking or suspending a fund's authority or requiring a person or fund to cease and desist from engaging in an act or practice found to be in violation of any provision of N.J.S.A. 18A:18B-1 et seq. or this subchapter.

(b) Upon a finding, after notice and opportunity for a hearing, as provided at N.J.A.C. 11:15-4.28, that a fund has violated any cease and desist order, the Commissioner may revoke his or her approval of the fund.

(c) Upon a finding, after notice and opportunity for a hearing, as provided at N.J.A.C. 11:15-4.28, the Commissioner may issue an order requiring the trustees to dismiss an administrator or servicing organization or terminate the contract of an administrator or servicing organization because of any fraud, material misrepresentation, incompetence or untrustworthiness, misappropriation or conversion of monies or violation of any fiduciary responsibilities by such administrator or servicing organization, or any of the employees, officers or directors thereof.

11:15-4.30 Compliance dates

(a) Except as otherwise specifically provided in this subchapter, funds subject to this subchapter shall comply with all of the requirements contained in this subchapter commencing with the fund year immediately following June 17, 1996, or December 14, 1996, whichever is later.

(b) Unless otherwise provided by this subchapter, all information and documents and any amendments thereto required by this subchapter shall be filed within 30 days from the date such information or document is due or such change or amendment has occurred.

11:15-4.31 Severability

The rules contained in this subchapter and any of the provisions thereof shall be severable, and if any of its provisions shall be held to be unconstitutional or otherwise invalid, the decision of the court shall not affect the validity of the remaining rules and regulations or any of the provisions thereof.

SUBCHAPTER 5. JOINT INSURANCE FUNDS FOR SCHOOL BOARDS PROVIDING GROUP HEALTH AND TERM LIFE BENEFITS

11:15-5.1 Purpose and scope

(a) This subchapter sets forth the requirements for the establishment, operation, oversight, modification and dissolution of joint insurance funds formed by two or more school boards for the purpose of providing contributory or non-contributory group health insurance or group term life insurance, or both, to employees or their dependents, and to any other person eligible for coverage by a member school board pursuant to N.J.S.A. 18A:18B-1 et seq.

(b) This subchapter shall apply to all school boards seeking to form a joint insurance fund for the purpose of providing contributory and non-contributory group health or group term life insurance and all joint insurance funds formed for such purpose pursuant to N.J.S.A. 18A:18B-1 et seq. and this subchapter.

(c) No school board shall join together with any other school board or school boards to act as a joint insurance fund for the purpose of providing contributory or non-contributory group health or group term life insurance except as authorized by the Commissioner in accordance with the provisions of N.J.S.A. 18A:18B-1 et seq. and this subchapter.

(d) The authority of a joint insurance fund formed for the purpose of providing contributory and non-contributory group health insurance or group term life insurance, or both, shall be limited solely to those coverages.

11:15-5.2 Definitions

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

“Actuary” in the case of health insurance means a Fellow in good standing of the Society of Actuaries or the Casualty Actuarial Society with at least three years recent experience in health insurance pricing and reserving; “actuary” in the case of life insurance means a Fellow in good standing of the Society of Actuaries with at least three years recent experience in life insurance pricing and reserving.

“Administrator” means a person, partnership, corporation or other legal entity engaged by the joint insurance fund trustees, as defined in this section, to act as executive director to carry out the policies established by the joint insurance fund trustees and to otherwise administer and provide day-to-day management of the joint insurance fund. The administrator may also be the lead agency, an employee of the fund, a fund member or an independent contractor.

(h) A joint insurance fund shall provide its members with **periodic reports** covering the activities and status of the fund for the reporting period. The reports shall be made at least quarterly and may be made more frequently at the discretion of the trustees and shall include, but not be limited to, the minutes, the administrator's report and a summation of fund activity, including comments on previously reported claims and newly reported claims, and any other information required by the trustees, but excluding any closed session minutes of portions of a meeting as provided in N.J.S.A. 10:4-12b. The Department may require that the reports be submitted to the Department if it is deemed necessary to ensure compliance with these reporting requirements. The reports shall also be made available to the Department for review during any examination of the joint insurance fund. The Department may also require that copies of closed session minutes be filed for its review. Copies of closed session minutes filed with the Department shall be held confidential by the Department and shall not be subject to public inspection or copying pursuant to the "Right-to-Know" law, N.J.S.A. 47:1A-1 et seq.

(i) All officers, employees and agents, including the administrator, servicing organization and program manager of the joint insurance fund, on the final day of their contract or employment shall surrender and deliver to their successors all accounts, funds, property, records, books and any other material relating to their contract or employment.

(j) Each fund shall cover a minimum of 1,000 employees in a self-funded health care plan providing hospital, surgical and medical benefits. A fund may cover less than 1,000 employees with the approval of the Commissioner if he or she determines that the proposed risk retention is actuarially sound in relationship to the projected employee participation.

11:15-5.5 Bylaws and risk management program; filing requirements

(a) Each joint insurance fund shall file with the Department for approval by the Commissioner as provided in N.J.S.A. 18A:18B-4, its bylaws and risk management program and any subsequent amendments thereto. In addition, the initial filing shall contain and be accompanied by the information and documentation specified at N.J.A.C. 11:15-5.6, and such other information the Commissioner may request. All filings shall be in loose-leaf form inserted into standard two-ring or three-ring binders tabbed or otherwise indexed to correspond to the requirements set forth in N.J.A.C. 11:15-5.6. The loose-leaf sheets used shall be eight and one-half inches wide and 11 inches long and punched for two-ring and three-ring binders, as appropriate. The fund shall submit seven copies of a filing in the format set forth in this section. All information shall be submitted completely and accurately.

(b) All of the information and documentation set forth in N.J.A.C. 11:15-5.6 shall constitute the fund's bylaws and risk

management program for purposes of N.J.S.A. 18A:18B-4. In order to facilitate the filing and review process, the review of a filing shall be separated into two stages. The information set forth in N.J.A.C. 11:15-5.6(a) through (e) constitutes the initial stage. Within 90 days of the Commissioner's acceptance of the initial information filed, the fund shall complete the filing process by submitting the information set forth in N.J.A.C. 11:15-5.6(f). Failure to file the required subsequent information within 90 days may result in the disapproval of the fund's filing. No joint insurance fund shall insure, contract or provide insurance coverage to its members until its bylaws and risk management program and other information required pursuant to N.J.A.C. 11:15-5.6 have been approved by the Commissioner and such approval becomes effective pursuant to (c) below.

(c) In order to provide a sufficient time for transition from the plan for the provision of health or term life benefits in effect immediately prior to joining the fund to the plan for the provision of such benefits through the fund, any approval of a fund's bylaws and risk management program shall take effect and become operative 60 days after the date of approval.

(d) No amendment to a fund's bylaws or risk management program, or change in the information or documentation required to accompany the filing of the fund's bylaws or risk management program as provided in (a) above, shall take effect until the amendment or change is approved by the Commissioner.

(e) The bylaws and risk management program and all information required to accompany the initial filing shall set forth an identifying number or code and the filing date on each page of the specific document filed. For example, each page of the bylaws shall set forth an identifying number or code; each page of the risk management program shall set forth a different identifying number or code; the sample resolution and trust agreement shall set forth a different identifying number or code; etc. Any amendment or supplemental form to any information previously filed shall contain the original identifying number or code, indicate that the document is an amendment or supplement to the information previously filed, and set forth the date of revision.

(f) In addition to the information set forth in N.J.A.C. 11:15-5.6, the fund shall provide a cover letter stating the name, telephone number(s) and telefax number(s) of two contact persons (one primary, one secondary) familiar with the filing to whom the Department may direct any questions; as well as the fund's official mailing address for the purpose of disseminating Department information, in accordance with N.J.A.C. 11:1-25.

(g) All information required to be submitted shall be sent to the Department at:

New Jersey Department of Banking and Insurance
 Division of Life and Health
 Attn: School Board Health JIF Admissions
 20 West State Street
 PO Box 325
 Trenton, NJ 08625-0325.

Amended by R.1999 d.350, effective October 18, 1999.

See: 31 N.J.R. 2125(b), 31 N.J.R. 3091(a).

In (a), changed N.J.A.C. reference in the second sentence.

**11:15-5.6 Bylaws and risk management program;
 contents**

(a) The prospective trustees of a joint insurance fund shall prepare and, after the approval by resolution of the governing body of each participating member, adopt bylaws for the joint insurance fund. The bylaws shall:

1. Set forth a statement of purpose of the group;
2. Set forth provisions for organization of the group, including governance by a board of trustees;
3. Provide for the delivery of a risk management program in conjunction with any joint self-insurance fund or funds which the board of trustees shall establish;
4. Set forth procedures to enforce the collection of any contributions or payments in default;
5. Set forth membership standards as required in N.J.S.A. 18A:18B-3;
6. Require that, for each joint self-insurance fund, a contract or contracts of specific and aggregate excess insurance or reinsurance is maintained;
7. Set forth procedures for:
 - i. Withdrawal from the group and a fund by a member, including any requirement that a terminated or withdrawing member provide security in a form and amount acceptable to the Commissioner or trustees, as applicable, as a guarantee for the continued payment of the member's obligations pursuant to N.J.A.C. 11:15-5.10(d);
 - ii. Termination of the group or fund and disposition of assets; and
 - iii. Determining the obligations, if any, of a member in the event that the group is unable to pay indemnification obligations and expenses payable from a fund administered by it;
8. Require an annual certified audit and an actuarial opinion statement on loss reserves to be prepared and filed with the Commissioner;
9. Require an annual, supplemental semi-annual, and quarterly financial reporting schedule, as applicable, to be filed on a form prescribed by the Commissioner;

10. Require that any joint self-insurance fund or funds be developed and operated in accordance with accepted and sound actuarial practices;

11. Provide that any expenditure of moneys in a fund be in furtherance of the purpose of the fund;

12. Provide for expulsion of a member;

13. Provide procedures governing trust fund accounts, including transfers, withdrawals and distribution of surplus therefrom and supplemental assessments; and

14. Set forth other provisions as desired for operation and governance of the group.

(b) The bylaws of a joint insurance fund shall provide for governance of the fund by a board of trustees selected in accordance with the provisions of the bylaws. The bylaws shall provide for trustee powers and duties and shall include, but not be limited to, the following powers of the board of trustees:

1. To determine and establish contributions and rates, loss reserves, surplus, limits of coverage, limits of excess (stop-loss) insurance or reinsurance, coverage documents, refunds and other financial and operating policies of the group or fund;
2. To invest moneys held in trust under any fund in investments which are approved for investment by regulation of the State Investment Council for surplus public moneys of the State or, at the discretion of the board, to transfer moneys held in trust under any fund to the Director of the Division of Investment in the Department of the Treasury for investment on behalf of the board in accordance with the standards governing the investment of other funds which are managed under the rules and regulations of the State Investment Council. However, any moneys transferred to the Director for investment may not thereafter be withdrawn except upon withdrawal of a member from the group or a fund or termination of the group or a fund or in specific amounts in payment of specific claims, administrative expenses or member dividends upon affidavit of the director or other chief executive officer of the group;
3. To purchase, acquire, hold, lease, sell and convey real and personal property, all of which property shall be exempt from taxation under N.J.S.A. 54:4-1 et seq.;
4. To collect and disburse all money due to or payable by the fund, or authorize such collection and disbursement;
5. To enter into contracts with other persons or with public bodies of this State for any professional, administrative or other services as may be necessary to carry out the purposes of the fund;
6. To purchase and serve as the master policyholders, if desired, for any insurance, including excess (stop-loss) insurance or reinsurance;

7. To prepare, or cause to be prepared, a risk management program for the joint insurance fund;

8. As the need arises, from time to time, to amend the bylaws and risk management program of the fund pursuant to N.J.S.A. 18A:18B-4 and this subchapter; and

9. To do all other things necessary and proper to carry out the purposes for which the fund is established.

(c) In addition, the bylaws shall:

1. Include the fund's name;
2. Provide that upon each fiscal year renewal of the fund, coverages and benefit levels as may be determined and specified by the fund and its members; provided the affected persons receive written notice of any changes in coverage or benefit levels at least 30 days prior to taking effect and that a copy of the written notice and the relevant rate changes shall be filed with the Department 30 days prior to taking effect;
3. Specify the subrogation rights of the fund;
4. Describe the responsibilities and obligations of the participants, the terms and conditions of continued participation and discontinuance of participation in the fund;
5. Be accompanied by a sample copy of the resolution and written agreement adopted by each participating member as specified at N.J.A.C. 11:15-5.3. Within 30 days of approval, the fund shall send certified copies of the resolution and written agreement from each participant to the Commissioner;
6. Be accompanied by a sample copy of its indemnity and trust agreement as defined in N.J.A.C. 11:15-5.2, and in a form satisfactory to the Commissioner.
 - i. The agreement shall create a trust and govern the operation thereof under which monies shall be held by the trustees as fiduciaries for the benefit of fund claimants;
 - ii. Where the fund shall provide for the retention on a self-insured basis of any or all of the risks or liabilities specified below, the agreement shall require and provide for the establishment of separate trust accounts by fund year for each of the following from which monies shall be disbursed solely for the payment of claims, allocated claim expenses and stop-loss insurance or reinsurance premiums for each risk or liability:
 - (1) Employer contributions to group health insurance;
 - (2) Employee contributions to contributory group health insurance;
 - (3) Employer contributions to group term life insurance;
 - (4) Employee contributions to contributory group term life insurance;
 - (5) Employer contributions to contingency accounts;

(6) Employee contributions to contingency accounts; and

(7) Other trust accounts as required by the Commissioner.

iii. Notwithstanding (b)6ii above to the contrary, a fund shall not be required to establish separate trust accounts for employee contributions, provided the fund provides a plan in its bylaws as required by (b)7 below which provides for the recording and accounting of the employee contributions of each member;

iv. A fund shall not otherwise be required to establish separate trust accounts as required by (b)6ii above for each fund year, provided the fund provides a plan in its bylaws which provides for the recording and accounting of all transactions by fund year;

v. Within 30 days of approval, the fund shall send certified copies of the indemnity and trust agreement from each participant to the Commissioner;

7. If applicable pursuant to (c)6iii or iv above, be accompanied by a plan which provides for the recording and accounting of the employee contributions of each member, including, but not limited to, the collection and distribution of such employee contributions, and/or a plan for the recording and accounting of all transactions by fund year;

8. Be accompanied by a copy of a resolution of intent to form the fund from at least two school boards;

9. Be accompanied by a feasibility study which shall include, but not be limited to:

- i. The proposed date that the fund intends to begin providing coverage;
- ii. The proposed location of the fund's principal office;
- iii. The name and address of the fund's prospective charter members;
- iv. The pro forma budget and assessments for the fund's first fiscal year;
- v. A certification by an actuary that the pro forma budget is actuarially sound; and

vi. The minimum number of employees to be covered before the fund begins to provide coverage. Funds providing health or life insurance on a self-insured basis shall have membership resolutions from school boards representing at least 1,000 covered employees before beginning to provide coverage; and

10. Be accompanied by a non-refundable filing fee in the amount of \$1,500.

(d) Each joint insurance fund shall, concurrently with the filing of its bylaws as provided in (a) above, file its risk management program and any amendments thereto with the

Department as provided in N.J.S.A. 18A:18B-4 containing the information as specified in (e) below.

(e) The trustees shall prepare, or cause to be prepared, a risk management program for the joint insurance fund. The plan description shall include, but not be limited to:

1. The lines of coverage to be provided and the minimum participation required of any member which, for the initial fiscal year of the fund, shall be the coverages and benefit levels of the member school boards immediately prior to joining the fund unless changes in the coverages or benefit levels are approved by the Commissioner pursuant to N.J.A.C. 11:15-5.7;

2. The limits of coverage, whether self-insurance, insurance purchased from an insurer, or reinsurance;

3. The amount of risk to be retained by the fund on a self-insured basis, which for group term life insurance shall not exceed a face amount of \$5,000 per covered employee;

4. The assumptions and methodology to be used to calculate the policy and claims reserves;

5. The proposed method of assessing contributions to be paid by each member of the fund;

6. Coverage to be purchased from an insurer if any;

7. Stop-loss insurance or reinsurance to be purchased, as required pursuant to N.J.A.C. 11:15-5.23, and the amount of premium therefor;

8. The initial and renewal assessment methodologies, including rating methodologies, for the plan and individual members including actuarial principles, assumptions and methods of calculations in sufficient detail to enable the Commissioner to determine that the charges are not excessive, inadequate or unfairly discriminatory;

9. The rating periods for initial members and for members joining the fund during the fund's fiscal year;

10. The adjusted assessments and the underlying factors considered in the development of the adjusted rates, if the rates for members joining the fund during the fund's fiscal year are to be adjusted;

11. Provision of preferred provider, managed care and health maintenance organization networks and copies of any proposed and executed contracts or agreements for such services;

12. Procedures for open enrollment for all covered individuals not later than the first month of the fund's initial fiscal year, and annually thereafter for each subsequent fiscal year;

13. Options for the conversion of benefits, if any, and a detailed description of procedures for continuation of coverage for former employees of a member which terminates its membership in the fund;

14. The disclosure of all benefit limits for all covered benefits in plan booklets, certificates or other documents made available to covered participants;

15. The participation rules when all or part of the premium is to be derived from funds contributed by covered employees;

16. Retirees coverage including the assessment and rating plan for such coverage;

17. The limits of coverage for newborn or adopted children, which shall be automatic from birth or adoption for 31 days and which may include an additional assessment for coverage beyond 31 days;

18. Provision for plan documents, benefit plan booklets and specimens of such which must contain at least the following information and be provided to all fund participants within 30 days of membership or renewal:

i. General information, including the following:

(1) Enrollment procedures and eligibility;

(2) Dependent eligibility;

(3) The time coverage begins;

(4) Timeframes within which coverage may be changed;

(5) The time coverage ends;

(6) Provisions for continuation of coverage;

(7) Conversion privileges; and

(8) The forms and instructions for enrollment;

ii. A description of benefits, including the following:

(1) Definitions;

(2) A description of each benefit, including the following:

(A) Eligible services and supplies;

(B) Deductibles and co-payments; and

(C) Examples of the above as needed; and

(3) Exclusions;

iii. Claim procedures, including the following:

(1) Submission of claims;

(2) Proof of loss;

(3) Complaint and internal appeal procedures; and

iv. Cost containment programs, including the following:

(1) Pre-admission programs;

(2) Second surgical opinion programs;

(3) Other cost containment programs; and

(4) Application and level of employee penalties (if any);

19. A summary statement which describes the benefits currently provided to covered employees by each prospective member of the fund, and the benefits proposed to be provided by the fund;

20. The procedures for the closure of fund years including the maintenance of all relevant accounting records;

21. The maximum amount a certifying and approving officer may approve for payment pursuant to N.J.A.C. 11:15-5.21;

22. Whether the fund will be responsible for the "run-in" or "run-out" liability of each member;

i. If the fund is responsible for the "run-in" or "run-out" liability of a member, or both, the fund shall demonstrate that it has so notified all prospective members of this obligation, and the fund shall demonstrate that it has made adequate provision for the funding of those obligations, which shall not be on a cash flow basis, and which shall be certified by an actuary; and

ii. If the fund does not assume either the "run-in" or "run-out" liability of a member, the fund shall indicate the manner by which these obligations will be satisfied; and

23. Provision for a claim audit to be performed by an individual or corporation with experience in auditing self-insured health plans.

i. Such claims audit shall be performed upon completion of the first fund year after the fund's inception, and at least once every three years thereafter, or at such time as may be required by the Commissioner.

(f) The Commissioner shall notify the fund in writing whether the initial information submitted pursuant to (a) through (e) above meets the requirements of N.J.S.A. 18A:18B-1 et seq. and this subchapter and whether the initial information has been accepted. If the Commissioner does not reject the initial information within 30 working days, the initial information shall be deemed accepted. Within 90 calendar days of the Commissioner's acceptance of the information submitted pursuant to (a), (b), (c), (d) and (e) above, the fund shall complete the application process by submitting the following additional information and documentation:

1. The location of the fund's principal office, date of organization, and name and address of each initial member;

2. Designation of the trustees, administrator and custodian of the fund's assets;

3. Copies of the fund's prospective and executed agreements or contracts, and any renewal or new agreements or contracts with any administrator, servicing organization or program manager.

Such agreements or contracts shall specify the duties of, and the compensation to be paid to, each such entity. Copies of the above shall be accompanied by a list of all parties having or deriving any interest, right or benefit in the servicing organization, program manager or administrator; as well as any services to be performed which are sub-contracted.

i. To the extent the terms and conditions of any renewal agreement or contract and the parties thereto remain unchanged from the prior year, a copy of the renewal agreement or contract shall not be required. In lieu of filing a copy of the renewal agreement, the fund shall file a notice with the Department in the format set forth in Exhibit A in the Appendix incorporated herein by reference, that the agreement has been renewed, and that the terms and conditions of the agreement or contract and parties thereto remain unchanged from the prior year;

ii. Copies of any changes to the agreements or contracts shall be filed with the Department within 10 days after such changes are approved by the fund;

4. A cash management plan, which shall include the designation of depository institution(s) for the holding of fund monies and the fund's investment policy;

5. A fidelity bond for all persons handling fund assets in a form and amount acceptable to the Commissioner;

6. A surety bond for the claims administrator or any other servicing organization deemed necessary by the Commissioner in a form and amount acceptable to the Commissioner; and a surety bond for any other servicing organization as deemed appropriate by the trustees in a form and amount acceptable to the trustees;

7. Errors and omissions coverage for the servicing organization, program manager, administrator, and producer who negotiates stop-loss or reinsurance on behalf of the fund;

8. A designation and appointment of an agent in New Jersey to receive service of process on behalf of the fund as well as the address in this State where the books and records of the fund will be maintained at all times;

9. A list of the board of trustees, officers, and servicing organizations, updated annually;

10. Data forms, in the format set forth in Exhibit B in the Appendix incorporated herein by reference, incorporating the appropriate and necessary professional qualifications for senior officers and directors of the administrator and servicing organizations providing services to the fund, updated and submitted to the Commissioner annually. An entity providing services to more than one fund may submit one data form for all funds formed pursuant to this subchapter which the entity services;

i. To the extent the information contained in the data forms remains unchanged from the prior year, the

fund need not file the above-referenced data forms provided that the fund files a notice with the Department, in the format set forth in Exhibit C in the Appendix incorporated herein by reference, that the same individuals are utilized and that the information in the data forms remains unchanged from the prior year;

11. Copies of each insurance and reinsurance policy purchased by the fund, including a copy of the cover note or binder;

12. A pro forma financial statement based on the fund's actual membership on a form acceptable to the Commissioner showing the financial strength and liquidity of the fund to assure that all obligations will be met promptly;

13. Where self-insured, a plan for specific and aggregate stop-loss insurance or reinsurance and/or retention in accordance with sound actuarial principles and the plan of risk management;

14. Proof of competent personnel and ample facilities within the fund organization with respect to claims administration, including a claims processing manual, and underwriting matters, or present a contract with a qualified servicing organization(s) for the provision of such services specifying compensation schedules and standards of performance;

15. A description of any producer arrangement plan by which producers, who shall be licensed pursuant to N.J.S.A. 17:22A-1 et seq., represent members in their dealings with the fund. The description shall include, but not be limited to, copies of all producer contracts, which shall include a description of the producers' obligations, responsibilities and compensation; the duration of such contracts; and an indication whether the contracts are subject to renewal. Copies of renewal contracts or a notice of renewal shall also be provided consistent with the requirements set forth in (f)3 above.

i. The compensation paid to producers shall be reasonable. The Commissioner may disapprove any arrangement if he or she determines that the terms of the arrangement are unreasonable;

16. The claims handling procedure to be utilized by the fund which shall provide for the prompt, fair, equitable and confidential settlement of claims and which shall be administered in compliance with N.J.S.A. 17B:30-13.1 and 13.2, and N.J.A.C. 11:2-17 and 11:15-5.22;

17. The complaint handling procedure to be utilized by the fund which shall provide for the confidentiality of the claimant's identity in compliance with N.J.A.C. 11:15-5.22 and including, but not limited to, procedures for the resolution of disputed claims operated and adjudicated by an independent organization or arbitrator, which shall be at no cost to the claimant; and

18. A copy of the application form to be utilized by the fund for prospective new members applying for membership in the fund.

(g) The Commissioner may, at the time of filing of the bylaws and risk management program and whenever thereafter he or she deems it expedient, but at a minimum not less frequently than once every five years, make or cause to be made, an examination of the assets and liabilities, financial condition, method of conducting business and all other affairs of any fund. For the purpose of the examination, the Commissioner may retain attorneys, appraisers, independent actuaries, independent certified public accountants or other professionals or specialists as examiners, or may request the trustees to authorize and employ such person or persons to conduct the same or to assist therein as he or she deems advisable. The reasonable expenses of the examination shall be fixed and determined by the Commissioner, and such expenses shall be paid by the fund examined to the appropriate entity or person upon presentation of a detailed account.

1. For purposes of completing an examination of any fund pursuant to N.J.S.A. 18A:18B-1 et seq. and this subchapter, the Commissioner may examine or investigate any person, or the business of any person, insofar as such examination or investigation is, in the sole discretion of the Commissioner, necessary or material to the examination of the fund.

2. Every fund or person from whom information is sought, including its officers, directors and agents, shall provide the Commissioner or other person appointed as an examiner pursuant to this subsection, timely, convenient, and free access at all reasonable hours at its office: to all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the fund being examined.

3. The administrator and servicing organization(s), and their officers, directors, employees and agents, or other person, shall facilitate the examination and aid in the examination so far as it is in their power to do so. The Commissioner may, in accordance with the procedures set forth in N.J.A.C. 11:15-5.8, suspend or terminate the authority of any fund, if the fund, by its administrator, servicing organizations, or officers, directors, employees, or agents thereof, refuses to submit to an examination or to comply with any reasonable request of the examiners.

11:15-5.7 Disapproval of bylaws and risk management program

(a) If the Commissioner determines that the bylaws or risk management program of the fund and all other information required pursuant to N.J.A.C. 11:15-5.6, or any subsequent amendments or changes thereto, do not contain all of the information set forth in N.J.A.C. 11:15-5.6, is not submitted in the proper format set forth in N.J.A.C. 11:15-5.5, or otherwise do not meet the requirements of N.J.S.A. 18A:18B-1 et seq. or this subchapter, the Commissioner shall disapprove the bylaws or risk management program and shall notify the fund in writing, which notice shall contain the specific reasons for disapproval, and the requirements to be met before approval may be granted.

(b) The trustees and the officials of the member shall not have access to any employee claim information which reveals the identity of any individual plan participant.

(c) All claims are to be filed, and all inquiries are to be handled, directly by the designated claims' administrator. All employees of the administrator shall execute a non-disclosure statement to protect the identity of the plan participants.

(d) Only trustees and necessary fund professionals shall participate in any closed session discussion of claims. These claims discussions, whether general or specific to a coverage dispute, shall at all times be confidential and anonymous so that the identity of the school board and claimant cannot be ascertained. The anonymity of the claimant shall be accomplished by assigning a blind claim number and deleting all references to the individual's name and place of employment. Only the claimant may demand, by written notice, that the matter be handled with disclosure of his or her identity.

(e) Documents identifying the employee, or from which the employee's identity might be deduced, shall not be accessible to any persons other than the administrator, program manager, fund attorney, or appointed claim auditors when such records are needed to verify the accuracy of claim data as part of an audit.

(f) Any person having access to claim information must sign a written non-disclosure statement.

11:15-5.23 Stop-loss insurance and/or reinsurance

(a) Each fund providing primary or underlying coverage on a self-insured basis shall secure stop-loss insurance or reinsurance in a form and amount acceptable to the Commissioner from an insurer authorized or admitted to transact life or health insurance, as applicable, in the State.

(b) Certificates of stop-loss insurance and/or reinsurance showing policy limits and other information shall be available for the inspection of each member and shall be filed with the Commissioner.

(c) Losses in excess of the established self-insurance retention amount shall be borne by the stop-loss carrier(s) according to the terms and conditions of the stop-loss contract(s).

(d) Any proposed change in the terms or limits of stop-loss insurance and/or reinsurance shall be submitted to the Department for approval at least 30 days prior to the effective date of the proposed change.

(e) The Commissioner shall waive the requirement set forth in (a) above if such stop-loss insurance or reinsurance is not commercially available or is unreasonably priced, as determined by the fund's trustees for each fund year, and as approved by the Commissioner, and the fund otherwise

demonstrates to the Commissioner that it has made adequate provision for excess losses.

1. Any approval by the Department pursuant to (a) above shall be for a period not to exceed either the longer of 12 months from the date of approval or the end of the next succeeding fund year. Any fund seeking to extend the period of the approval shall notify the Department not later than 45 days prior to the expiration of the term of the approval. The notification shall specify the basis upon which the trustees have determined that stop-loss insurance or reinsurance required pursuant to (a) above is not commercially available or is not reasonably priced, and shall include all actions taken by the fund to obtain required stop-loss insurance or reinsurance. The notification shall also describe actions taken by the fund to provide for excess losses, including, but not limited to, the establishment of contingency reserves, and funding above the level of expected losses.

11:15-5.24 Financial statement and reports

(a) A sworn annual report in a form acceptable to the Commissioner shall be prepared by each fund, filed with the Department, and made available to each fund member not later than December 31 for the end of the immediately preceding fiscal year. The report shall include:

1. An annual audited statement of the financial condition of the fund prepared by an independent certified public accountant and performed in accordance with generally accepted accounting principles, which shall include a statement of the organization of the fund, including its balance sheet and receipts and disbursements for the preceding year;

2. Reports of outstanding liabilities by line of coverage showing the number of claims, amounts paid to date and current reserves for losses, claims and unearned assessments as certified by a qualified actuary;

3. Reports of all incurred but not reported liabilities certified by a qualified actuary;

4. Any material changes in information from that previously submitted;

5. The number of covered individuals by line of coverage; and

6. Such other information, as may be requested by the Department from a particular fund.

(b) In addition to the reports required pursuant to (a) above, a fund shall file quarterly unaudited statements of the financial condition of the fund in a form acceptable to the Commissioner with the Department within 60 calendar days after the end of each calendar quarter. All statements filed pursuant to this subsection shall include the information set forth in (a) above, except that certification by a certified public accountant or a qualified actuary shall not be required.

11:15-5.25 Examination of funds possibly in financial condition detrimental to the public

(a) The Commissioner may conduct an examination of any fund as he or she deems necessary, or at any time the Commissioner has reasonable cause to believe the fund may be insolvent or in a financial condition detrimental to its members or to the public. It shall be the duty of the fund members, trustees, and administrator to notify the Commissioner of any information indicating that any fund may be insolvent or in a financial condition detrimental to the fund's members or the public.

(b) The fund members or trustees may, upon majority vote, request that the Commissioner order an examination of any fund member which the fund members or trustees in good faith believe may be in a financial condition detrimental to other fund members or to the public.

(c) Any examination made pursuant to N.J.S.A. 18A:18B-7 and this subchapter shall be conducted in accordance with the procedures set forth in N.J.A.C. 11:15-5.6(g).

11:15-5.26 Servicing organizations; administrator

(a) No servicing organization or program manager of a fund, or producer appointed by a fund pursuant to N.J.A.C. 11:15-5.6(e)15, or their employees, officers or directors shall have either a direct or indirect financial interest in the administrator of that fund, or be an employee, officer or director of the administrator, unless written notice of such interest has been provided to the trustees and members.

(b) No administrator of a fund, or its employees, officers or directors shall be an employee, officer or director of, or have either a direct or indirect financial interest in, a servicing organization or program manager of that fund, or the insurance producer appointed by that fund pursuant to N.J.A.C. 11:15-5.6(e)15, unless written notice of such interest has been provided to the trustees and members.

(c) Each contract with a servicing organization or program manager shall include a clause stating, "Unless the trustees otherwise permit, the servicing organization (or program manager, as applicable) shall handle to their conclusion all claims and other obligations incurred during the contract period."

(d) The trustees shall notify the Department within 10 days of any determination to terminate or nonrenew any agreement with a servicing organization. The notification shall include a detailed statement that sets forth the manner and method by which claims handling and other obligations performed by the servicing organization will be provided or a statement that sets forth the reasons why the fund commissioners believe that the particular service is no longer necessary.

(e) The trustees may designate an administrator to carry out the policies established by the trustees and to provide day-to-day management of the fund. The minutes of the trustees' meetings shall detail the areas of authority delegated to the administrator.

(f) Any employee, officer or director of an administrator, servicing organization, program manager or insurance producer appointed pursuant to N.J.A.C. 11:15-5.6(e)15 shall disclose to the trustees any direct or indirect financial interest such employee, officer or director has in any other administrator, servicing organization, program manager or insurance producer.

11:15-5.27 Conflict of interest

All school officials and members of their immediate families shall comply with N.J.S.A. 18A:12-22 et seq., (the "School Ethics Act"), and any other applicable law governing the conduct of members, officers or employees of school boards.

11:15-5.28 Notice and hearings

(a) The Commissioner shall give prior written notice of any proposed suspension of authority, revocation, cease and desist order, or other enforcement action to the trustees or member as the case may be, or to any person to whom the proposed enforcement action applies specifically. The notice shall be served personally or by certified or registered mail upon all interested parties, shall set forth the grounds for the proposed enforcement action, and shall inform the interested party of their right to request a hearing on the proposed enforcement action.

(b) The interested party involved shall have 20 days from the mailing of the notice to request a hearing on the proposed enforcement action. Such a hearing shall be conducted in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1. Failure to mail a request for a hearing within the time prescribed shall result in the suspension, revocation, monetary penalty or cease and desist order becoming effective 30 days from issuance of the original notice. In no event shall any revocation become effective prior to the date that a hearing is scheduled.

11:15-5.29 Orders

(a) After notice and opportunity for a hearing, as provided in N.J.A.C. 11:15-5.28, the Commissioner may issue an order revoking or suspending a fund's authority or requiring a person or fund to cease and desist from engaging in an act or practice found to be in violation of any provision of N.J.S.A. 18A:18B-1 et seq. or this subchapter.

(b) Upon a finding, after notice and opportunity for a hearing, as provided in N.J.A.C. 11:15-5.28, that a fund has violated any cease and desist order, the Commissioner may revoke his or her approval of the fund.

(f) For purposes of this section:

1. "Budgeted losses" means the amount established in the fund's budget for losses anticipated for a particular fund year, as annually certified by the fund's actuary; and

2. "Cumulated budgeted losses" means the fund's budgeted losses for the current fund year plus the four fund years immediately preceding. For a fund in existence for less than three years, cumulated budgeted losses shall be based on an estimate of three years budgeted losses pro rata for that period. For example, a newly formed fund would multiply its cumulated budgeted losses by three, a fund with two years experience would multiply its cumulated budgeted losses by 1.5, and so on. Any fund with three years or more of experience shall base its cumulated budgeted losses on its actual years of experience, not to exceed five years.

(g) Nothing in this section shall be construed as prohibiting a fund from establishing an aggregate excess insurance cap in amounts greater than that required by this section.

11:15-6.23 Financial statement and reports

(a) An annual certified report in a form acceptable to the Commissioner shall be prepared by each fund, filed with the Department, and made available to each fund member on or before April 1 of each year. The report shall include:

1. An annual audited statement of the financial condition of the fund prepared by an independent certified public accountant and performed in accordance with generally accepted accounting principles, which shall include a statement of the organization of the fund indicating the persons who perform each function for the fund and the relationship and interdependency of each function, and including its balance sheet and receipts and disbursements for the preceding year;

2. Reports of outstanding liabilities by line of coverage showing the number of claims, amounts paid to date and current reserves for unpaid losses, claims and unearned assessments as certified by an actuary;

3. A certification by the chairman or administrator that periodic reports were made to fund members in the form and manner required by N.J.A.C. 11:15-6.4(h);

4. Any material changes in information from that previously submitted; and

5. Such other information as may be requested by the Department from a particular fund.

(b) In addition to the reports required pursuant to (a) above, for the initial two fiscal years of a fund, a fund shall file with the Department quarterly unaudited statements of the financial condition of the fund in a form acceptable to the Commissioner within 60 days after the end of each calendar quarter. After the initial two years, a fund shall file with the Department semiannual unaudited statements

of the financial condition of the fund in a form acceptable to the Commissioner within 60 days after end of each six month period. The semi-annual report covering the six-month period ending December 31 shall include a compilation of the results reported in the semi-annual report for the period ending June 30 immediately preceding. All statements filed pursuant to this subsection shall include the information set forth in (a) above, except that certification by a certified public accountant or the actuarial opinion statement shall not be required.

11:15-6.24 Examination of funds

(a) In addition to any examination conducted pursuant to N.J.A.C. 11:15-6.6(g), the Commissioner may conduct an examination of any fund as he or she deems necessary, or at any time the Commissioner has reasonable cause to believe the fund may be insolvent or in a financial condition detrimental to its members or the public. It shall be the duty of the fund members, commissioners, executive committee, administrator and chairman to notify the Commissioner of any information indicating that any fund may be in a financial condition detrimental to the fund's members or the public.

(b) The members, commissioners, or executive committee may, upon majority vote, request that the Commissioner order an examination of any fund member which the members, commissioners, or executive committee in good faith believes may be in a financial condition detrimental to other fund members or to the public.

(c) Any examination made pursuant to N.J.S.A. 17:49A-14 and this subchapter shall be conducted in accordance with the procedures set forth in N.J.A.C. 11:15-6.6(g).

11:15-6.25 Servicing organizations; administrator

(a) No servicing organization of a fund or producer appointed pursuant to N.J.A.C. 11:15-6.6(d)10, or their employees, officers or directors shall have either a direct or indirect financial interest in the administrator of that fund, or be an employee, officer or director of the administrator, unless notice of such interest has been provided to the fund commissioners and members.

(b) No administrator of a fund, or its employees, officers or directors shall be an employee, officer or director of, or have either a direct or indirect financial interest in, a servicing organization of that fund, or an insurance producer appointed by that fund pursuant to N.J.A.C. 11:15-6.6(d)10, unless notice of such interest has been provided to the fund commissioners and members.

(c) Each contract with a servicing organization providing claims adjustment and administration services shall include a clause stating: "Unless the fund commissioners otherwise permit, the servicing organization shall handle to their conclusion all claims and other obligations incurred during the contract period."

(d) The fund commissioners shall notify the Department within 10 days of any determination to terminate or nonrenew any agreement with a servicing organization. The notification shall include a detailed statement that sets forth the manner and method by which claims handling and other obligations performed by the servicing organization will be provided or a statement that sets forth the reasons why the fund commissioners believe that the particular service is no longer necessary.

(e) The fund commissioners or the executive committee, if any, may designate an administrator to carry out the policies established by the fund commissioners and to provide day-to-day management of the fund. The minutes of the commissioners' or executive committee meetings shall detail the areas of authority delegated to the administrator.

(f) Any employee, officer or director of an administrator, servicing organization, or producer appointed pursuant to N.J.A.C. 11:15-6.6(d)10 shall disclose to the fund commissioners or executive committee any direct or indirect financial interest such employee, officer or director has in any other administrator, servicing organization or insurance producer.

11:15-6.26 Conflict of interest

The fund shall adopt a written conflict of interest policy, which shall be provided to each fund member, and shall include such provisions as the fund commissioners deem appropriate, including, but not limited to, a conflict of interest questionnaire. A copy of the conflict of interest policy shall be made available for review and inspection by the Department as part of an examination of the fund or upon request.

11:15-6.27 Notice and hearing

(a) The Commissioner shall give prior written notice of any proposed suspension, revocation of authority, cease and desist order, or other enforcement action to the fund commissioners, executive committee, or member as the case may be, or to any person to whom the proposed enforcement action applies specifically. Such notice shall be served personally or by certified or registered mail upon all interested parties, shall set forth the grounds for the proposed enforcement action, and shall inform the interested party of its right to request a hearing on the proposed enforcement action.

(b) The interested party involved shall have 20 days from the mailing of the notice to request a hearing on the proposed enforcement action. Such a hearing shall be conducted in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and Uniform Administrative Procedure Rules, N.J.A.C. 1:1. Failure to mail a request for a hearing within the time prescribed shall result in the suspension, revocation, monetary penalty or cease and desist order becoming effective 30 days from issuance of the original notice. In no event shall any revocation become effective prior to the date that a hearing is scheduled.

11:15-6.28 Orders

(a) After notice and opportunity for a hearing, as provided in N.J.A.C. 11:15-6.27, the Commissioner may issue an order revoking or suspending a fund's authority or requiring a person or fund to cease and desist from engaging in an act or practice found to be in violation of any provision of N.J.S.A. 17:49A-1 et seq., or this subchapter.

(b) Upon a finding, after notice and opportunity for a hearing, as provided at N.J.A.C. 11:15-6.27, that a fund has violated any cease and desist order, the Commissioner may revoke his or her approval of the fund.

(c) Upon a finding, after notice and opportunity for a hearing, as provided at N.J.A.C. 11:15-6.27, the Commissioner may issue an order requiring the fund commissioners, or the executive committee, if any, to dismiss an administrator or servicing organization or terminate the contract of an administrator or servicing organization because of any fraud, material misrepresentation, incompetence or untrustworthiness, misappropriation or conversion of monies or violation of any fiduciary responsibilities by such administrator or servicing organization, or any of the employees, officers or directors thereof.

11:15-6.29 Compliance dates

(a) Except as otherwise specifically provided in this subchapter, funds subject to this subchapter shall comply with all of the requirements contained in this subchapter commencing with the fund year immediately following April 7, 1997, or October 4, 1997, whichever is later.

(b) Unless otherwise provided by this subchapter, all information and documents and any amendments thereto required by this subchapter shall be filed within 30 days from the date such information or document is due or such change or amendment has occurred.

11:15-6.30 Severability

The rules contained in this subchapter and any of the provisions thereof shall be severable, and if any of its provisions shall be held to be unconstitutional or otherwise invalid, the decision of the court shall not affect the validity of the remaining rules or any of the provisions thereof.

APPENDIX

Exhibit A

NEW JERSEY DEPARTMENT OF BANKING AND INSURANCE

CERTIFICATION OF JOINT INSURANCE FUND PROFESSIONALS FOR THE FUND YEAR ENDING JUNE 30, 199__ OR DECEMBER 31, 199__ (as applicable)

I, _____, hereby certify that:
(Name)

a) I am the chairman of the _____ (Joint Insurance Fund) _____, and am authorized to execute this certified statement.

The terms and conditions for all renewal agreements or contracts, and the parties thereto, have not changed from the prior year, with exception of compensation as set forth below:

Table with 3 columns: Changes to Compensation Contractor, Prior Amount, New Amount. Multiple rows for data entry.

b) To the extent the terms and conditions of any renewal agreements or contracts, or the parties thereto, have changed since the prior year, copies of such renewal/new agreements or contracts are enclosed.

c) I am aware that the New Jersey Department of Banking and Insurance will rely on this certification in connection with determination of the above-referenced Joint Insurance Fund's compliance with applicable law.

(Signature)

(Date)

New Rule, R.1996 d.277, effective June 17, 1996. See: 28 N.J.R. 765(a), 28 N.J.R. 3135(a). Amended by R.1996 d.534, effective November 18, 1996. See: 28 N.J.R. 4027(a), 28 N.J.R. 4877(a).

Exhibit B DATA FORM

(Print or Type) Name and Address of Administrator or Servicing Organization

In connection with the above-named company, I herewith make representations and supply information about myself as herein-after set forth. (Attach addendum or separate sheet if space hereon is insufficient to answer any question fully.) IF ANSWER IS "NONE" OR "NO EXCEPTION", SO STATE.

- 1. Affiant's Full Name:
2. Other Names Used at any Time:
3. Date of Birth: Place of Birth:
4. Social Security Number:
5. For the last 10 years, I have lived at the following address or addresses: ADDRESS CITY DATES
6. Schooling: College: Graduate: or Professional:

Degree (List): _____

(ATTACH LIST OF ALL EDUCATIONAL INSTITUTIONS AND LOCATION—CITY AND STATE)

- 7. Member of Professional Societies or Association (List):
8. I presently hold or have held, in the past, the following professional, occupational, and vocational licenses issued by public or governmental licensing agencies or authorities (state date license issued, issuer of license, date terminated, reason for termination):
9. Present Chief Occupation: Position or Title: Employer's Name: Address: How long in this Position? How long with this employer? Where?
10. Other jobs, positions, directorates or officerships concurrently held at present:
11. Complete Employment Record for Past 20 Years: DATES EMPLOYER AND ADDRESS TITLE
12. I control directly or indirectly or own legally or beneficially 10% or more of the outstanding capital stock (in voting power) of the following companies:
12a. If any of the above stock is pledged or hypothecated in any way, please detail fully:
13. I have never been adjudicated as bankrupt, except as follows:
14. I have never been convicted or had a sentence imposed or suspended, or had pronouncement of a sentence suspended, or been pardoned for conviction of, or pleaded guilty of or nolo contendere to an information or an indictment charging a felony for embezzlement, theft or larceny, mail fraud, or violating any corporate securities statute or any insurance law, nor have I been the subject of a cease and desist order or consent order of any federal or state regulatory agency, except as follows:
15. During the last 10 years, I have neither been refused a professional, occupational or vocational license by any public or governmental licensing agency or regulatory authority, nor has such a license held by me ever been suspended or revoked, except as follows:
16. I have never been an officer, director, key employee or controlling stockholder of a company which, while I occupied any such position or capacity with respect to it, became insolvent or was enjoined from or ordered to cease and desist from violating any law, except as follows:
17. Neither I nor any company of which I was an officer, director or key management person at the time has ever

been subject to any civil action alleging fraud, negligence or violation of any applicable racketeering statutes (state or Federal), except as follows:

18. I am not and none of the employees, officers or directors of (name of company) is an employee, officer or director of any other administrator, program manager, servicing organization or insurance producer of the Fund, nor do I or any of the employees, officers or directors of (name of company) have a direct or indirect financial interest in any other administrator, program manager, servicing organization or insurance producer of the Fund, except as follows:

18a. Any direct or indirect financial interest or any position held as employee, officer or director in any other administrator, program manager, servicing organization, or insurance producer of the Fund, as described above, has been disclosed to the Fund commissioners or executive committee, as applicable. (Yes/No)

Dated and signed this ___ day of _____ at _____. I hereby certify under penalty of perjury that the foregoing statements are true and correct to the best of my knowledge and belief and further, by the affixation of my signature hereon, I hereby give my certified consent to the New Jersey Department of Banking and Insurance to verify the representations and information supplied in response to all questions on the biographical data form, with any Federal, State, municipal or other agency which may have knowledge and/or information thereon.

(Signature of Affiant)

State of _____
County of _____

Personally appeared before me the above named _____ personally known to me, who, being duly sworn, deposes and says that affiant executed the above instrument and that the statements and answers contained therein are true and correct to the best of affiant's knowledge and belief.

Subscribed and sworn to before me this ___ day of _____,

(Notary Public)

(SEAL)

My Commission Expires _____

New Rule, R.1996 d.277, effective June 17, 1996.
See: 28 N.J.R. 765(a), 28 N.J.R. 3135(a).
Amended by R.1996 d.534, effective November 18, 1996.
See: 28 N.J.R. 4027(a), 28 N.J.R. 4877(a).

Exhibit C
NEW JERSEY DEPARTMENT OF
BANKING AND INSURANCE
CERTIFICATION OF JOINT INSURANCE FUND
DATA FORMS FOR THE FUND YEAR ENDING
JUNE 30, 199__ OR DECEMBER 31, 199__ (as
applicable)

I, _____ hereby certify that:

(Name)
a) I am the chairman of the _____
(Joint Insurance Fund)

_____, and am authorized to execute this certified statement.

The individuals and biographical information set forth in the data forms previously filed have not changed from the prior year.

b) To the extent the individuals or biographical information has changed since the prior year, copies of such new data forms are enclosed.

c) I am aware that the New Jersey Department of Banking and Insurance will rely on this certification in connection with determination of the above-referenced Joint Insurance Fund's compliance with applicable law.

(Signature)

(Date)

New Rule, R.1996 d.277, effective June 17, 1996.
See: 28 N.J.R. 765(a), 28 N.J.R. 3135(a).
Amended by R.1996 d.534, effective November 18, 1996.
See: 28 N.J.R. 4027(a), 28 N.J.R. 4877(a).

Exhibit D
NEW JERSEY DEPARTMENT OF
BANKING AND INSURANCE
NEW MEMBER STATEMENT FOR (NAME
OF JOINT INSURANCE FUND)

This shall notify the Department that effective (month, day, year) the (name of member) joined the (name of joint insurance fund) as described below:

Name of member: _____

Term of membership: _____

Address of member: _____

Name of risk manager if none, so state: _____

Name of trustee or contact person: _____

Lines of coverage with assessment amount (also list number of enrollees if health fund):

Lines of Coverage Assessment Amount
(List each separately) (Indicate annualized or pro rata)

Total Assessment: \$ _____

Workers' Compensation

I, _____
 (name and title)
 hereby certify that the above information is true to the best of my knowledge and belief, and that I am authorized to execute this statement on behalf of the above-captioned joint insurance fund. I further certify that in accepting the _____
 _____ (name of new member) an application has been filed, the _____
 _____ has adhered to _____
 (name of joint insurance fund)
 to its bylaws and risk management program, and the agreement to participate and indemnity trust agreement have been filed with the fund.

Months of Maturity From End Of Fund Year	Paid Loss	Unpaid Claims
	Factor	Factor
24	45%	135%
36	25%	135%
48	15%	135%
60	10%	135%
72	5%	135%
84	2%	135%
96 and over	0%	135%

Signature _____

Date _____

New Rule, R.1996 d.277, effective June 17, 1996.
 See: 28 N.J.R. 765(a), 28 N.J.R. 3135(a).
 Amended by R.1996 d.534, effective November 18, 1996.
 See: 28 N.J.R. 4027(a), 28 N.J.R. 4877(a).

Exhibit E
 Liability

Months of Maturity From End Of Fund Year	Paid Loss	Unpaid Claims
	Factor	Factor
24	5%	135%
36	2.5%	135%
48	0.5%	135%
60 and over	0%	135%

Months of Maturity From End Of Fund Year	Paid Loss Factor	Unpaid Claims Factor
24	225%	135%
36	90%	135%
48	30%	135%
60	5%	135%
72	2.5%	135%
84 and over	0%	135%

New Rule, R.1996 d.277, effective June 17, 1996.
 See: 28 N.J.R. 765(a), 28 N.J.R. 3135(a).
 Administrative correction.
 See: 29 N.J.R. 426(a).

Exhibit F

AGGREGATE EXCESS CRITERIA

MAXIMUM ATTACHMENT POINT AT 125% BUDGETED LOSSES

MINIMUM REINSURANCE CAP REQUIRED

Specific Per Occurrence Retention

Range of Cumulated Budgeted Losses		\$100K	\$200K	\$250K	\$350K	\$500K	\$1MM
0	25,000	475.0%	525.0%	576.0%	613.0%	650.0%	750.0%
25,001	50,000	375.0%	450.0%	491.0%	521.0%	550.0%	650.0%
50,001	75,000	290.0%	350.0%	391.0%	421.0%	450.0%	550.0%
75,001	100,000	254.0%	290.0%	314.0%	332.0%	350.0%	450.0%
100,001	150,000	211.0%	227.0%	238.0%	246.0%	254.0%	290.0%
150,001	250,000	200.0%	205.0%	207.0%	209.0%	211.0%	227.0%
250,001	500,000	195.0%	200.0%	202.0%	204.0%	205.0%	211.0%
500,001	750,000	180.0%	188.0%	191.0%	193.0%	195.0%	200.0%
750,001	1,000,000	152.0%	160.0%	164.0%	167.0%	170.0%	180.0%
1,000,001	1,500,000	140.0%	145.0%	148.0%	150.0%	152.0%	161.0%
1,500,001	3,000,000	134.0%	136.0%	138.0%	139.0%	140.0%	145.0%
3,000,001	5,000,000	130.0%	133.0%	134.0%	135.0%	136.0%	140.0%
5,000,001	7,500,000	126.0%	130.0%	131.0%	132.0%	133.0%	135.0%
7,500,001	10,000,000	N/R	126.0%	128.0%	129.0%	130.0%	133.0%
10,000,001	22,000,000	N/R	N/R	N/R	N/R	N/R	130.0%
22,000,001	33,000,000	N/R	N/R	N/R	N/R	N/R	127.0%
33,000,001	55,000,000	N/R	N/R	N/R	N/R	N/R	N/R
55,000,001	95,000,000	N/R	N/R	N/R	N/R	N/R	N/R
Over 95,000,000		N/R	N/R	N/R	N/R†	N/R	N/R

† N/R means not required

EXAMPLES OF MINIMUM AGGREGATE EXCESS CAP REQUIRED AT \$100,000
SPECIFIC PER OCCURRENCE RETENTION

Fund Year	Budgeted Losses		Percentage		Dollar Amount	
	Annual	Cumulated	Attach. Point	Min. Reins. Cap	Attach. Point	Min. Reins. Cap
1986	970,000	2,910,000	125%	134%	1,212,500	1,299,800
1987	2,940,000	5,865,000	125%	126%	3,675,000	3,704,400
1988	3,200,000	7,110,000	125%	126%	4,000,000	4,032,000
1989	3,200,000	10,310,000	125%	N/R	4,000,000	0
1990	3,000,000	13,310,000	125%	N/R	3,750,000	0
1991	3,400,000	15,740,000	125%	N/R	4,250,000	0
1992	4,700,000	17,500,000	125%	N/R	5,875,000	0
1993	5,000,000	19,300,000	125%	N/R	6,250,000	0
1994	3,000,000	19,100,000	125%	N/R	3,750,000	0

New Rule, R.1996 d.277, effective June 17, 1996.
See: 28 N.J.R. 765(a), 28 N.J.R. 3135(a).

Administrative correction.
See: 29 N.J.R. 426(a).

Exhibit G
AGGREGATE EXCESS CRITERIA
AGGREGATE EXCESS LOSS CONTINGENCY FUND
AS PERCENTAGE OF BUDGETED LOSSES

Range of Cumulated Budgeted Losses		Specific Per Occurrence Retention					
		\$100K	\$200K	\$250K	\$350K	\$500K	\$1MM
0	25,000	34.3%	35.4%	35.8%	36.2%	36.5%	37.5%
25,001	50,000	27.9%	29.0%	29.4%	29.7%	30.0%	31.1%
50,001	75,000	20.8%	21.9%	22.3%	22.5%	22.8%	23.8%
75,001	100,000	19.6%	20.8%	21.2%	21.6%	21.9%	22.8%
100,001	150,000	17.2%	18.4%	18.9%	19.2%	19.6%	20.8%
150,001	250,000	15.4%	16.3%	16.7%	16.9%	17.2%	18.4%
250,001	500,000	14.5%	15.4%	15.8%	16.0%	16.3%	17.2%
500,001	750,000	12.7%	13.6%	14.0%	14.2%	14.5%	15.4%
750,001	1,000,000	9.6%	10.6%	11.0%	11.3%	11.6%	12.7%
1,000,001	1,500,000	7.8%	8.6%	9.0%	9.3%	9.6%	10.6%
1,500,001	3,000,000	6.8%	7.3%	7.5%	7.7%	7.8%	8.6%
3,000,001	5,000,000	6.2%	6.8%	7.0%	7.2%	7.3%	7.8%
5,000,001	7,500,000	5.7%	6.2%	6.4%	6.6%	6.8%	7.3%
7,500,001	10,000,000	0	5.7%	5.9%	6.1%	6.2%	6.8%
10,000,001	22,000,000	0	0	0	0	0	6.2%
22,000,001	33,000,000	0	0	0	0	0	5.7%
33,000,001	55,000,000	0	0	0	0	0	0
55,000,001	95,000,000	0	0	0	0	0	0
Over 95,000,000		0	0	0	0†	0	0

† 0 means not required

EXAMPLES OF EXCESS LOSS CONTINGENCY FUND AT \$100,000
SPECIFIC PER OCCURRENCE RETENTION

Fund Year	Budgeted Losses		Fund Percent	Annual Fund Contrib.	Aggregate Excess Loss Contingency Fund
	Annual	Cumulated			
1986	970,000	2,910,000	6.8%	65,960	65,960
1987	2,940,000	5,865,000	5.7%	167,580	233,540
1988	3,200,000	7,110,000	5.7%	182,400	349,980
1989	3,200,000	10,310,000	0.0%	0	182,400
1990	3,000,000	13,310,000	0.0%	0	0
1991	3,400,000	15,740,000	0.0%	0	0
1992	4,700,000	17,500,000	0.0%	0	0

Fund Year	Budgeted Losses		Fund Percent	Annual Fund Contrib.	Aggregate Excess Loss Contingency Fund
	Annual	Cumulated			
1993	5,000,000	19,300,000	0.0%	0	0
1994	3,000,000	19,100,000	0.0%	0	0

New Rule, R.1996 d.277, effective June 17, 1996.
See: 28 N.J.R. 765(a), 28 N.J.R. 3135(a).

Administrative correction.
See: 29 N.J.R. 426(a).

EXHIBIT H
FACTORS FOR KEYS AMENDMENT FACILITY/NONPROFIT CORP. JIFS
PAID LOSS FACTORS

Months After End of Fund Year	<u>Property</u>	<u>Workers' Compensation</u>	<u>Medical Malpractice</u>	<u>Auto Liability</u>	<u>Other Liability</u>
0	35%	370%	18110%	500%	1500%
12	10%	105%	1815%	150%	500%
24	5%	55%	575%	55%	220%
36	3%	30%	240%	25%	120%
48	2%	20%	125%	15%	75%
60	1%	15%	70%	10%	50%
72	1%	10%	45%	5%	40%
84	1%	7%	30%	2%	30%
96	0%	5%	20%	1%	20%
108 and over	0%	3%	10%	1%	15%

UNPAID CLAIMS FACTORS

Months After End of Fund Year	<u>Property</u>	<u>Workers' Compensation</u>	<u>Medical Malpractice</u>	<u>Auto Liability</u>	<u>Other Liability</u>
0	170%	230%	13800%	420%	590%
12	150%	180%	785%	255%	330%
24	150%	180%	285%	200%	265%
36	150%	180%	195%	170%	245%
48	150%	180%	160%	150%	245%
60	150%	180%	145%	145%	245%
72	135%	180%	135%	140%	245%
84	135%	180%	135%	140%	245%
96	135%	180%	135%	140%	245%
108 and over	135%	180%	135%	135%	245%

New Rule, R.1997 d.151, effective April 7, 1997.
See: 28 N.J.R. 4708(a), 29 N.J.R. 1326(a).