

CHAPTER 2

INSURANCE GROUP

Authority

N.J.S.A. 17:1-8.1, 17:1-15e, 17:17-1 et seq., 17B:17-1 et seq., 34:15-77, and 54:18A-1 et seq.

Source and Effective Date

R.2005 d.350, effective September 21, 2005.
37 N.J.R. 2285(a), 37 N.J.R. 4026(a).

Chapter Expiration Date

Chapter 2, Insurance Group, expires on September 21, 2010.

Chapter Historical Note

Chapter 2, Insurance Group, was adopted and became effective prior to September 1, 1969.

Subchapter 10, Casualty Insurers, Personal Lines Insurance, was adopted as new rules by R.1970 d.71, effective June 26, 1970.

Subchapter 11, Rules Governing Advertisement of Health Insurance, was adopted as new rules by R.1972 d.95, effective May 16, 1972. See: 4 N.J.R. 69(b), 4 N.J.R. 128(d).

Subchapter 12, Mass Marketing of Property and Liability Insurance, was adopted as new rules by R.1974 d.271, effective September 25, 1974. See: 6 N.J.R. 313(d), 6 N.J.R. 408(a).

Subchapter 13, Group Coverage Discontinuance and Replacement, was adopted as new rules by R.1974 d.272, effective February 1, 1975. See: 5 N.J.R. 342(c), 6 N.J.R. 409(a).

Subchapter 17, Unfair Claims Settlement Practices, was adopted as new rules by R.1981 d.407, effective November 2, 1981, operative January 15, 1982. See: 12 N.J.R. 600(f), 13 N.J.R. 774(c), 13 N.J.R. 894(a).

Subchapter 18, Readable Policies, was adopted as new rules by R.1982 d.410, effective November 15, 1982. See: 14 N.J.R. 967(a), 14 N.J.R. 1307(c).

Subchapter 10, Casualty Insurers, Personal Lines Insurance, was repealed by R.1985 d.71, effective February 19, 1985. See: 16 N.J.R. 2920(a), 17 N.J.R. 458(b).

Subchapter 23, Advertisement of Life Insurance and Annuities, was adopted as new rules by R.1985 d.600, effective November 18, 1985. See: 16 N.J.R. 2626(a), 17 N.J.R. 2776(a).

Subchapter 19, Approval of Insurance Schools and Company Training Programs, was adopted as new rules by R.1985 d.608, effective December 2, 1985. See: 16 N.J.R. 2920(b), 17 N.J.R. 2901(b).

Subchapter 1, Educational Requirements for Licensing, was repealed, and Subchapter 19, Approval of Insurance Schools and Company Training Programs, was repealed by R.1989 d.192, effective April 3, 1989. See: 20 N.J.R. 1152(a), 21 N.J.R. 899(b).

Subchapter 26, Annual Audited Financial Reports, was adopted as new rules by R.1989 d.612, effective December 18, 1989. See: 21 N.J.R. 3054(a), 21 N.J.R. 3919(b).

Pursuant to Executive Order No. 66(1978), Chapter 2, Insurance Group, was readopted as R.1991 d.4, effective November 30, 1990, and Subchapter 8, Mid-Term Substitution by Mortgagor of Insurance Policies, was repealed, effective January 7, 1991, by R.1991 d.4. See: 22 N.J.R. 1673(a), 23 N.J.R. 103(a).

Subchapter 32, Custodial Deposits, was adopted as new rules by R.1991 d.14, effective January 7, 1991. See: 22 N.J.R. 2640(a), 23 N.J.R. 105(a).

Subchapter 31, Manner of Determining Premium for Perpetual Homeowners Insurance, was adopted as new rules by R.1991 d.139, effective March 18, 1991. See: 22 N.J.R. 601(a), 23 N.J.R. 860(b).

Subchapter 29, Orderly Withdrawal of Insurance Business, was adopted as new rules by R.1991 d.262, effective May 20, 1991. See: 23 N.J.R. 15(b), 23 N.J.R. 1673(a).

Subchapter 35, Relief from Insurer Obligations Under the Fair Automobile Insurance Reform Act of 1990, was adopted as new rules by R.1991 d.519, effective October 21, 1991. See: 23 N.J.R. 660(a), 23 N.J.R. 3166(a).

Subchapter 27, Determination of Insurers in a Hazardous Financial Condition, was adopted as new rules by R.1992 d.292, effective July 6, 1992. See: 23 N.J.R. 3197(a), 24 N.J.R. 2456(a).

Subchapter 33, Workers' Compensation Self-Insurance, was adopted as new rules by R.1993 d.157, effective April 5, 1993. See: 24 N.J.R. 1944(a), 24 N.J.R. 2708(b), 25 N.J.R. 1526(a).

Subchapter 28, Credit for Reinsurance, was adopted as emergency new rules by R.1993 d.448, effective August 16, 1993, expires October 15, 1993. See: 25 N.J.R. 4289(a). The provisions of R.1993 d.448 were readopted as R.1993 d.557, effective October 15, 1993. See: 25 N.J.R. 4289(a), 25 N.J.R. 5184(a).

Subchapter 36, Risk Retention Groups and Purchasing Groups, was adopted as emergency new rules by R.1993 d.449, effective August 16, 1993, expires October 15, 1993. See: 25 N.J.R. 4298(a). The provisions of R.1993 d.449 were readopted as R.1993 d.558, effective October 15, 1993. See: 25 N.J.R. 4298(a), 25 N.J.R. 5197(a).

Subchapter 37, Producer-Controlled Insurers, was adopted as emergency new rules by R.1993 d.450, effective August 16, 1993, expires October 15, 1993. See: 25 N.J.R. 4304(a). The provisions of R.1993 d.450 were readopted as R.1993 d.559, effective October 15, 1993. See: 25 N.J.R. 4304(a), 25 N.J.R. 5202(a).

Subchapter 38, Increase in Property and Casualty Capital and Surplus Requirements, was adopted as emergency new rules by R.1993 d.451, effective August 16, 1993, expires October 15, 1993. See: 25 N.J.R. 4306(a). The provisions of R.1993 d.451 were readopted as R.1993 d.560, effective October 15, 1993. See: 25 N.J.R. 4306(a), 25 N.J.R. 5204(a).

Subchapter 39, Increase in Capital and Surplus Requirements for Life and Health Insurers, was adopted as emergency new rules by R.1993 d.452, effective August 16, 1993, expires October 15, 1993. See: 25 N.J.R. 4309(a). The provisions of R.1993 d.452 were readopted as R.1993 d.561, effective October 15, 1993. See: 25 N.J.R. 4309(a), 25 N.J.R. 5208(a).

Subchapter 40, Life, Health and Annuity Reinsurance Agreements, was adopted as emergency new rules by R.1993 d.453, effective August 16, 1993, expires October 15, 1993. See: 25 N.J.R. 4314(a). The provisions of R.1993 d.453 were readopted as R.1993 d.562, effective October 15, 1993. See: 25 N.J.R. 4314(a), 25 N.J.R. 5212(a).

Subchapter 34, Surplus Lines Insurance: Allocation of Premium Tax and Surcharge, was adopted as new rules by R.1993 d.582, effective November 15, 1993. See: 25 N.J.R. 1826(a), 25 N.J.R. 5194(a).

Petition for Rulemaking. See: 26 N.J.R. 2487(b).

Subchapter 41, Windstorm Market Assistance Program, was adopted as new rules by R.1995 d.53, effective January 17, 1995. See: 26 N.J.R. 4304(a), 27 N.J.R. 364(a).

Subchapter 1, Admission Requirements for Foreign and Alien Life and Health Insurers, was adopted as new rules by R.1995 d.80, effective February 6, 1995. See: 26 N.J.R. 4586(a), 27 N.J.R. 559(a).

Pursuant to Executive Order No. 66(1978), Chapter 2, Insurance Group, was readopted as R.1996 d.3, effective November 30, 1995, with amendments effective January 2, 1996. See: 27 N.J.R. 3278(b), 28 N.J.R. 152(b).

Subchapter 39, Increase in Capital and Surplus Requirements For Life and Health Insurers, was renamed Increase in Capital and Surplus Requirements for Insurers by R.1997 d.186, effective May 5, 1997. See: 29 N.J.R. 404(a), 29 N.J.R. 2175(b).

Pursuant to Executive Order No. 66(1978), Chapter 2, Insurance Group, was readopted as R.2001 d.6, effective November 30, 2000. See: 32 N.J.R. 3530(a), 33 N.J.R. 85(a).

Subchapter 14, Procedures for the Conduct of Voting on a Plan of Reorganization of a Domestic Mutual Life Insurer, was adopted as new rules by R.2001 d.84, effective March 5, 2001. See 32 N.J.R. 4330(a), 33 N.J.R. 802(a).

Subchapter 19, Designation of Third Party for Certain Notifications by Senior Citizen Insureds, was adopted as new rules by R.2002 d.210, effective July 1, 2002. See: 34 N.J.R. 366(a), 34 N.J.R. 2315(a).

Subchapter 42, Homeowners' Insurance: Standard Hurricane Deductibles And Expedited Process for Homeowners' Insurance Changes, was adopted as new rules by R.2003 d.450, effective November 17, 2003. See: 35 N.J.R. 1189(a), 35 N.J.R. 5280(b).

Subchapter 43, Treatment of Allocated Deposit-Type Deferred Contract Funds for Purposes of Calculating the Special Purpose Apportionment and the Fraud Assessment, was adopted as new rules by R. 2004, d.407, effective November 1, 2004. See: 36 N.J.R. 2976(a), 36 N.J.R. 4929(a).

Chapter 2, Insurance Group, was readopted by R.2005 d.350, effective September 21, 2005. As part of R.2005, d.350, Subchapter 38, Temporary Waiver from Increase in Property and Casualty Capital and Surplus Requirements, was repealed, effective October 17, 2005. See: Source and Effective Date. See, also, section annotations.

Subchapter 39, Increase in Capital and Surplus Requirements for Insurers, was renamed Increase in Capital and Surplus Requirements for Insurers and Health Maintenance Organizations by R.2005 d.421, effective December 5, 2005. See: 37 N.J.R. 2992(a), 37 N.J.R. 4556(b).

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. ADMISSION REQUIREMENTS FOR FOREIGN AND ALIEN LIFE AND HEALTH INSURERS

- 11:2-1.1 Purpose
- 11:2-1.2 Scope
- 11:2-1.3 Definitions
- 11:2-1.4 General eligibility requirements
- 11:2-1.5 Letter of intent
- 11:2-1.6 Final application
- 11:2-1.7 Review procedures; appeals
- 11:2-1.8 Severability

SUBCHAPTER 2. INSURANCE ON FINANCED AUTOMOBILES

- 11:2-2.1 Return of unearned premiums

SUBCHAPTER 3. CREDIT LIFE INSURANCE AND CREDIT ACCIDENT AND HEALTH INSURANCE

- 11:2-3.1 Scope
- 11:2-3.2 Definitions
- 11:2-3.3 Forms
- 11:2-3.4 Amount
- 11:2-3.5 Term
- 11:2-3.6 Policy provisions, disclosure to debtors
- 11:2-3.7 Credit life insurance in connection with leases of personal property
- 11:2-3.8 Credit accident and health insurance in connection with leases of personal property
- 11:2-3.9 Open-end credit coverage
- 11:2-3.10 Balloon coverage
- 11:2-3.11 Prohibited provisions of credit insurance policies
- 11:2-3.12 Delivery of policy; procedures
- 11:2-3.13 Application or notice of proposed insurance
- 11:2-3.14 Filing
- 11:2-3.15 Group policy; delivery
- 11:2-3.16 Disapproval by Commissioner

- 11:2-3.17 Standards for premium rates
- 11:2-3.18 Joint credit accident and health insurance
- 11:2-3.19 Maximum payments by debtors
- 11:2-3.20 Refunds
- 11:2-3.21 Maintenance of statistics
- 11:2-3.22 Issuance of policies
- 11:2-3.23 Payment of claims
- 11:2-3.24 Existing insurance; choice of insurer
- 11:2-3.25 Separability
- 11:2-3.26 Effect on previously filed forms and rates

APPENDIX CREDIT ACCIDENT AND HEALTH INSURANCE

SUBCHAPTER 4. ELECTRONIC DATA PROCESSING EQUIPMENT

- 11:2-4.1 Cost of equipment as admitted asset

SUBCHAPTER 5. PROXIES, CONSENTS AND AUTHORIZATIONS

- 11:2-5.1 Applicability
- 11:2-5.2 Solicitation; prohibition
- 11:2-5.3 Disclosure of equivalent information
- 11:2-5.4 Definitions
- 11:2-5.5 Information to be furnished to stockholders
- 11:2-5.6 Proxy requirements
- 11:2-5.7 Material required to be filed
- 11:2-5.8 False or misleading statements
- 11:2-5.9 Undated or postdated proxy; prohibition
- 11:2-5.10 Election contests; special provisions

SUBCHAPTER 6. INFORMATION REQUIRED IN PROXY STATEMENT, GENERALLY

- 11:2-6.1 Revocability of proxy
- 11:2-6.2 Dissenters' rights of appraisal
- 11:2-6.3 Solicitation by management
- 11:2-6.4 Solicitation by nonmanagement
- 11:2-6.5 Solicitation by specially engaged employees or paid solicitors
- 11:2-6.6 Disclosure of interests of solicitors
- 11:2-6.7 Stocks and principal stockholders
- 11:2-6.8 Nominees and directors
- 11:2-6.9 Remuneration and other transactions with management and others
- 11:2-6.10 Bonus, profit sharing and other remuneration plans
- 11:2-6.11 Pension and retirement plan
- 11:2-6.12 Options, warrants or rights
- 11:2-6.13 Authorization or issuance of stock
- 11:2-6.14 Mergers, consolidations, acquisitions and similar matters
- 11:2-6.15 Restatement of accounts
- 11:2-6.16 Matters not required to be submitted
- 11:2-6.17 Amendment of charter, bylaws or other documents

SUBCHAPTER 7. INFORMATION REQUIRED BY PARTICIPANTS IN PROXY SOLICITATION IN ELECTION CONTESTS

- 11:2-7.1 Required information

SUBCHAPTER 8. (RESERVED)

SUBCHAPTER 9. INSIDER TRADING OF DOMESTIC STOCK INSURANCE COMPANY EQUITY SECURITIES

- 11:2-9.1 Definitions
- 11:2-9.2 Transactions exempted from the operation of N.J.S.A. 17:17B-2
- 11:2-9.3 Filing of statements under N.J.S.A. 17:17B-1
- 11:2-9.4 Ownership of more than 10 percent of an equity security under N.J.S.A. 17:17B-1

INSURANCE GROUP

- 11:2-9.5 Disclaimer of beneficial ownership under N.J.S.A. 17:17B-1
- 11:2-9.6 Exemptions from N.J.S.A. 17:17B-1 and 2
- 11:2-9.7 Exemption from Act of securities purchased or sold by odd-lot dealers
- 11:2-9.8 Transferable options, puts, calls, spreads and straddles
- 11:2-9.9 Ownership of securities held in trust
- 11:2-9.10 Exemption from N.J.S.A. 17:17B-1; small transactions
- 11:2-9.11 Exemption from N.J.S.A. 17:17B-2 of transactions which need not be reported under N.J.S.A. 17:17B-1
- 11:2-9.12 Exemption from N.J.S.A. 17:17B-2—certain transactions effected in connection with a distribution
- 11:2-9.13 Exemption from N.J.S.A. 17:17B-2—acquisitions of shares of stock and stock options under certain stock bonus, stock option or similar plans
- 11:2-9.14 Exemption from N.J.S.A. 17:17B-2—certain transactions in which securities are received by redeeming other securities
- 11:2-9.15 Exemption of long-term profits incident to sales within six months of exercise of an option
- 11:2-9.16 Exemption from N.J.S.A. 17:17B-2—certain acquisitions and dispositions of securities pursuant to merger or consolidations
- 11:2-9.17 Exemption from N.J.S.A. 17:17B-2—certain securities received upon surrender of similar equity securities
- 11:2-9.18 Exemption from N.J.S.A. 17:17B-2—certain transactions involving exchange of similar securities
- 11:2-9.19 Exemption from N.J.S.A. 17:17B-3—certain securities
- 11:2-9.20 Exemption from N.J.S.A. 17:17B-3—certain transactions effected in connection with a distribution
- 11:2-9.21 Exemption from N.J.S.A. 17:17B-3—sales of securities to be acquired
- 11:2-9.22 Arbitrage transactions under N.J.S.A. 17:17B-5
- 11:2-9.23 Instructions for Form A
- 11:2-9.24 Form A
- 11:2-9.25 Instructions for Form B
- 11:2-9.26 Form B

SUBCHAPTER 10. (RESERVED)

SUBCHAPTER 11. RULES GOVERNING ADVERTISEMENT OF HEALTH INSURANCE

- 11:2-11.1 Purpose, general provisions and definitions
- 11:2-11.2 Advertisements in general
- 11:2-11.3 Advertisements of benefits payable, losses covered or premiums payable
- 11:2-11.4 Necessity for disclosing policy provisions relating to renewability, cancellability and termination
- 11:2-11.5 Method of disclosure of required information
- 11:2-11.6 Endorsements by third parties
- 11:2-11.7 Use of statistics
- 11:2-11.8 Inspection of policy
- 11:2-11.9 Identification of plan or number of policies
- 11:2-11.10 Disparaging comparisons and statements
- 11:2-11.11 Jurisdictional licensing
- 11:2-11.12 Identity of insurer
- 11:2-11.13 Group or quasi-group implications
- 11:2-11.14 Introductory, initial or special offers
- 11:2-11.15 (Reserved)
- 11:2-11.16 Service facilities
- 11:2-11.17 Statements about an insurer
- 11:2-11.18 Insurers' responsibility and control; advertising file; certificate of compliance
- 11:2-11.19 Penalties
- 11:2-11.20 Prior regulation superseded
- 11:2-11.21 Effective date
- 11:2-11.22 Severability

SUBCHAPTER 12. MASS MARKETING OF PROPERTY AND LIABILITY INSURANCE

- 11:2-12.1 Introduction
- 11:2-12.2 Definitions
- 11:2-12.3 Applicability

- 11:2-12.4 Fictitious arrangement prohibited
- 11:2-12.5 Premiums and policy forms
- 11:2-12.6 Statistics
- 11:2-12.7 Producers
- 11:2-12.8 Compulsory participation prohibited
- 11:2-12.9 Tie-in sales prohibited
- 11:2-12.10 Disclosure required
- 11:2-12.11 Underwriting standards
- 11:2-12.12 Cancellation and nonrenewal
- 11:2-12.13 Compulsory facilities
- 11:2-12.14 Eligibility
- 11:2-12.15 Severability

SUBCHAPTER 13. GROUP COVERAGE DISCONTINUANCE AND REPLACEMENT

- 11:2-13.1 Purpose and scope
- 11:2-13.2 Definitions
- 11:2-13.3 Effective date of discontinuance for nonpayment of premium or subscription charges
- 11:2-13.4 Requirements for notice of discontinuance
- 11:2-13.5 Extension of benefits
- 11:2-13.6 Replacement carrier coverage
- 11:2-13.7 Noncompliance
- 11:2-13.8 (Reserved)
- 11:2-13.9 (Reserved)

SUBCHAPTER 14. PROCEDURES FOR THE CONDUCT OF VOTING ON A PLAN OF REORGANIZATION OF A DOMESTIC MUTUAL LIFE INSURER

- 11:2-14.1 Purpose and scope
- 11:2-14.2 Definitions
- 11:2-14.3 Policyholders entitled to notice and vote and manner of giving notice
- 11:2-14.4 Policyholder communication
- 11:2-14.5 Mailing, receipt, custody, and safeguarding of ballots
- 11:2-14.6 Presumptions as to ballot validity
- 11:2-14.7 Voting on the plan
- 11:2-14.8 Assistance with voting
- 11:2-14.9 Vote confirmation
- 11:2-14.10 Agents
- 11:2-14.11 Penalties

SUBCHAPTER 15. INSOLVENT INSURERS

- 11:2-15.1 Cancellation of property and liability policies

SUBCHAPTER 16. GUARANTEED ARREST BOND CERTIFICATES OF AUTOMOBILE CLUB UNDERTAKING

- 11:2-16.1 General provisions

SUBCHAPTER 17. UNFAIR CLAIMS SETTLEMENT PRACTICES

- 11:2-17.1 Purpose
- 11:2-17.2 Scope
- 11:2-17.3 Definitions
- 11:2-17.4 Miscellaneous rules
- 11:2-17.5 Misrepresentation of policy provisions
- 11:2-17.6 Rules for replying to pertinent communications
- 11:2-17.7 Rules for prompt investigation and settlement of claims
- 11:2-17.8 Rules for fair and equitable settlements and reasonable explanations applicable to all insurance
- 11:2-17.9 Rules for fair and equitable settlements applicable to life and health insurance
- 11:2-17.10 Rules for fair and equitable settlements applicable to property and liability insurance
- 11:2-17.11 Written notice by insurers of payment of claims
- 11:2-17.12 Examinations
- 11:2-17.13 Special claims reports
- 11:2-17.14 Separability

11:2-17.15 Penalties

SUBCHAPTER 18. READABLE POLICIES

11:2-18.1 Purpose
 11:2-18.2 Scope
 11:2-18.3 Definitions
 11:2-18.4 Minimum readability standards
 11:2-18.5 Procedures for requesting an opinion of compliance with the Plain Language Law
 11:2-18.6 Enforcement
 11:2-18.7 Separability

SUBCHAPTER 19. DESIGNATION OF THIRD PARTY FOR CERTAIN NOTIFICATIONS BY SENIOR CITIZEN INSUREDS

11:2-19.1 Purpose and scope
 11:2-19.2 Definitions
 11:2-19.3 Designation third party to receive copies of certain notices
 11:2-19.4 Penalties

SUBCHAPTERS 20 THROUGH 22. (RESERVED)

SUBCHAPTER 23. ADVERTISEMENT OF LIFE INSURANCE AND ANNUITIES

11:2-23.1 Purpose
 11:2-23.2 Applicability
 11:2-23.3 Definitions
 11:2-23.4 Form and content of advertisements in general
 11:2-23.5 Disclosure requirements
 11:2-23.6 Identification of insurer, plan and number of policies
 11:2-23.7 Jurisdictional licensing and status of insurer; statements about the insurer
 11:2-23.8 Insurer's responsibility and control; advertising file; certificate of compliance
 11:2-23.9 Failure to comply
 11:2-23.10 Severability

SUBCHAPTERS 24 THROUGH 25. (RESERVED)

SUBCHAPTER 26. ANNUAL AUDITED FINANCIAL REPORTS

11:2-26.1 Purpose
 11:2-26.2 Scope
 11:2-26.3 Definitions
 11:2-26.4 Filing of annual audited financial reports; extensions
 11:2-26.5 Contents of annual audited financial report
 11:2-26.6 Qualifications of independent certified public accountants
 11:2-26.7 Certification by independent certified public accountant
 11:2-26.8 Consolidated or combined audits
 11:2-26.9 Scope of examination and report
 11:2-26.10 Notification of adverse financial condition
 11:2-26.11 Report on significant deficiencies in internal controls
 11:2-26.12 Accountant's letter of qualifications
 11:2-26.13 Availability and maintenance of workpapers
 11:2-26.14 Exemptions
 11:2-26.15 Alien insurers
 11:2-26.16 Confidentiality of documents
 11:2-26.17 Penalties
 11:2-26.18 Severability

SUBCHAPTER 27. DETERMINATION OF INSURERS IN A HAZARDOUS FINANCIAL CONDITION

11:2-27.1 Purpose and scope
 11:2-27.2 Definitions
 11:2-27.3 Determination of hazardous financial conditions; factors

11:2-27.4 Determination of hazardous financial condition; corrective action

SUBCHAPTER 28. CREDIT FOR REINSURANCE

11:2-28.1 Purpose and scope
 11:2-28.2 Definitions
 11:2-28.3 Reinsurer licensed in New Jersey
 11:2-28.4 Reinsurer accredited in New Jersey
 11:2-28.5 Reinsurer domiciled and licensed in another state or jurisdiction which employs substantially similar standards to this subchapter
 11:2-28.6 Reinsurer maintaining trust funds
 11:2-28.7 Credit for reinsurance required by law
 11:2-28.8 Reduction from liability for reinsurance ceded to an unauthorized assuming insurer
 11:2-28.9 Trust agreements qualified pursuant to N.J.A.C. 11:2-28.8
 11:2-28.10 Letters of credit qualified pursuant to N.J.A.C. 11:2-28.8 and 28.9
 11:2-28.11 Other security
 11:2-28.12 Reinsurance contract
 11:2-28.13 Contracts affected

APPENDIX

SUBCHAPTER 29. ORDERLY WITHDRAWAL OF INSURANCE BUSINESS

11:2-29.1 Purpose and scope
 11:2-29.2 Definitions
 11:2-29.3 General provisions
 11:2-29.4 Elements of proposed plan of orderly withdrawal
 11:2-29.5 Replacement; non-renewal
 11:2-29.6 Agent rights
 11:2-29.7 Confidentiality of plan of orderly withdrawal
 11:2-29.8 Informational filing withdrawals
 11:2-29.9 Fines and penalties
 11:2-29.10 Severability

SUBCHAPTER 30. (RESERVED)

SUBCHAPTER 31. MANNER OF DETERMINING PREMIUM FOR PERPETUAL HOMEOWNERS INSURANCE

11:2-31.1 Purpose
 11:2-31.2 Scope
 11:2-31.3 Definitions
 11:2-31.4 Determination of premium
 11:2-31.5 Data filed; examination
 11:2-31.6 Penalties

SUBCHAPTER 32. CUSTODIAL DEPOSITS

11:2-32.1 Purpose and scope
 11:2-32.2 Definitions
 11:2-32.3 Deposits with custodian; establishment of fees
 11:2-32.4 Compliance dates
 11:2-32.5 Penalties

SUBCHAPTER 33. WORKERS' COMPENSATION SELF-INSURANCE

11:2-33.1 Purpose and scope
 11:2-33.2 Definitions
 11:2-33.3 Exemption from insuring compensation liability; filing requirements
 11:2-33.4 Renewals
 11:2-33.5 Confidentiality
 11:2-33.6 Cancellation of exemption
 11:2-33.7 Failure to comply with subchapter; denial of exemption
 11:2-33.8 Severability

(e) An advertisement shall not contain statements, pictures, or illustrations which are false or misleading, in fact or by implication, with respect to the assets, liabilities, insurance in force, corporate structure, financial condition, age or relative position of the insurer in the insurance business. An advertisement shall not contain a recommendation by any commercial rating system unless it clearly defines the scope and extent of the recommendation.

11:2-23.8 Insurer's responsibility and control; advertising file; certificate of compliance

(a) All advertisements, regardless of by whom written, created or designed, shall be the responsibility of the insurer sponsoring the same.

(b) Every insurer shall at all times maintain complete control over the content, form and method of distribution of all advertisements of its contracts.

(c) Each insurer shall maintain at its home or principal office a complete file containing every printed, published or prepared advertisement of blanket, franchise, and group policies hereafter distributed in this state, with a notation attached to each such advertisement which shall indicate the manner and extent of distribution and the form number of any policy advertised.

(d) Such file shall be subject to regular and periodic inspection by the Department.

(e) All such advertisements shall be maintained in said file for a period of five years from their last use.

(f) Each insurer required to file an annual statement which is now or which hereafter becomes subject to the provisions of this subchapter must file with the Department, together with its annual statement, a certificate executed by an authorized officer of the insurer wherein it is stated that to the best of his knowledge, information and belief the advertisements were disseminated by the insurer during the preceding statement year complied or were made to comply in all respects with the provisions of the insurance laws of this State as implemented and interpreted by this subchapter.

Amended by R.1989 d.391, effective July 17, 1989.

See: 21 N.J.R. 970(a), 21 N.J.R. 2039(a), 21 N.J.R. 2290(a).

Deleted requirement that files be maintained for not less than four years.

Amended by R.2001 d.6, effective January 2, 2001.

See: 32 N.J.R. 3530(a), 33 N.J.R. 85(a).

11:2-23.9 Failure to comply

Failure to comply with the provisions of this subchapter shall subject the offender to the penalties set forth under N.J.S.A. 17B:30-17 and any other penalty authorized by law.

11:2-23.10 Severability

If any provision or clause of this subchapter or the application thereof to any person or situation is held invalid, such invalidity shall not affect any other provision or application of the subchapter which can be given effect without the invalid provision or application, and to this end the provisions of this subchapter are declared to be severable.

SUBCHAPTERS 24 THROUGH 25. (RESERVED)

SUBCHAPTER 26. ANNUAL AUDITED FINANCIAL REPORTS

11:2-26.1 Purpose

(a) The purpose of this subchapter is to improve the Department's surveillance of the financial position of insurers by requiring an annual examination by independent certified public accountants of the financial statements reporting the financial position and the results of operations of insurers.

(b) This subchapter shall not be construed to prohibit, preclude or in any way limit the Commissioner from ordering, conducting or performing examinations of insurers pursuant to law.

Amended by R.1993 d.68, effective February 1, 1993.

See: 24 N.J.R. 1940(a), 24 N.J.R. 2708(a), 25 N.J.R. 588(a).

Financial "condition" changed to financial "position".

Amended by R.1996 d.3, effective January 2, 1996.

See: 27 N.J.R. 3278(b), 28 N.J.R. 152(b).

Added (b).

11:2-26.2 Scope

This subchapter shall apply to all insurers transacting business in the State of New Jersey except as provided at N.J.A.C. 11:2-26.14.

Amended by R.1993 d.68, effective February 1, 1993.

See: 24 N.J.R. 1940(a), 24 N.J.R. 2708(a), 25 N.J.R. 588(a).

Citation corrected.

11:2-26.3 Definitions

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

"Alien insurer" means an insurer formed under the laws of any country other than the United States of America, its states, districts, territories, commonwealths or possessions.

"Audited financial report" means and includes those items specified in N.J.A.C. 11:2-26.5.

"Accountant" and "independent certified public accountant" means an independent certified public accountant or accounting firm in good standing with the American Institute of Certified Public Accountants and in all states in which they are licensed to practice; for alien insurers, it means a chartered or similarly certified accountant.

"Commissioner" means the Commissioner of the Department of Banking and Insurance.

"Department" means the Department of Banking and Insurance.

"Insurer" means any person, association, partnership or corporation licensed, authorized or eligible to transact the business of insurance in this State pursuant to Subtitle 3 of Title 17 or Subtitle 3 of Title 17B of the Revised Statutes of the State of New Jersey including, but not limited to, eligible surplus lines insurers, interinsurance exchanges and all risk retention groups as defined in 15 U.S.C. section 3901 doing business in New Jersey. Insurer does not include any statutory mechanism for providing insurance coverage in this State, including, but not limited to municipal joint insurance funds formed pursuant to N.J.S.A. 40A:10-36 et seq.

"Workpapers" means the records kept by the independent certified public accountant of the procedures followed, the tests performed, the information obtained, and the conclusions reached pertinent to his or her examination of the financial statements of an insurer. Workpapers may include audit planning documentation, work programs, analyses, memoranda, letters of confirmation and representation, abstracts of company documents and schedules or commentaries prepared or obtained by the independent certified public accountant in the course of his or her examination of the financial statements of an insurer and which support his or her opinion thereof.

Amended by R.1991 d.4, effective January 7, 1991.
See: 22 N.J.R. 1673(a), 23 N.J.R. 103(a).

Deleted reference to New Jersey Automobile Full Insurance Underwriting Association, in definition of "insurer".

Amended by R.1993 d.68, effective February 1, 1993.

See: 24 N.J.R. 1940(a), 24 N.J.R. 2708(a), 25 N.J.R. 588(a).

Added "certified" to accountant and "audit planning documentation" to workpapers.

Amended by R.2001 d.6, effective January 2, 2001.

See: 32 N.J.R. 3530(a), 33 N.J.R. 85(a).

11:2-26.4 Filing of annual audited financial reports; extensions

(a) All insurers (unless exempted pursuant to N.J.A.C. 11:2-26.14) shall have an annual audit by an independent certified public accountant and shall file an audited financial report with the Commissioner on or before June 1 for the year ended December 31 immediately preceding. The Commissioner may require an insurer to file an audited financial report earlier than June 1 upon 90 days advance written notice to the insurer.

(b) Extensions of the June 1 filing date may be granted by the Commissioner for 30 day periods upon showing by the insurer and its independent certified public accountant the reasons for requesting such extension and determination by the Commissioner of good cause for an extension. The request for an extension must be submitted in writing not less than 10 days prior to the due date of the financial report in sufficient detail to permit the Commissioner to make an informed decision with respect to the requested extension.

Amended by R.1993 d.68, effective February 1, 1993.

See: 24 N.J.R. 1940(a), 24 N.J.R. 2708(a), 25 N.J.R. 588(a).

Filing date changed to June 1, or earlier, if 90 day notice is given to the filer.

11:2-26.5 Contents of annual audited financial report

(a) The annual audited financial report shall reflect the financial position of the insurer as of the end of the most recent calendar year and the results of its operations, cash flows and changes in capital and surplus for such calendar year in conformity with statutory accounting practices prescribed, or otherwise permitted, by the Department.

(b) The annual audited financial report shall include:

1. A report of an independent certified public accountant;
2. A balance sheet reporting admitted assets, liabilities, capital and surplus;
3. A statement of operations;
4. A statement of cash flows;
5. A statement of changes in capital and surplus; and
6. Notes to financial statements. These notes shall be those required by the appropriate NAIC Annual Statement Instructions and the NAIC Accounting Practices and Procedures Manual. The notes shall also include a reconciliation of differences, if any, between the audited statutory financial statements and the annual statement filed pursuant to N.J.S.A. 17:23-1 and 17B:21-1 with a written description of the nature of these differences.

(c) The financial statements included in the audited financial report shall be prepared in a form and using language and groupings substantially the same as the relevant sections of the annual statement filed with the Commissioner:

1. The financial statement shall be comparative, presenting the amounts as of December 31 of the current year and the amounts as of the immediately preceding December 31. (However, in the first year in which an insurer is required to file an audited financial report, the comparative data may be omitted.)

Amended by R.1993 d.68, effective February 1, 1993.

See: 24 N.J.R. 1940(a), 24 N.J.R. 2708(a), 25 N.J.R. 588(a).

NAIC requirements added to (b)6; rounding and combining provisions at (c)2 and 3 deleted.
Amended by R.2001 d.6, effective January 2, 2001.
See: 32 N.J.R. 3530(a), 33 N.J.R. 85(a).
Rewrote (b)6.

11:2-26.6 Qualifications of independent certified public accountants

(a) The Commissioner shall not recognize any person or firm as a qualified independent certified public accountant unless they are in good standing with the American Institute of Certified Public Accountants and in all states in which the accountant is licensed to practice or, for alien insurers, that is not a chartered or similarly certified accountant.

(b) Except as otherwise provided herein, an independent certified public accountant shall be recognized as qualified as long as he or she conforms to the standards of his or her profession, as contained in the Code of Professional Ethics of the American Institute of Certified Public Accountants and Rules and Regulations, Code of Ethics and Rules of Professional Conduct of the New Jersey Board of Public Accountancy or similar code.

(c) No partner or other person responsible for rendering a report may act in that capacity for more than seven consecutive years. Following any period of service such person shall be disqualified from acting in that or a similar capacity for the same company or its insurance subsidiaries or affiliates for a period of two years. An insurer may make application to the Commissioner for relief from the above rotation requirement on the basis of unusual circumstances. The Commissioner may consider the following factors in determining if the relief should be granted:

1. The number of partners, expertise of the partners or the number of insurance clients in the currently registered firm;
2. The premium volume of the insurer; or
3. The number of jurisdictions in which the insurer transacts business.

(d) The Commissioner shall not recognize as a qualified independent certified public accountant, nor accept any annual Audited Financial Report, prepared in whole or in part by, any natural person who:

1. Has been convicted of fraud, bribery, a violation of the Racketeer Influenced and Corrupt Organization Act,

18 U.S.C. Sections 1961-1968, or any dishonest conduct or practices under Federal or state law, or similar conduct under any foreign law;

2. Has been found to have violated the insurance laws of this State with respect to any previous reports submitted under this rule; or

3. Has demonstrated a pattern or practice of failing to detect or disclose material information in previous reports filed under the provisions of this subchapter.

(e) Whenever it appears that the certified public accountant or accounting firm retained by the insurer to conduct the annual audit is not a qualified independent certified public accountant as provided under these rules, the Department shall notify the insurer that it does not recognize the certified public accountant or accounting firm as qualified, and the Department will not accept any annual audited Financial Report prepared by that accountant or accounting firm.

1. Upon receipt of such notice from the Department, the insurer may, within 20 days, request an administrative review on the issue of the qualifications of the independent certified public accountant or accounting firm retained by the insurer.

Amended by R.1993 d.68, effective February 1, 1993.

See: 24 N.J.R. 1940(a), 24 N.J.R. 2708(a), 25 N.J.R. 588(a).

"Qualified" specified at (a) and (b); subsections (c)-(e) added to specify qualifications necessary.

Amended by R.1996 d.3, effective January 2, 1996.

See: 27 N.J.R. 3278(b), 28 N.J.R. 152(b).

11:2-26.7 Certification by independent certified public accountant

(a) Each insurer required by this subchapter to file an annual audited financial report shall within 60 days after becoming subject to such requirement, register with the Commissioner in writing the name and address of the independent certified public accountant or accounting firm retained to conduct the annual audit set forth in this subchapter. Insurers not retaining an independent certified public accountant on the effective date of this rule as amended shall register the name and address of their retained certified public accountant not less than six months before the date when the audited financial report is to be filed.