TITLE 11

DEPARTMENT OF BANKING AND INSURANCE

DIVISION OF INSURANCE

CHAPTER 1

ADMINISTRATION

Authority

N.J.S.A. 17:1-8.1, 17:1-15e, 17:17-1 et seq., 17B:17-1 et seq. and 52:27EE-51.

Source and Effective Date

R.2006 d.307, effective July 30, 2006.
See: 37 N.J.R. 4156(a), 38 N.J.R. 3586(a).

Chapter Expiration Date

Chapter 1, Administration, expires on July 30, 2011.

Chapter Historical Note

Chapter 1, Plan of Organization of the Department of Insurance, was adopted as R.1971 d.11, effective January 20, 1971, and codified at N.J.A.C. 11:1 Subchapter 1. Notice was not published in the New Jersey Register.

Subchapter 3, Cancellation for Nonpayment of Premium Where Producer of Record Has Advanced Premium, was adopted as R.1972 d.168, effective August 25, 1972. See: 4 N.J.R. 128(b), 4 N.J.R. 221(b).

Subchapter 2, Filings; Property-Liability, was adopted as R.1973 d.120, effective May 1, 1973. See: 5 N.J.R. 113(a), 5 N.J.R. 190(b).

Subchapter 5, Administrative Orders and Declarations, was adopted as Emergency New Rule, R.1974 d.237, and the Motor Vehicle Liability Security Fund was declared exhausted, effective August 22, 1974. See: 6 N.J.R. 351(d).

Subchapter 4, Unfair Discrimination, was adopted as R.1975 d.128, effective September 1, 1975. See: 7 N.J.R. 168(a), 7 N.J.R. 276(b).

Subchapter 6, New Jersey Property-Liability Insurance Guaranty Association, was adopted as R.1975 d.170, effective July 1, 1975. See: 7 N.J.R. 229(a), 7 N.J.R. 334(b).

Subchapter 10, Insurance Licensing of Financial Institutions, was adopted as R.1976 d.166, effective May 27, 1976. See: 8 N.J.R. 233(a), 8 N.J.R. 300(c).

Subchapter 11, Conduct Constituting Violations by Brokers and Agents, was adopted as R.1976 d.235, effective July 22, 1976. See: 8 N.J.R. 287(e), 8 N.J.R. 398(b).

Subchapter 7, Service and Placement Fees, was adopted as R.1976 d.266, effective August 23, 1976. See: 7 N.J.R. 468(a), 8 N.J.R. 422(b).

Subchapter 8, Property-Casualty Agents, was adopted as R.1976 d.267, effective October 1, 1976. See: 7 N.J.R. 469(a), 8 N.J.R. 423(a).

Subchapter 12, Corporate and Partnership Licensee Requirements, was adopted as R.1976 d.412, effective December 16, 1976, operative March 1, 1977. See: 8 N.J.R. 421(c), 9 N.J.R. 24(b).

Subchapter 13, Disclosure Agreements for Motor Club Service Contracts Sold in Connection with Automobile Insurance Policies, was adopted as R.1982 d.177, effective June 7, 1982, operative August 15, 1982. See: 13 N.J.R. 879(b), 14 N.J.R. 579(a).

Subchapter 14, Insurance Licensees, was adopted as R.1982 d.336, effective October 4, 1982, operative November 19, 1982. See: 14 N.J.R. 748(a), 14 N.J.R. 1099(b).

Subchapter 9, Agents for Life Insurance, Health Insurance and Annuity Contracts-Temporary Licensing, was adopted as R.1983 d.603, effective January 3, 1984. See: 15 N.J.R. 1828(a), 16 N.J.R. 49(c).

The Executive Order No. 66(1978) expiration date of Subchapter 5, Administrative Orders and Declarations, was extended by gubernatorial directive from June 6, 1984 to September 6, 1984. See: 16 N.J.R. 1451(a).

Pursuant to Executive Order No. 66(1978), Subchapter 5, Administrative Orders and Declarations, was readopted as R.1984 d.426, effective October 1, 1984. See: 16 N.J.R. 1689(a), 16 N.J.R. 2677(a), 17 N.J.R. 2566(a).

Subchapter 15, Petitions for Rules, was adopted as R.1984 d.511, effective November 5, 1984. See: 16 N.J.R. 2224(b), 16 N.J.R. 3033(b).

Subchapter 10, Insurance Licensing of Financial Institutions, was repealed by R.1985 d.69, effective February 19, 1985. See: 16 N.J.R. 2919(a), 17 N.J.R. 458(a).

Subchapter 20, Cancellation and Nonrenewal of Property and Casualty/Liability Insurance Policies, was adopted as Emergency New Rule, R.1985 d.507, effective September 17, 1985, to expire November 16, 1985. See: 17 N.J.R. 2460(a). The provisions of R.1985 d.507 were readopted without change as R.1985 d.627 effective November 16, 1985. See: 17 N.J.R. 2978(b). The provisions of R.1985 d.626 were readopted without change as R.1986 d.27, effective January 14, 1986. See: 18 N.J.R. 419(b).

Pursuant to Executive Order No. 66(1978), Subchapter 20, Cancellation and Nonrenewal of Property and Casualty/Liability Insurance Policies, was readopted as R.1985 d.627, effective November 16, 1985. See: 17 N.J.R. 2978(b).

Subchapter 21, Loss Reserve Opinions, was adopted as R.1985 d.711, effective January 21, 1986. See: 17 N.J.R. 2596(a), 18 N.J.R. 196(b).

Subchapter 18, Approval of Business Names, was adopted as R.1986 d.10, effective February 3, 1986. See: 17 N.J.R. 41(a), 18 N.J.R. 278(a).

Subchapter 19, Branch Offices, was adopted as R.1986 d.11, effective February 3, 1986. See: 17 N.J.R. 42(a), 18 N.J.R. 280(a).

Subchapter 20, Cancellation and Nonrenewal of Property and Casualty/Liability Insurance Policies, was repealed, and Subchapter 20, Cancellation and Nonrenewal of Commercial and Homeowners' Insurance Policies, was adopted as new rules, effective July 7, 1986, with portions operative July 28, 1986, and Subchapter 22, Prohibition of Certain Cancellation and Nonrenewal Activity, was adopted as R.1986 d.272, effective July 7, 1986. See: 18 N.J.R. 457(b), 18 N.J.R. 1388(a).

Subchapter 16, Requirements for Filing a Downward Deviation in Currently Approved Rates, was adopted as R.1986 d.478, effective December 15, 1986. See: 18 N.J.R. 1998(a), 18 N.J.R. 2458(a).

Subchapter 25, Official Department Mailing List: Address Information, was adopted as R.1988 d.64, effective February 1, 1988. See: 19 N.J.R. 2236(a), 20 N.J.R. 294(b).

Subchapter 9, Agents for Life Insurance, Health Insurance and Annuity Contracts-Temporary Licensing, Subchapter 14, Insurance Licensees, Subchapter 18, Approval of Business Names, and Subchapter 19, Branch Offices, were repealed by R.1988 d.186, effective April 18, 1988. See: 20 N.J.R. 225(c), 20 N.J.R. 904(b).

Pursuant to Executive Order No. 66(1978), Subchapter 20, Cancellation and Nonrenewal of Commercial and Homeowners' Insurance Policies, and Subchapter 22, Prohibition of Certain Cancellation and Nonrenewal Activity, were readopted as R.1988 d.341, effective June 24, 1988. See: 20 N.J.R. 1061(a), 20 N.J.R. 1720(a).

Subchapter 10, Admission Requirements for Foreign and Alien Property and Casualty Insurers, was adopted as new rules by R.1989 d.329, effective June 19, 1989. See: 21 N.J.R. 426(a), 21 N.J.R. 1702(a).

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Subchapter 26, Annual Publication of Insurer Profitability Information, was adopted as R.1989 d.538, effective October 16, 1989. See: 21 N.J.R. 2181(a), 21 N.J.R. 3297(c).

Subchapter 3, Cancellation for Nonpayment of Premium Where Producer of Record Has Advanced Premium, Subchapter 7, Service and Placement Fees, Subchapter 8, Property-Casualty Agents, and Subchapter 13, Disclosure Agreements for Motor Club Service Contracts Sold in Connection with Automobile Insurance Policies, were repealed by R.1990 d.11, effective January 2, 1990. See: 21 N.J.R. 1317(a), 22 N.J.R. 30(b).

Subchapter 28, Formation of a Domestic Property and Casualty Insurance Corporation (Stock or Mutual) or Reciprocal Insurance Exchange, was adopted as R.1990 d.162, effective March 19, 1990. See: 21 N.J.R. 3607(a), 22 N.J.R. 954(b), 22 N.J.R. 1266(a).

Subchapter 29, Temporary Certificate of Authority, was adopted as R.1991 d.15, effective January 7, 1991. See: 22 N.J.R. 2453(a), 23 N.J.R. 100(a).

Pursuant to Executive Order No. 66(1978), Chapter 1, Administration, was readopted as R.1991 d.101, effective January 31, 1991. See: 22 N.J.R. 3686(a), 23 N.J.R. 690(b).

Subchapter 32, Fees was adopted as new rules by R.1991 d.303, effective June 17, 1991, operative July 1, 1991. See: 23 N.J.R. 825(a), 23 N.J.R. 1948(a).

Subchapter 6, New Jersey Property-Liability Insurance Guaranty Association, was repealed, and a new Subchapter 6, New Jersey Property-Liability Insurance Guaranty Association Assessment Premium Surcharge was adopted as new rules by R.1991 d.461, effective September 3, 1991. See: 23 N.J.R. 823(b), 23 N.J.R. 2638(a).

Subchapter 33, Public Advocate Reimbursement Disputes, was adopted as new rules by R.1993 d.179, effective April 19, 1993. See: 24 N.J.R. 2706(a), 25 N.J.R. 1764(c).

Subchapter 35, Insurance Holding Company Systems, was adopted as emergency new rules by R.1993 d.445, effective August 16, 1993, to expire October 15, 1993. See: 25 N.J.R. 4275(a). The provisions of R.1993 d.445 were readopted without change as R.1993 d.554, effective October 15, 1993. See: 25 N.J.R. 4275(a), 25 N.J.R. 5170(b).

Subchapter 36, Examination of Insurers, was adopted as emergency new rules by R.1993 d.446, effective August 16, 1993, to expire October 15, 1993. See: 25 N.J.R. 4284(a). The provisions of R.1993 d.446 were readopted as R.1993 d.555, effective October 15, 1993. See: 25 N.J.R. 4284(a), 25 N.J.R. 5180(a).

Subchapter 3, Disability Discrimination Grievance Procedure, was adopted as new rules by R.1993 d.618, effective December 6, 1993. See: 25 N.J.R. 1327(a), 25 N.J.R. 5666(b). Subchapter 3 is exempt from expiration under 28 C.F.R. Part 35.

Subchapter 34, Surplus Lines: Exportable List, was adopted as new rules by R.1994 d.7, effective January 3, 1994. See: 24 N.J.R. 4331(a), 26 N.J.R. 236(b).

Subchapter 31, Surplus Lines Insurer Eligibility, was adopted as new rules by R.1994 d.102, effective February 22, 1994. See: 25 N.J.R. 1819(a), 26 N.J.R. 1096(a).

Subchapter 37, Licensing of Public Adjusters, was adopted as new rules by R.1994 d.207, effective April 18, 1994. See: 25 N.J.R. 5432(a), 26 N.J.R. 327(a), 26 N.J.R. 1711(a).

Subchapter 7, Medical Malpractice Reporting Requirements, was adopted as new rules by R.1994 d.493, effective September 19, 1994. See: 26 N.J.R. 1433(a), 26 N.J.R. 3864(a).

Subchapter 39, Disclosure of Material Transactions, was adopted as new rules by R.1995 d.234, effective May 1, 1995. See: 27 N.J.R. 816(a), 27 N.J.R. 1802(a).

Subchapter 21A, Actuarial Opinion and Memorandum for Life/Health Insurers, was adopted as new rules by R.1995 d.605, effective November 20, 1995. See: 27 N.J.R. 2998(a), 27 N.J.R. 4720(a).

Subchapter 26, Annual Publication of Insurer Profitability Information, Subchapter 29, Temporary Certificate of Authority, and Subchapter 33, Public Advocate Reimbursement Disputes, were repealed by R.1996 d.116, effective March 4, 1996. See: 27 N.J.R. 4121(a), 28 N.J.R. 1382(a).

Subchapter 38, Oversight of Fireman's Relief Associations, was adopted as new rules by R.1996 d.125, effective March 4, 1996, operative March 4, 1996, except for N.J.A.C. 11:1-38.4 which shall be operative January 1, 1997. See: 27 N.J.R. 634(a), 28 N.J.R. 1384(a).

Pursuant to Executive Order No. 66(1978), Chapter 1, Administration, was readopted as R.1996 d.116, effective January 31, 1996. See: 27 N.J.R. 4121(a), 28 N.J.R. 1382(a).

Petition for Rulemaking. See: 29 N.J.R. 707(c), 29 N.J.R. 948(b).

Subchapter 41, Surety Bonds for Contracts Involving the State, Local Contracting Units, Boards of Education, State Colleges and County Colleges, was adopted as R.1996 d.496, effective October 21, 1996. See: 28 N.J.R. 3505(a), 28 N.J.R. 4582(a).

Subchapter 38, Oversight of Firemen's Relief Associations, was adopted as R.1996 d.125, effective March 4, 1996, operative March 4, 1996, except for N.J.A.C. 11:1-38.4 which became operative July 1, 1997. See: 27 N.J.R. 634(a), 28 N.J.R. 1384(a), 29 N.J.R. 425(a).

Subchapter 43, Unusual Hardship For Covered Claims Under The New Jersey Property-Liability Insurance Guaranty Association and New Jersey Surplus Lines Insurance Guaranty Fund, was adopted as R.1997 d.512, effective December 1, 1997. See: 29 N.J.R. 3765(a), 29 N.J.R. 5065(b).

Subchapter 24, Use of Credit Cards, Charge Cards, Debit Cards Or Direct Account Deduction (Alternative Payment Method) To Pay Insurance Premiums, was adopted as R.1998 d.276, effective June 1, 1998. See: 29 N.J.R. 3588(a), 30 N.J.R. 2003(a).

Pursuant to Executive Order No. 66(1978), Chapter 1, Administration, was readopted as R.2001 d.75, effective January 31, 2001. See: 32 N.J.R. 4184(a), 33 N.J.R. 794(a), 33 N.J.R. 1920(a).

Subchapter 33, Surplus Lines Insurance: Procurement Procedure, was adopted as new rules by R.2003 d.37, effective February 3, 2003. See: 34 N.J.R. 641(a), 35 N.J.R. 612(a).

Subchapter 45, Notice to Policyholders of Consumer Insurance Rate Increases, was adopted as new rules by R.2003 d.496, effective December 15, 2003. See: 35 N.J.R. 3517(a), 35 N.J.R. 5595(a).

Subchapter 44, Standards for Safeguarding Customer Information, was adopted as new rules by R.2004 d.148, effective April 19, 2004. See: 35 N.J.R. 5210(a), 36 N.J.R. 1926(a).

Subchapter 46, Stock Workers' Compensation Security Fund, was adopted as new rules by R.2004 d.426, effective November 15, 2004. See: 36 N.J.R. 3476(a), 36 N.J.R. 5129(b).

Subchapter 47, Electronic Transactions, was adopted as new rules by R.2005 d.83, effective March 7, 2005. See: 36 N.J.R. 4207(a), 37 N.J.R. 775(a).

Subchapter 40, Recoupment of Fugitive Recovery Expenses by Surety Companies, was adopted as R.2005 d.247, effective August 1, 2005. See: 37 N.J.R. 198(a), 37 N.J.R. 2882(b).

Chapter 1, Administration, was readopted as R.2006 d.307, effective July 30, 2006. As a part of R.2006 d.307, Subchapter 45, Notice to Policyholders of Consumer Insurance Rate Increases, was renamed Notice to Policyholders of Personal Lines Insurance Rate Increases, effective September 5, 2006. See: Source and Effective Date. See, also, section annotations.

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11:1-20.5 Cancellation or nonrenewal based on loss of or reduction in available insurance capacity

(a) Every cancellation or nonrenewal based upon loss of or reduction in available insurance capacity shall be supported by the following documentation:

1. A narrative description of the specific facts underlying the insurer's loss of or reduction in capacity.

2. Identification of the individual risk(s) or line, class or subclass of insurance, as applicable, proposed for termination and an explanation of the basis for the selection, which shall demonstrate that the insurer's selection is not arbitrary, capricious or unfairly discriminatory. An unsupported statement, such as "underwriting judgment", shall not constitute a valid explanation.

3. With respect to terminations subject to N.J.A.C. 11:1-22, an explanation of how the loss of or reduction in capacity affects the insurer's risks throughout the line, class or category of insurance proposed for cancellation and/or nonrenewal.

4. An explanation of why cancellation or nonrenewal is necessary to cure the capacity problem and why other measures, including but not limited to cessation of new business writings, do not present a viable alternative to termination of existing business; and

5. With respect to terminations subject to N.J.A.C. 11:1-22, an explanation of how the cancellation or nonrenewals will be implemented with respect to individual risks and the steps that will be taken to ensure that the cancellation/nonrenewal decisions will not be applied in an arbitrary, capricious or unfairly discriminatory manner.

(b) Whenever an insurer proposes to cancel or nonrenew, on an individual basis, a policy which is subject to the provisions of this subchapter due to loss of or reduction in insurance capacity, the insurer shall furnish the Department with written notice of the termination. The notice shall include the information set forth at (a)1, 2 and 4 above and shall be mailed to the Department at the same time notice of termination is mailed or delivered to the insured.

New Rule, R.1987 d.114, effective February 17, 1987.
See: 18 N.J.R. 2301(b), 19 N.J.R. 359(a).

11:1-20.6 Cancellation and nonrenewal based on changes in statutory or case law

(a) Every cancellation or nonrenewal based on material increase in exposure resulting from changes in statutory or case law subsequent to issuance of the insurance contract shall be supported by the following documentation:

1. Copies of or appropriate references to the applicable statute or case;

2. A narrative description of the changes resulting from the statute or case and how the changes affect the coverages provided under the contract to increase the insurer's exposure in a material fashion. The narrative should also document that the modification to policy coverages arising from the change in statutory or case law was such that it could not have been reasonably foreseen by the insurer;

3. Identification of the individual risk(s), line(s), class(es) or subclass(es) of insurance affected by the change in statutory or case law;

4. If all risks within the lines, classes or subclasses identified in item 3 above are not to be cancelled or nonrenewed, an explanation of the basis for selection of individual risk(s) or lines, classes or subclasses, as applicable, which shall demonstrate that such selection is not arbitrary, capricious or unfairly discriminatory;

5. Explanation of why cancellation and/or nonrenewal is necessary to cure the insurer's increased exposure and why other measures, including but not limited to, premium modification or revision of coverage limits or terms, do not present a viable alternative to termination.

(b) Whenever an insurer proposes to cancel or nonrenew, on an individual basis, a policy which is subject to the provisions of this subchapter due to material increase in exposure arising out of changes in statutory or case law, the insurer shall furnish the Department with written notice of the termination. The notice shall include the information set forth at (a)1, 2, 3 and 5 above and shall be mailed to the Department at the same time notice of termination is mailed or delivered to the insured.

New Rule, R.1987 d.114, effective February 17, 1987.
See: 18 N.J.R. 2301(b), 19 N.J.R. 359(a).

11:1-20.7 Cancellation or nonrenewal based on loss of or substantial changes in applicable reinsurance

(a) Every cancellation or nonrenewal based on loss of or substantial changes in applicable reinsurance shall be supported by the following documentation:

1. All information set forth at N.J.A.C. 11:1-22.2(b)1;

2. Copy of termination notice or other notice reflecting substantial changes in applicable reinsurance;

3. Copy of order issued by insurance department or court of competent jurisdiction, where applicable; and

4. Name, address and telephone number of each reinsurer contacted by the insurer in its effort to obtain replacement coverage, name and title of each company representative contacted and the outcome.

(b) Whenever an insurer proposes to cancel or nonrenew, on an individual basis, a policy which is subject to the provisions of this subchapter due to loss of or substantial changes in applicable reinsurance, the insurer shall furnish the Department with written notice of the termination. The

notice shall include the information set forth at N.J.A.C. 11:1-22.2(b) and (a)2, 3 and 4 above.

(c) In lieu of cancellation or nonrenewal, insurers shall offer to continue the policyholder's coverage at limits which reflect at least the insurer's net retention as identified pursuant to (a) above. In no event shall the insurer's offer to continue coverage at reduced limits relieve it from requirements that are otherwise applicable to cancellations and nonrenewals under N.J.A.C. 11:1-22 or this subchapter.

New Rule, R.1987 d.114, effective February 17, 1987.
See: 18 N.J.R. 2301(b), 19 N.J.R. 359(a).
Amended by R.2006 d.307, effective September 5, 2006.
See: 37 N.J.R. 4156(a), 38 N.J.R. 3586(a).
In (a)1, deleted "through 8" from the end; and in (b), deleted "2, 3, 4 and 7" following the N.J.A.C. reference.

11:1-20.8 Cancellation and nonrenewal based on agency termination

(a) Every cancellation or nonrenewal based on agency termination shall be supported by the following documentation:

1. Explanation of the basis for the insurer's termination of the agency contract;

2. Explanation of why the individual risk(s) or line, class or subclass, as applicable, of insurance must be cancelled or nonrenewed as a result of the agency termination and why coverage cannot or should not be continued through referral to another active agent of the insurer or written by the insurer on a direct basis;

3. Evidence of the provision of replacement coverage to the insured, where applicable;

4. Copy of the insured's statement consenting to the termination of coverage, where applicable; and

5. Copy of the written notice issued by the insurer advising the insured of his or her right to continue coverage with the insurer.

New Rule, R.1987 d.114, effective February 17, 1987.
See: 18 N.J.R. 2301(b), 19 N.J.R. 359(a).

11:1-20.9 Policy provisions

No policy shall contain provisions which are inconsistent with the requirements of this subchapter.

Recodified from 11:1-20.5 by R.1987 d.114, effective February 17, 1987.
See: 18 N.J.R. 2301(b), 19 N.J.R. 359(a).

11:1-20.10 Separability

If any provision of this subchapter or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the subchapter and the application of such provision to other persons or circumstances shall not be affected thereby.

Recodified from 11:1-20.6 by R.1987 d.114, effective February 17, 1987.
See: 18 N.J.R. 2301(b), 19 N.J.R. 359(a).

11:1-20.11 Penalties

(a) In addition to any other penalty authorized by law, the Commissioner may, after notice and a hearing, impose penalties as prescribed by N.J.S.A. 17:29A-1 et seq., 17:29AA-1 et seq., 17:29B-7 and 11, 17:30C-1 et seq., 17:32-1 et seq. and 17:33-2.

(b) As an alternative or in addition to the penalties set forth in (a) above, the Commissioner, where he deems such action will further the purposes of this subchapter, may require immediate reinstatement without lapse of any policy which has been cancelled or nonrenewed in violation of the provisions of this subchapter.

1. The Commissioner shall not order any reinstatement more than one year after the effective date of the nonrenewal or cancellation, provided, however, that the one year period shall be tolled during the course of any administrative proceedings initiated by the Department and any subsequent judicial review of those proceedings.

2. Nothing herein shall be deemed to create any right or cause of action on behalf of any insured to enforce the penalties set forth in this subsection.

Amended and recodified from 11:1-20.7 by R.1987 d.114, effective February 17, 1987.
See: 18 N.J.R. 2301(b), 19 N.J.R. 359(a).

11:1-20.12 (Reserved)

SUBCHAPTER 21. LOSS RESERVE OPINIONS

11:1-21.1 General requirements

(a) Every licensed company writing property and casualty insurance in New Jersey must submit, as an addendum to the Annual Statement, a statement of opinion relating to loss and loss adjustment expense reserves for all lines of business written by the company. Loss reserve opinions shall adhere to the requirements of the Annual Statement instructions pursuant to N.J.S.A. 17:23-1, except to the extent that the requirements of this subchapter are different. All statements of opinion shall adhere to the following requirements:

1. The statement of opinion shall be in the form of a letter and must be submitted by March 1; and

2. The statement of opinion shall be prepared and signed by a qualified actuary. A "qualified actuary" shall mean:

i. A fellow in good standing of the Casualty Actuarial Society with three years recent experience in loss reserving;

ii. An associate in good standing of the Casualty Actuarial Society with five years recent experience in loss reserving; or

iii. A member in good standing of the American Academy of Actuaries who has been approved as qualified for signing casualty loss reserve opinions by the Casualty Practice Council of the American Academy of Actuaries and who has seven years recent experience in loss reserving.

(b) Failure to file the statement of opinion in the form and time frame specified in this subchapter will subject the company to the penalties described in N.J.S.A. 17:23-2.

(c) The statement of opinion must consist of a paragraph identifying the actuary, a scope paragraph describing the subjects on which an opinion is to be expressed and describing the scope of the actuary's review, and an opinion paragraph expressing the conclusions of the actuary. One or more additional paragraphs may be needed in individual cases if the actuary must qualify the opinion or explain some aspect of the annual statement which is not already sufficiently explained in the annual statement.

(d) N.J.A.C. 11:1-21.3 and 11:1-21.4 provide examples for illustrative purposes, of language which in typical circumstances would be included in the remainder of the statement of opinion. The illustrative language should be modified as needed to meet the circumstances of a particular case, and the actuary should in any case use language which clearly expresses his or her professional judgment.

Amended by R.1996 d.80, effective February 20, 1996.
See: 27 N.J.R. 3556(a), 28 N.J.R. 1212(a).

11:1-21.2 Identification paragraph

(a) The opening paragraph must indicate the actuary's relationship to the company.

1. For a company actuary, the opening paragraph of the opinion should contain the sentence: "I, (name and title of actuary), am an officer (employee) of (named insurer) and meet the requirements of a qualified actuary as set forth in N.J.A.C. 11:1-21.1(a)."

2. For a consultant, the opening paragraph of the opinion should contain the sentence: "I, (name and title of consultant), am associated with the firm of (name of firm if applicable). I am a fellow of the Casualty Actuarial Society meeting the requirements of a qualified actuary and have been retained by the (name of insurer) with regard to loss and loss adjustment expense reserves."

Amended by R.1996 d.80, effective February 20, 1996.
See: 27 N.J.R. 3556(a), 28 N.J.R. 1212(a).

11:1-21.3 Scope paragraph

(a) The scope paragraph must contain a sentence such as the following: "I have examined the assumptions and methods used in determining reserves as shown in the annual statement of the company as prepared for filing with New Jersey Department of Banking and Insurance, as of December 31, 20__." The paragraph should list those items and amounts with respect to which the actuary is expressing an opinion. The list must include but not necessarily be limited to:

1. Reserve amount for unpaid losses.

2. Reserve amount for unpaid loss adjustment expenses.

(b) If the actuary has examined the underlying records and/or summaries, the scope paragraph must also include a sentence such as the following: "My examination included such review of the assumptions and methods used and of the underlying basis records and/or summaries and such tests and calculations as I considered necessary."

(c) If the actuary has not examined the underlying records and/or summaries, but has relied upon those prepared by the company, the scope paragraph must include a sentence such as one of the following:

1. "I relied upon underlying records and/or summaries prepared by the responsible officers or employees of the company or group to which it belongs. In other respects, my examination included such review of the assumptions and methods used and such tests of the calculations as I considered necessary."

2. "I relied upon (name of firm) for the accuracy of the underlying records and/or summaries. In other respects, my examination included such review of the underlying assumptions and methods used and such tests of the calculations as I considered necessary."

Amended by R.2001 d.75, effective March 5, 2001.
See: 32 N.J.R. 4184(a), 33 N.J.R. 794(a).
In (a), substituted "20" for "19".

11:1-21.4 Opinion paragraph

(a) The opinion paragraph must include a sentence which covers at least the points listed in the following illustration: "In my opinion, the amounts carried in the balance sheet on account of the items identified above:

1. Are computed in accordance with generally accepted loss reserving practices and are fairly stated in accordance with sound loss reserving principles;

2. Are based on factors relevant to policy provisions;

3. Meet the requirements of the insurance laws of (state of domicile); and

4. Make a reasonable provision for all unpaid loss and loss expense obligations of the Company under the terms of its policies and agreements."

i. Reasonable in (a)4 above shall mean with good and sufficient reason, being in the judgment of the actuary neither inadequate nor excessive.

(b) If there has been any material change in the assumptions and/or methods from those of previous statements of opinion, that change should be described in the statement of opinion by inserting a phrase such as: "A material change in assumptions (and/or methods) was made during the past year, but such change accords with accepted loss reserving practices." A description of the change should follow, including how it affects reserve amounts.

(c) If unable to form an opinion, the actuary should refuse to issue a statement of opinion. If the opinion is adverse or qualified, the actuary should issue an adverse or qualified opinion explicitly stating the reason(s) for such opinion.

11:1-21.5 Exemptions

(a) The Commissioner will only consider two circumstances under which an exemption from the requirements of this subchapter may be granted. An exemption request is only appropriate for small companies or due to the nature of the business. An insurer which intends to file for exemption shall submit a letter of intent to the Commissioner no later than December 1 of the calendar year for which the exemption is to be claimed. The Commissioner may deny the exemption in writing prior to December 31 of the same year if the exemption does not meet the requirements set forth below. A certified copy of the approved exemption shall be filed with the Annual Statement in all jurisdictions in which the company is authorized. Unless the Commissioner finds that an insurer is or may be in a hazardous financial condition pursuant to N.J.A.C. 11:2-27.3, an exemption may be granted in accordance with the following requirements:

1. An insurer otherwise subject to these rules has less than $1,000,000 total direct plus assumed written premiums during a calendar year. In lieu of the opinion required for that calendar year for which the exemption is to be claimed, the insurer may submit an affidavit under oath of an officer of the insurer that specifies that amount of direct plus assumed premiums written.

2. An exemption based on the nature of the business may be granted upon application to the Commissioner from an insurer otherwise subject to this subchapter and not eligible for the exemption in (a)1 above, if the nature of business written by the insurer includes only the following lines:

i. Fires;

ii. Allied lines;

iii. Automobile physical damage;

iv. Glass;

v. Burglary and theft; and

vi. Boiler and machinery.

New Rule, R.1996 d.80, effective February 20, 1996.
See: 27 N.J.R. 3556(a), 28 N.J.R. 1212(a).

SUBCHAPTER 21A. ACTUARIAL OPINION AND MEMORANDUM FOR LIFE/HEALTH INSURERS

11:1-21A.1 Purpose and scope

(a) The purpose of these rules is to prescribe:

1. Requirements for statements of actuarial opinion and for memoranda in support thereof;

2. Rules applicable to the appointment of an appointed actuary; and

3. Guidance as to the meaning of "adequacy of reserves."

(b) These rules shall apply to all insurers authorized or admitted to transact life, accident and health or annuity business in this State, all fraternal benefit societies doing business in this State pursuant to N.J.S.A. 17:44B-1 et seq., and to all such insurers and fraternal benefit societies which are authorized to reinsure life insurance, annuities or accident and health insurance business in this State.

(c) These rules shall apply to all annual statements filed with the Commissioner on or after November 20, 1995, and the amendments effective April 17, 2006 (see 38 N.J.R. 101(a) and 1737(a)) shall apply to all annual statements filed with the Commissioner on or after April 17, 2006. A statement of opinion on the adequacy of the reserves and related actuarial items based on an asset adequacy analysis in accordance with N.J.A.C. 11:1-21A.4, and a memorandum in support thereof in accordance with N.J.A.C. 11:1-21A.5, shall be required each year.

Amended by R.2006 d.146, effective April 17, 2006.
See: 38 N.J.R. 101(a), 38 N.J.R. 1737(a).
Rewrote the section.

11:1-21A.2 Definitions

The following words and terms, as used in this subchapter, shall have the following meanings, except where the context clearly indicates otherwise.

"Actuarial opinion" means the opinion of an appointed actuary regarding the adequacy of the reserves and related actuarial items based on an asset adequacy analysis in accordance both with N.J.A.C. 11:1-21A.4 and with actuarial standards applicable at the time of rendering the opinion;

"Actuarial Standards Board" means the board established by the American Academy of Actuaries to develop and promulgate standards of actuarial practice.