

i. The financial condition of the applicant as determined through a review of the information submitted pursuant to this subchapter;

ii. The amount of business to be written in this State;

iii. The lines of business to be written in this State;

iv. The extent to which the lines of business to be written by the applicant and the amount thereof are covered under the Surplus Lines Insurance Guaranty Fund, pursuant to N.J.S.A. 17:22-6.70 et seq.; and

v. Such other factors as the Commissioner deems relevant to determine whether the particular applicant has established satisfactory evidence of financial integrity and the applicant's condition or methods of operation are not such as would render its operation hazardous to the public or policyholders in this State.

(b) The Certificate of Eligibility shall remain continuously in effect unless the Commissioner withdraws eligibility as set forth in N.J.A.C. 11:1-31.6.

#### 11:1-31.6 Withdrawal of eligibility

(a) The Commissioner may withdraw the eligibility of an insurer to insure surplus lines risks in this State if:

1. The insurer fails to file the data required or otherwise comply with the requirements for continued surplus lines eligibility as certified by the insurer in its application for eligibility pursuant to N.J.A.C. 11:1-31.4(a)15;

2. The Commissioner has reason to believe that the eligible surplus lines insurer is insolvent, in an unsound financial condition or no longer in compliance with N.J.S.A. 17:22-6.40 et seq. or this subchapter; or

3. The Commissioner finds, after a hearing thereon 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, of which notice was given to all licensed surplus lines agents, that an eligible surplus lines insurer has willfully violated the laws of this State or does not make reasonably prompt payment of just losses and claims in this State.

(b) The Commissioner shall notify all licensed surplus lines agents in this State of withdrawals of eligibility made pursuant to this section.

(c) Except as otherwise specified by the Commissioner, an insurer whose eligibility has been withdrawn pursuant to (a) above shall be prohibited from writing any new business or renewing existing business, but shall continue to service existing business through expiration of each policy.

#### 11:1-31.7 Failure to comply with subchapter; denial of certificate of eligibility

Failure to submit the information required by this subchapter completely and accurately may result in the denial of a certificate of eligibility to transact business as an eligible surplus lines insurer in this State.

### SUBCHAPTER 32. FEES AND SPECIAL PURPOSE APPORTIONMENT

#### 11:1-32.1 Purpose and scope

(a) This subchapter sets forth specific fees charged for various services provided by the Department. For services not included in this subchapter, the Department shall charge such other fees as may be provided by applicable statute or rule. This subchapter also sets forth procedures for the collection of the special purpose apportionment imposed pursuant to N.J.S.A. 17:1C-19 et seq.

(b) This subchapter applies to insurers licensed to transact business in this State, eligible surplus lines insurers, dental plan organizations, dental service corporations, medical service corporations, hospital service corporations, health service corporations, fraternal benefit societies, reciprocal insurance exchanges, risk retention groups, purchasing groups, health maintenance organizations, and to any other person to whom a service is provided as set forth in this subchapter.

(c) Any insurance company, as that term is defined in N.J.S.A. 17:33A-3, or health maintenance organization (HMO) doing business pursuant to N.J.S.A. 26:2J-1 et seq., that has net written premium and thus is subject to payment of a special purpose apportionment pursuant to N.J.A.C. 17:1C-19 et seq., shall not be subject to payment of fees imposed pursuant to this subchapter or any other statute or rule, except as follows:

1. All entities shall pay amounts for copying and mailing of public records set forth in N.J.A.C. 11:1-32.4(b)5 and (b)7 when the request exceeds an amount expected for the normal course of business;

2. Domestic insurers shall continue to pay fees assessed by the Department for the periodic examination of such insurers pursuant to N.J.S.A. 17:23-22;

3. All entities shall continue to pay assessments for the costs of experts to analyze rate applications and to appear as witnesses at hearings, pursuant to N.J.S.A. 52:27E-60; and

4. All entities shall continue to pay fees required for an insurance company or HMO to commence business, including, but not limited to, fees for application for a certificate of authority, certificate of eligibility, or registration.

Amended by R.1996 d.484, effective October 7, 1996.  
See: 28 N.J.R. 3223(a), 28 N.J.R. 4482(a).

### 11:1-32.2 Definitions

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

“Annuity” is as defined in N.J.S.A. 17B:17-5.

“Certificate of eligibility” means a certificate issued to an unauthorized insurer by the Commissioner pursuant to N.J.S.A. 17:22-6.45 evidencing that it is an eligible surplus lines insurer in this State.

“Commissioner” means the Commissioner of the Department of Insurance.

“Dental plan organization” means any person who undertakes to provide directly or to arrange for or administer one or more dental plans providing dental services pursuant to N.J.S.A. 17:48D-1 et seq.

“Dental service corporation” is as defined in N.J.S.A. 17:48C-2(a).

“Department” means the New Jersey Department of Insurance.

“Domestic insurer” means an insurer or reciprocal insurance exchange formed under the laws of this State pursuant to N.J.S.A. 17:17-1 et seq., 17:46A-1 et seq., 17:46B-1 et seq., 17:50-1 et seq. and 17B:18-1 et seq.

“Fraternal benefit society” is as defined in N.J.S.A. 17:44A-1.

“Form A filing” means a statement filed by every person who is directly or indirectly the beneficial owner of more than 10 percent of any class of any equity security of a New Jersey stock insurance company or who is a director or officer of such a company, in the acquisition of control or merger with a domestic insurer pursuant to N.J.S.A. 17:27A-1 et seq.

“Health insurance” is as defined in N.J.S.A. 17B:17-4.

“Health service corporation” is as defined in N.J.S.A. 17:48E-1e.

“Hospital service corporation” is as defined in N.J.S.A. 17:48-1.

“Joint insurance fund” means a joint fund formed by two or more entities to insure against specified coverages and which organization or operations are subject to review and approval by the Department pursuant to N.J.S.A. 17:49A-1 et seq., 40A:10-36 et seq., 18A:18B-1 et seq., 18A:64A-25.33 et seq., or any other similar law.

“Legal insurance” is as defined in N.J.S.A. 17:46C-3c.

“Life and health insurer” means an insurer authorized or admitted pursuant to the provisions in Title 17B of the Revised Statutes to transact solely the business of life insurance, health insurance or annuities in this State.

“Life insurance” is as defined in N.J.S.A. 17B:17-3.

“Medical service corporation” is as defined in N.J.S.A. 17:48A-1.

“Private passenger automobile insurance” means direct insurance on private passenger automobiles as defined in N.J.S.A. 39:6A-2.

“Property and casualty insurer” means an insurer or reciprocal insurance exchange authorized or admitted to transact the kinds of insurance specified in N.J.S.A. 17:17-1, 17:46A-2 and 17:50-1 et seq.

“Purchasing group” is as defined in 15 U.S.C. 3901(a)(5).

“Reciprocal insurance exchange” means an individual, partnership, trustee, or corporation authorized to exchange reciprocal or interinsurance contracts pursuant to N.J.S.A. 17:50-1 et seq.

“Risk retention group” is as defined in 15 U.S.C. 3901(a)(4).

“Special risks” is as defined in N.J.S.A. 17:29AA-3.

“Surplus lines insurer” means an unauthorized insurer in which an insurance coverage is placed or may be placed pursuant to N.J.S.A. 17:22-6.40.

“Title insurer” means any domestic company organized pursuant to N.J.S.A. 17:46B-1 et seq. for the purpose of insuring title to real estate, and any title insurer organized under the laws of another state or foreign government and licensed to insure titles to real estate within this State pursuant to N.J.S.A. 17:46B-25.

Amended by R.1996 d.484, effective October 7, 1996.  
See: 28 N.J.R. 3223(a), 28 N.J.R. 4482(a).

### 11:1-32.3 General procedures

(a) All fees set forth in this subchapter, excluding the fees set forth in N.J.A.C. 11:1-32.9, shall be paid at the time of the filing or application or the request for service.

(b) All fees set forth in this subchapter shall be paid by check and made payable to the State Treasurer of New Jersey.