

TITLE 11

DEPARTMENT OF BANKING AND INSURANCE

DIVISION OF INSURANCE

CHAPTER 1

ADMINISTRATION

Authority

N.J.S.A. 17:1-8.1 and 17:1-15e.

Source and Effective Date

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).

Executive Order No. 66(1978) Expiration Date

Chapter 1, Administration, expires on January 31, 2006.

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).

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).

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. ORGANIZATION

- 11:1-1.1 Organization
- 11:1-1.2 Sharing of information with other insurance departments

SUBCHAPTER 2. FILINGS: PROPERTY AND CASUALTY

- 11:1-2.1 Purpose and scope
- 11:1-2.2 Filing of rates, manual rules, rating plans, policy forms and endorsements
- 11:1-2.3 Filing of changes
- 11:1-2.4 Adoption of rules and forms approved for other filers
- 11:1-2.5 New filings
- 11:1-2.6 Notification
- 11:1-2.7 Penalties

APPENDIX

SUBCHAPTER 3. DISABILITY DISCRIMINATION GRIEVANCE PROCEDURE

- 11:1-3.1 Definitions
- 11:1-3.2 Purpose
- 11:1-3.3 Required ADA notice
- 11:1-3.4 Designated ADA coordinator

ADMINISTRATION

- 11:1-3.5 Grievance procedure
- 11:1-3.6 Grievance contents
- 11:1-3.7 Grievance form
- 11:1-3.8 Investigation

SUBCHAPTER 4. UNFAIR DISCRIMINATION

- 11:1-4.1 (Reserved)
- 11:1-4.2 Sex and/or marital discrimination
- 11:1-4.3 Complications of pregnancy

SUBCHAPTER 5. FIRE AND CASUALTY INSURANCE

- 11:1-5.1 FAIR Plan Surcharge
- 11:1-5.2 Notice of cancellation and nonrenewal of fire and casualty coverage
- 11:1-5.3 FAIR Plan short notice cancellation procedures
- 11:1-5.4 Distribution of fire insurance premium tax
- 11:1-5.5 Notice regarding flood damage coverage
- 11:1-5.6 FAIR plan retention level

SUBCHAPTER 6. NEW JERSEY PROPERTY-LIABILITY INSURANCE GUARANTY ASSOCIATION ASSESSMENT PREMIUM SURCHARGE

- 11:1-6.1 Purpose and scope
- 11:1-6.2 Definitions
- 11:1-6.3 Establishment of Association assessment premium surcharge
- 11:1-6.4 Reporting requirements
- 11:1-6.5 Penalties

SUBCHAPTER 7. MEDICAL MALPRACTICE REPORTING REQUIREMENTS

- 11:1-7.1 Purpose and scope
- 11:1-7.2 Definitions
- 11:1-7.3 Medical malpractice reporting requirements
- 11:1-7.4 Confidentiality
- 11:1-7.5 Penalties

SUBCHAPTERS 8 THROUGH 9. (RESERVED)

SUBCHAPTER 10. ADMISSION REQUIREMENTS FOR FOREIGN AND ALIEN PROPERTY AND CASUALTY INSURERS

- 11:1-10.1 Purpose
- 11:1-10.2 Scope
- 11:1-10.3 Definitions
- 11:1-10.4 General eligibility requirements
- 11:1-10.5 Letter of intent
- 11:1-10.6 Final application
- 11:1-10.7 Review procedures; appeals
- 11:1-10.8 Requirements upon admission
- 11:1-10.9 Severability

SUBCHAPTER 11. CONDUCT CONSTITUTING VIOLATIONS BY BROKERS AND AGENTS

- 11:1-11.1 Scope
- 11:1-11.2 Unworthiness and bad faith under N.J.S.A. 17:22-6.16(h) and 17B:22-27(12)
- 11:1-11.3 Disciplinary action; restitution

SUBCHAPTER 12. CORPORATE AND PARTNERSHIP LICENSEE REQUIREMENTS

- 11:1-12.1 (Reserved)
- 11:1-12.2 Responsibility of active officers of corporate licensees
- 11:1-12.3 through 11:1-12.4 (Reserved)
- 11:1-12.5 Responsibility of active members of partnership licensee
- 11:1-12.6 (Reserved)

SUBCHAPTERS 13 THROUGH 14. (RESERVED)

SUBCHAPTER 15. PETITIONS FOR RULES; RULEMAKING NOTICE

- 11:1-15.1 Scope
- 11:1-15.2 Procedure for petitioner
- 11:1-15.3 Procedure of the Department
- 11:1-15.4 Rulemaking activity
- 11:1-15.5 Sufficient public interest for the purposes of extending the comment period or granting a public hearing

SUBCHAPTER 16. REQUIREMENTS FOR FILING A DOWNWARD DEVIATION IN CURRENTLY APPROVED RATES

- 11:1-16.1 Purpose and scope
- 11:1-16.2 Filing requirements

SUBCHAPTERS 17 THROUGH 19. (RESERVED)

SUBCHAPTER 20. CANCELLATION AND NONRENEWAL OF COMMERCIAL AND HOMEOWNERS' INSURANCE POLICIES

- 11:1-20.1 Scope
- 11:1-20.2 Nonrenewal and cancellation notice requirements
- 11:1-20.3 Policy provisions relating to cancellation or nonrenewal
- 11:1-20.4 Cancellation and nonrenewal underwriting guidelines
- 11:1-20.5 Cancellation or nonrenewal based on loss of or reduction in available insurance capacity
- 11:1-20.6 Cancellation and nonrenewal based on changes in statutory or case law
- 11:1-20.7 Cancellation or nonrenewal based on loss of or substantial changes in applicable reinsurance
- 11:1-20.8 Cancellation and nonrenewal based on agency termination
- 11:1-20.9 Policy provisions
- 11:1-20.10 Separability
- 11:1-20.11 Penalties
- 11:1-20.12 (Reserved)

SUBCHAPTER 21. LOSS RESERVE OPINIONS

- 11:1-21.1 General requirements
- 11:1-21.2 Identification paragraph
- 11:1-21.3 Scope paragraph
- 11:1-21.4 Opinion paragraph
- 11:1-21.5 Exemptions

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

- 11:1-21A.1 Purpose and scope
- 11:1-21A.2 Definitions
- 11:1-21A.3 General requirements
- 11:1-21A.4 Required opinions
- 11:1-21A.5 Statement of actuarial opinion not including an asset adequacy analysis
- 11:1-21A.6 Statement of actuarial opinion based on an asset adequacy analysis
- 11:1-21A.7 Description of actuarial memorandum including an asset adequacy analysis
- 11:1-21A.8 Additional considerations for analysis
- 11:1-21A.9 Penalties

APPENDIX

SUBCHAPTER 22. PROHIBITION OF CERTAIN CANCELLATION AND NONRENEWAL ACTIVITY

- 11:1-22.1 Scope; definitions
- 11:1-22.2 Prohibitions
- 11:1-22.3 Penalties
- 11:1-22.4 (Reserved)

SUBCHAPTER 23. (RESERVED)

SUBCHAPTER 24. USE OF CREDIT CARDS, CHARGE CARDS, DEBIT CARDS OR DIRECT ACCOUNT DEDUCTION (ALTERNATIVE PAYMENT METHOD) TO PAY INSURANCE PREMIUMS

- 11:1-24.1 Purpose and scope
- 11:1-24.2 Definitions
- 11:1-24.3 Use of credit cards, charge cards, debit cards, and direct account deduction (alternative payment method) for payment of premiums
- 11:1-24.4 Ratemaking
- 11:1-24.5 Cancellation of policy
- 11:1-24.6 Payment of premiums
- 11:1-24.7 Disclosure of optional methods of payment
- 11:1-24.8 Penalties

SUBCHAPTER 25. OFFICIAL DEPARTMENT MAILING LIST: ADDRESS INFORMATION

- 11:1-25.1 Purpose
- 11:1-25.2 Scope
- 11:1-25.3 Official mailing list; change in address information
- 11:1-25.4 Foreign insurers—designation of individual for service of process through Commissioner
- 11:1-25.5 Penalties

SUBCHAPTERS 26 THROUGH 27. (RESERVED)

SUBCHAPTER 28. FORMATION OF A DOMESTIC PROPERTY AND CASUALTY INSURANCE CORPORATION (STOCK OR MUTUAL) OR RECIPROCAL INSURANCE EXCHANGE

- 11:1-28.1 Purpose
- 11:1-28.2 Scope
- 11:1-28.3 Definitions
- 11:1-28.4 Types of insurance
- 11:1-28.5 Feasibility study
- 11:1-28.6 Additional information requirements
- 11:1-28.7 Criminal history record check
- 11:1-28.8 Permit to solicit
- 11:1-28.9 Organization examination
- 11:1-28.10 Certificate of authority
- 11:1-28.11 Failure to comply with subchapter; denial of certificate of authority
- 11:1-28.12 Severability

APPENDIX A. FORMAT FOR THE PREPARATION OF A DOMESTIC PROPERTY/LIABILITY INSURANCE COMPANY'S CERTIFICATE OF INCORPORATION

APPENDIX B. BIOGRAPHICAL AFFIDAVIT

APPENDIX C. AFFIDAVIT OF OFFICERS AND DIRECTORS

SUBCHAPTERS 29 THROUGH 30. (RESERVED)

SUBCHAPTER 31. SURPLUS LINES INSURER ELIGIBILITY

- 11:1-31.1 Purpose and scope
- 11:1-31.2 Definitions
- 11:1-31.3 General requirements
- 11:1-31.4 Certificate of eligibility; filing requirements
- 11:1-31.5 Certificate of eligibility; issuance
- 11:1-31.6 Withdrawal of eligibility
- 11:1-31.7 Failure to comply with subchapter; denial of certificate of eligibility

SUBCHAPTER 32. FEES AND SPECIAL PURPOSE APPORTIONMENT

- 11:1-32.1 Purpose and scope

- 11:1-32.2 Definitions
- 11:1-32.3 General procedures
- 11:1-32.4 Fees; general
- 11:1-32.5 Fees; life and health insurance; legal insurance
- 11:1-32.6 Fees; property and casualty insurance
- 11:1-32.7 Fees; surplus lines insurers, risk retention groups and purchasing groups
- 11:1-32.8 Applicability of fees imposed by insurance laws of this State
- 11:1-32.9 Special purpose apportionment; de minimis amounts
- 11:1-32.10 Penalties
- 11:1-32.11 (Reserved)

SUBCHAPTER 33. SURPLUS LINES INSURANCE: POLICY FORM APPROVAL PROCEDURES AND STANDARDS

- 11:1-33.1 Purpose and scope
- 11:1-33.2 Definitions
- 11:1-33.3 Policy form filings
- 11:1-33.4 Policy form standards
- 11:1-33.5 Exclusions
- 11:1-33.6 List of disapproved or withdrawn forms or contracts; exportable list hearing
- 11:1-33.7 Refiling policy forms
- 11:1-33.8 Surplus lines insurance coverage procurement requirements
- 11:1-33.9 Penalties

APPENDIX

SUBCHAPTER 34. SURPLUS LINES: EXPORTABLE LIST

- 11:1-34.1 Purpose and scope
- 11:1-34.2 Definitions
- 11:1-34.3 Exportable list hearing
- 11:1-34.4 Exportable list hearing record
- 11:1-34.5 Promulgation and modification of exportable list
- 11:1-34.6 Exportable list

APPENDIX A. (RESERVED)

SUBCHAPTER 35. INSURANCE HOLDING COMPANY SYSTEMS

- 11:1-35.1 Purpose and scope
- 11:1-35.2 Definitions
- 11:1-35.3 Forms; general requirements
- 11:1-35.4 Forms; incorporation by reference, summaries and omissions
- 11:1-35.5 Forms; additional information and exhibits
- 11:1-35.6 Acquisition of control; statement filing; procedures
- 11:1-35.7 Annual registration of insurers
- 11:1-35.8 Alternative and consolidated registrations
- 11:1-35.9 Disclaimers and termination of registration
- 11:1-35.10 Transactions subject to prior notice
- 11:1-35.11 Adequacy of surplus
- 11:1-35.12 Penalties

APPENDIX

SUBCHAPTER 36. EXAMINATION OF INSURERS

- 11:1-36.1 Purpose and scope
- 11:1-36.2 Definitions
- 11:1-36.3 Examination; when deemed complete
- 11:1-36.4 Foreign and alien insurers; filing of examination reports with this State
- 11:1-36.5 Payment of expenses
- 11:1-36.6 Confidentiality
- 11:1-36.7 Penalties

SUBCHAPTER 37. LICENSING OF PUBLIC ADJUSTERS

- 11:1-37.1 Purpose and scope

- 11:1-37.2 Definitions
- 11:1-37.3 General licensing requirements
- 11:1-37.4 Licensing applications and renewals
- 11:1-37.5 Denial of license
- 11:1-37.6 Sublicensees
- 11:1-37.7 Temporary sublicensee
- 11:1-37.8 Licensing examination
- 11:1-37.9 Bond; alternative security
- 11:1-37.10 Administrative reporting requirements
- 11:1-37.11 Escrow or trust accounts
- 11:1-37.12 Minimum recordkeeping requirements
- 11:1-37.13 Right to compensation
- 11:1-37.14 Violations and penalties
- 11:1-37.15 Effect of suspension or revocation of public adjuster license
- 11:1-37.16 Reinstatement after suspension or revocation of a public adjuster license
- 11:1-37.17 Public records
- 11:1-37.18 Fees
- 11:1-37.19 Requests for disclosure of social security numbers

APPENDIX

SUBCHAPTER 38. OVERSIGHT OF FIREMEN'S RELIEF ASSOCIATIONS

- 11:1-38.1 Purpose and scope
- 11:1-38.2 Definitions
- 11:1-38.3 Filing requirements
- 11:1-38.4 (Reserved)
- 11:1-38.5 Payments by insurers to local relief associations
- 11:1-38.6 Penalties

SUBCHAPTER 39. DISCLOSURE OF MATERIAL TRANSACTIONS

- 11:1-39.1 Purpose and scope
- 11:1-39.2 Definitions
- 11:1-39.3 Disclosure of transactions
- 11:1-39.4 Acquisitions and dispositions of assets; reporting requirements
- 11:1-39.5 Nonrenewals, cancellations or revisions of ceded reinsurance agreements; reporting requirements
- 11:1-39.6 Penalties

SUBCHAPTER 40. (RESERVED)

SUBCHAPTER 41. SURETY BONDS FOR CONTRACTS INVOLVING THE STATE, LOCAL CONTRACTING UNITS, BOARDS OF EDUCATION, STATE COLLEGES AND COUNTY COLLEGES

- 11:1-41.1 Purpose and scope
- 11:1-41.2 Definitions
- 11:1-41.3 Rating company
- 11:1-41.4 Treasury listed surety companies and alternative requirements to Treasury listing
- 11:1-41.5 Penalties

APPENDIX A

APPENDIX B

SUBCHAPTER 42. (RESERVED)

SUBCHAPTER 43. UNUSUAL HARDSHIP FOR COVERED CLAIMS UNDER THE NEW JERSEY PROPERTY-LIABILITY INSURANCE GUARANTY ASSOCIATION AND NEW JERSEY SURPLUS LINES INSURANCE GUARANTY FUND

- 11:1-43.1 Purpose and scope
- 11:1-43.2 Definitions
- 11:1-43.3 Unusual hardship
- 11:1-43.4 Request for review by the Commissioner
- 11:1-43.5 Confidentiality

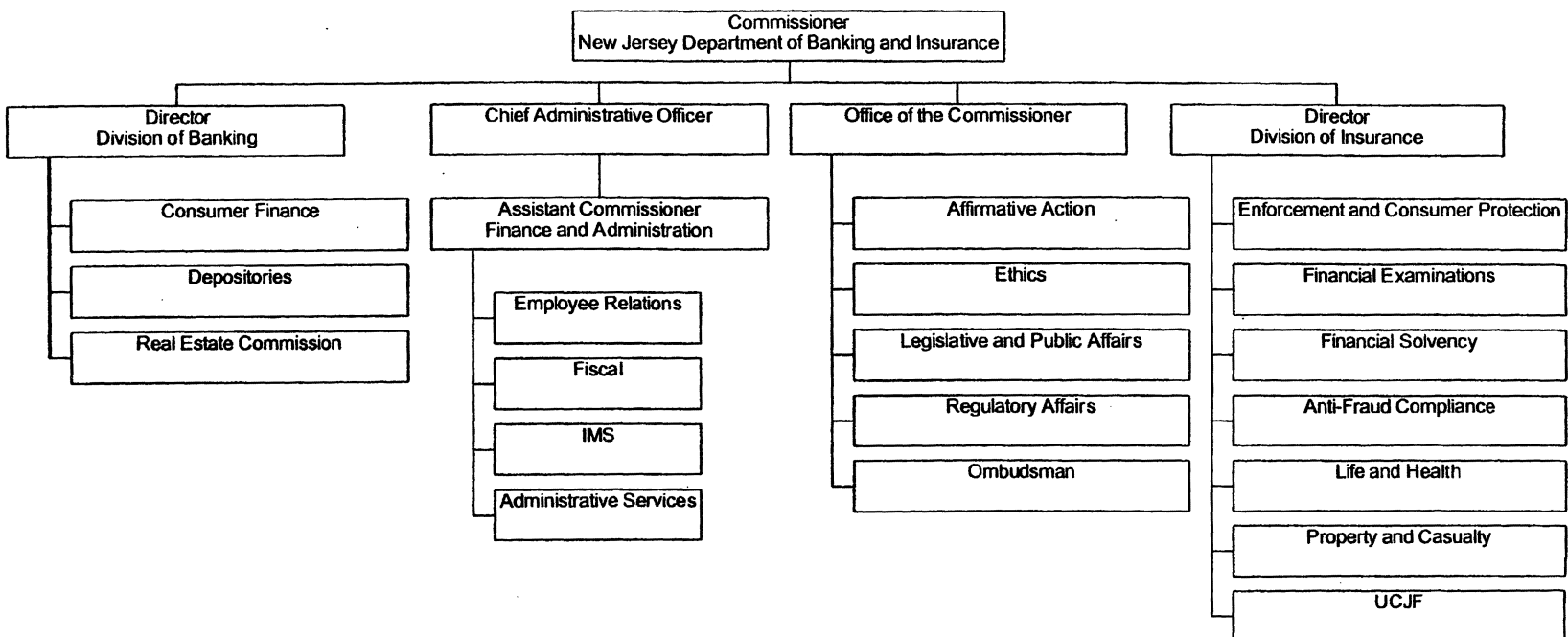
SUBCHAPTER 1. ORGANIZATION

11:1-1.1 Organization

(a) The organization of the Department of Banking and Insurance appears below.

(b) The mission of the Department of Banking and Insurance is to regulate the banking, insurance and real estate industries in a professional and timely manner that protects and educates consumers and promotes the growth, financial stability and efficiency of those industries.

NEW JERSEY DEPARTMENT OF BANKING AND INSURANCE



September 7, 2000

Amended by R.1973 d.195, effective July 24, 1973.
See: 5 N.J.R. 282(c).
Amended by R.1974 d.89, effective April 9, 1974.

See: 6 N.J.R. 199(a).
Amended by R.1988 d.1, effective December 1, 1987.
See: 20 N.J.R. 99(a).

5. The insurer or insurance agent should be consulted to obtain further information about how to secure flood insurance, including the availability, terms and coverage;

6. Standard homeowners insurance policies do not cover damage to property, contents and structure resulting from floods; however, flood insurance may be available through the National Flood Insurance Program which exists in participating communities; and

7. The National Flood Insurance Program coverage contains separate content and structure coverage. A policyholder should consult with the National Flood Insurance Program or his insurer or insurance producer as to whether the coverage selected is appropriate to the policyholder's needs.

(b) The notice shall be provided at new business inception and at least annually thereafter. For the purpose of this subsection, new business inception means when the application is taken; when the coverage is bound; or when the policy is presented to the insured. The notice may be included with other materials sent to the policyholder.

New Rule, R.1997 d.194, effective May 19, 1997.
See: 28 N.J.R. 5137(a), 29 N.J.R. 2462(b).
Amended by R.2001 d.75, effective March 5, 2001.
See: 32 N.J.R. 4184(a), 33 N.J.R. 794(a).
Added (a)6 and 7.

11:1-5.6 FAIR plan retention level

The retention level for the FAIR plan established pursuant to N.J.S.A. 17:37A-18 shall be \$35 million.

New Rule, R.1997 d.471, effective November 3, 1997.
See: 29 N.J.R. 1009(a), 29 N.J.R. 4688(a).

SUBCHAPTER 6. NEW JERSEY PROPERTY-LIABILITY INSURANCE GUARANTY ASSOCIATION ASSESSMENT PREMIUM SURCHARGE

11:1-6.1 Purpose and scope

(a) This subchapter provides for the recoupment by member insurers of the Association of assessments paid pursuant to N.J.S.A. 17:30A-8a(3).

(b) This subchapter applies to all assessments imposed on member insurers pursuant to N.J.S.A. 17:30A-8a(3) and which have not been recouped as of September 3, 1991. This subchapter does not apply to any assessments imposed on member insurers pursuant to N.J.S.A. 17:30A-8a(9).

Case Notes

When Medical Malpractice Reinsurance Association makes assessment against insurers, insurers are entitled to recoup that assessment through surcharges on insureds. In re New Jersey Medical Malpractice Reinsurance Recovery Fund Surcharge, Adopted New Rules, N.J.A.C. 11:18, 246 N.J.Super. 109, 586 A.2d 1317 (A.D.1991), certification denied 126 N.J. 328, 598 A.2d 886.

Statutory workers' compensation lien for benefits paid to injured employee by workers' compensation insurer was not enforceable against Property-Liability Insurance Guaranty Association. *Sussman v. Ostroff*, 232 N.J.Super. 306, 556 A.2d 1301 (A.D.1989), certification denied 117 N.J. 143, 564 A.2d 865.

Surplus lines insurers held excluded from operation of Property-Liability Insurance Guaranty Association Act, even prior to statutory amendment specifically excluding them from Act. *Railroad Roofing & Building Supply Co., Inc. v. Financial Fire & Casualty Co.*, 85 N.J. 384, 427 A.2d 66 (1981).

11:1-6.2 Definitions

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

"Association" means the New Jersey Property-Liability Insurance Guaranty Association established pursuant to N.J.S.A. 17:30A-1 et seq.

"Commissioner" means the Commissioner of the New Jersey Department of Insurance.

"Department" means the New Jersey Department of Insurance.

"Member insurer" is as defined in N.J.S.A. 17:30A-5f.

11:1-6.3 Establishment of Association assessment premium surcharge

(a) Upon a determination by the Commissioner that a surcharge on premiums is necessary to permit member insurers to recoup assessments paid to the Association pursuant to N.J.S.A. 17:30A-8a(3), he or she shall order within 30 days of the due date of an assessment that a surcharge be imposed on net direct written premiums for policies to which N.J.S.A. 17:30A-1 et seq. applies. The essential terms of the Order shall be published in the New Jersey Register.

(b) The amount of a surcharge shall be established by the Commissioner by Order. In determining the amount of a surcharge the Commissioner shall consider:

1. The amount of any assessment on member insurers imposed by the Association pursuant to N.J.S.A. 17:30A-8a(3);

2. The surcharge amount necessary in the Commissioner's opinion to permit member insurers to recoup any assessment paid to the Association pursuant to N.J.S.A. 17:30A-8a(3) over a reasonable time which shall not be less than one year; and

3. The net direct written premiums for all lines of insurance to which N.J.S.A. 17:30A-1 et seq. applies.

(c) A surcharge imposed pursuant to this subchapter shall apply to all policies for all kinds of insurance, except life insurance, accident and health insurance, workers' compensation insurance, title insurance, annuities, surety bonds, credit insurance, mortgage guaranty insurance, municipal bond coverage, fidelity insurance, investment return assurance, ocean marine insurance and pet health insurance.

(d) A surcharge imposed pursuant to this subchapter and by applicable Orders of the Commissioner shall be identified to the insured as "New Jersey Property-Liability Insurance Guaranty Association Surcharge" and the amount of the surcharge shall be shown as a separate item on the premium bill rounded to the nearest dollar. The surcharge amount shall not be treated as premium for accounting purposes or for commissions, but must be coded and reported in accordance with instructions issued by the statistical agents under the direction of the Commissioner.

(e) Any change in premium by endorsement subsequent to the effective date of the policy shall reflect the appropriate change in the surcharge. In the case of flat cancellations, the entire surcharge amount shall be returned to the policyholder.

(f) All assessments imposed on member insurers by the Association pursuant to N.J.S.A. 17:30A-8a(3) shall be considered a receivable by the insurer for accounting purposes. The receivable shall also be considered an admitted asset for statutory accounting purposes. Any surcharges on policies as established by this subchapter shall be considered an offset to the receivable by the insurer for accounting purposes. If an insurer ceases to write all lines of business to which N.J.S.A. 17:30A-1 et seq. applies for any reason, the receivable shall be cancelled to the extent it has not been offset by any surcharges collected and the assessment shall be treated as an expense by the insurer for accounting purposes.

(g) Surcharges on premiums for multi-year policies, including perpetual insurance policies, shall be billed annually pursuant to the procedures established by this subchapter and applicable Orders of the Commissioner.

(h) Surcharges collected by an insurer pursuant to this subchapter are not taxable premiums for the purposes of determining the insurer's tax liability pursuant to N.J.S.A. 54:18A-1 et seq.

(i) An insurer shall not be required to collect a surcharge if the expense of collecting the surcharge exceeds the amount of the surcharge.

(j) A surcharge established pursuant to this subchapter shall provide recoupment to insurers for any assessment imposed pursuant to N.J.S.A. 17:30A-8(3). Such assessments shall not be considered obligations within the context of the retaliatory provisions set forth in N.J.S.A. 17:32-15.

(k) Upon a finding by the Commissioner that the surcharge is no longer necessary to permit member insurers to recoup assessments paid to the Association pursuant to N.J.S.A. 17:30A-8(3), he or she shall order that imposition of the surcharge be terminated. Upon termination of the surcharge, any debit or credit balance shown on that year's reconciliation form shall remain on the insurer's books to be applied in the annual reconciliation form filed the following year and each year thereafter.

Public Notice: Imposition of surcharge.
See: 29 N.J.R. 265(a).
Public Notice: Imposition of surcharge.
See: 30 N.J.R. 244(b).
Public Notice: Imposition of surcharge.
See: 31 N.J.R. 77(b).
Public Notice: Imposition of surcharge.
See: 32 N.J.R. 327(b).
Public Notice: Imposition of surcharge.
See: 33 N.J.R. 1025(a).
Public Notice: Imposition of surcharge.
See: 34 N.J.R. 1556(a).
Public Notice: Imposition of surcharge.
See: 35 N.J.R. 1456(b).

11:1-6.4 Reporting requirements

All insurers collecting a surcharge established pursuant to this subchapter shall file by March 1 of each year a reconciliation form on a form to be provided by the Commissioner. The form shall show the assessments paid to the Association and the surcharges collected by the insurer, if any, during the calendar year immediately preceding. This information shall be forwarded to:

New Jersey Department of Insurance
Division of Financial Examinations
20 West State Street
PO Box 325
Trenton, NJ 08625-0325

Amended by R.1996 d.116, effective March 4, 1996.
See: 27 N.J.R. 4121(a), 28 N.J.R. 1382(a).

11:1-6.5 Penalties

Failure to comply with the provisions of this subchapter may result in the imposition of penalties as authorized by law, including, but not limited to, penalties set forth in N.J.S.A. 17:33-2.

SUBCHAPTER 7. MEDICAL MALPRACTICE REPORTING REQUIREMENTS

11:1-7.1 Purpose and scope

(a) The purpose of these rules is to implement N.J.S.A. 17:30D-17(a) and (b). These statutory provisions require insurers, insurance associations and licensed medical practitioners to notify the Medical Practitioner Review Panel of any medical malpractice claim settlements, judgments or arbitration awards involving a licensed practitioner, any termination or denial of malpractice insurance coverage to a practitioner, or any surcharge assessed against a practitioner. These proposed rules establish the form and content of the notice required under these statutory provisions.

APPENDIX

EXHIBIT A

STATE OF NEW JERSEY
DEPARTMENT OF BANKING AND INSURANCEProperty Casualty Office
PO Box 325, Trenton, NJ 08625-0325SURPLUS LINES POLICY FORM FILING
QUESTIONNAIRE

The following information must be completed and this questionnaire attached to the front of each surplus lines policy form or endorsement submitted to the Department for approval pursuant to N.J.A.C. 11:1-33.4.

1. Name, address and the phone number of the surplus lines agent.

2. Policy or Endorsement Name _____
3. Form #/Edition _____
4. To the best of your knowledge, has this policy or endorsement been approved by the Department for use by admitted companies with non-special risk?
YES _____ NO _____
5. Will this policy or endorsement be used solely with special risks pursuant to N.J.S.A. 17:29AA-3(k), except risks that are special solely because the premium is \$10,000 or greater?
YES _____ NO _____

Note: if the answer to either 4 or 5 is yes, you do not need approval from the Department, nor do you have to complete or file this questionnaire and the accompanying policy form or endorsement.

6. (a) To the best of your knowledge, has this policy form or endorsement been disapproved by the Department for use by admitted companies with non-special risks?
YES _____ NO _____
- (b) If yes, explain in detail how this form differs from policies or endorsements disapproved by the Department for use by admitted insurers with non-special risks.
7. Approval is being requested for what type of risks?
_____ A Particular Subject of Insurance single risk (provide details).
_____ Risks of a Particular Class (provide details).
_____ All Risks

Is this form a "modification" of an approved form?
YES _____ NO _____

8. Attach a statement by the surplus lines agent or insurer demonstrating that:
 - (a) The modification(s) is reasonable, giving consideration to past and prospective loss experience of the risk or

risks to be insured and modification facilitates the availability of coverage for such risk or risks, which coverage would otherwise not be available at a reasonable cost; or

- (b) The modification renders the form unique and designed for use with respect to a particular subject of insurance (single insured).
9. If approval is being requested to use the policy or endorsement with a single insured, attach a letter from the insured stating that:
 - (a) The insured has been informed of the provisions that are different from the policies approved by the Department for use by admitted insurers and
 - (b) The insured is willing to accept these differences.
10. CERTIFIED STATEMENT OF FILER:

_____ hereby certifies as follows:

 - (a) I am the _____ of _____
(Name of Surplus Lines Agent) (Name of Filer)
 - (b) I am personally familiar with the contents of this filing.
 - (c) The attached filing complies with all statutory and regulatory requirements and the information it contains is true and accurate.
 - (d) I certify that the foregoing statements made by me are true and that the New Jersey Department of Banking and Insurance may rely upon them in its review of the filing.

(Date)_____
(Signature)

EXHIBIT B

Form No. SLPS-6-CERT1 -|-|-|-|-|-|-|-|-|-|-|-|-|-|-|-|
Transaction #STATE OF NEW JERSEY
DEPARTMENT OF BANKING AND INSURANCE
SURPLUS LINES EXAMINING OFFICE
PO BOX 325 Trenton, New Jersey 08625-0325CERTIFICATION OF EFFORT TO PLACE RISK WITH
AUTHORIZED INSURER

This certification shall be submitted by the originating producer with the surplus lines agent within 30 business days after the effectuation of any surplus lines insurance. The original of the certification must be maintained in the files of the surplus lines agent and a copy in the files of the producer and both must be available for inspection by the Commissioner for a period of at least five years.

(Name of insured)_____
(Address of insured)_____
(Location of Property or Risk)_____
(Insurance Coverage: Description and Amount)

////////////////////////////////////

(Originating producer—Corporate or partnership)

(Originating producer—Individual name and/or Title)

(Originating producer—Complete Address)

The above hereby certifies that he/she is duly licensed as an insurance producer under the laws of New Jersey, and that: On or about _____, 2001, I was engaged by the insured named herein to procure insurance of the kind described herein and in the amount shown. There is no renewal offer/quote or existing coverage for this risk in the admitted market. I have made a diligent effort first to place this coverage with authorized insurers, each of which is authorized in New Jersey to write insurance of the kind requested and is an insurer that I had a good faith reason to believe might consider writing the type of coverage described herein. The following insurers are among those that declined to accept all or any part of the risk.

Insurer	Representative	Telephone No.	Date
_____	_____	_____	_____
_____	_____	_____	_____

I certify that the foregoing statements made by me are true to the best of my knowledge and belief. I am aware that if any of the statements are willfully false, I am subject to civil and criminal penalties.

(Date)

(Signature)

EXHIBIT C

Form No. SLPS-8-AFF3 -|-|-|-|-|-|-|-|-|-|-|-|-|-|-|
Transaction #

STATE OF NEW JERSEY
DEPARTMENT OF BANKING AND INSURANCE
THE SURPLUS LINES EXAMINING OFFICE
PO Box 325 TRENTON, NEW JERSEY 08625-325

SUPPLEMENTAL CERTIFICATION BY SURPLUS LINES
AGENT FOR PROCUREMENT OF INSURANCE FROM
INELIGIBLE UNAUTHORIZED INSURER

Name of Insured _____

(Street Address) (City or Town) (State) (Zip Code)

Location of Risk _____

(Street Address) (City or Town) (State) (Zip Code)

Insurance Coverage _____
(Type of Coverage) (Policy Limits)

(Name of Surplus Lines Agent Representing Insured Above)

(Title of Representative for Corporation or Partnership)

(Name of Business, Corporation or Partnership)

(Street Address) (City or Town) (State) (Zip Code)

The above named individual is duly licensed as an insurance producer with surplus lines authority pursuant to N.J.S.A. 17:22-1 *et seq.*

Name of Ineligible Unauthorized Insurer that business was placed with:

	NAIC #	ISI #
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____
4. _____	_____	_____

Attach additional listings if needed.

The named ineligible unauthorized insurer has deposited with the Commissioner in accordance with N.J.A.C. 11:2-32, securities in the amount acceptable to the Commissioner, which are held by the Commissioner for the benefit of New Jersey policyholders; and

(I) (We) have procured from such ineligible unauthorized insurer and filed with the Commissioner a certified copy of its current annual statement of financial condition in accordance with N.J.S.A. 17:22-6.45(h).

(I) (We) do not know of this coverage(s) being offered by companies I represent or by other companies in the admitted market.

(I) (We) certify that the foregoing statements made by me are true. I am aware that if any of the statements are willfully false, I am subject to civil and criminal penalties.

Name of Surplus Lines Agent _____

By: _____
(Signature)

SUBCHAPTER 34. SURPLUS LINES:
EXPORTABLE LIST

Public Notice.
See: 34 N.J.R. 315(a).

11:1-34.1 Purpose and scope

(a) The purpose of this subchapter is to identify the procedures concerning the creation and modification of an exportable list of certain classes of insurance coverages or risks and to promulgate the list as a rule, in implementation of N.J.S.A. 17:22-6.43.

(b) This subchapter shall apply to all surplus lines insurers and producers. Pursuant to N.J.S.A. 17:22-6.40, this subchapter shall not apply to life insurance companies, which may not become eligible surplus lines insurers.

Public Notice: Hearing on the Exportable List.

See: 34 N.J.R. 3994(a).

11:1-34.2 Definitions

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

“Annuity” means a contract not coming within the definition of life insurance as set forth in N.J.S.A. 17B:17-3, or health insurance as set forth in N.J.S.A. 17B:17-4, under which an insurer obligates itself to make periodic payments for a specified period of time, such as for a number of years, or until the happening of an event, or for life, or for a period of time determined by any combination thereof. Such a contract which includes extra benefits of the kinds set forth in N.J.S.A. 17B:17-3 or 17B:17-4 shall nevertheless be deemed to be an annuity if such extra benefits constitute a subsidiary or incidental part of the entire contract.

“Authorized insurer” means a domestic or foreign insurer duly authorized by a Certificate of Authority issued by the Commission to transact the business of insurance in this State.

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

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

“Exportable list” means a list of any class or classes of insurance coverages or risks declared and promulgated by the Commissioner for which there is no reasonable or adequate market among authorized insurers in this State.

“Health insurance” means a contract or agreement whereby an insurer is obligated to pay or allow a benefit of pecuniary value with respect to the bodily injury, disablement, sickness, death by accident or accidental means of a human being, or because of any expense relating thereto, or because of any expense incurred in prevention of sickness, and includes every risk pertaining to any of the enumerated risks. Health insurance does not include workers’ compensation coverages.

“Life insurance” means a policy or contract whereby an insurer is obligated to pay or allow a benefit of pecuniary value with respect to the cessation of human life. Life insurance includes also the granting of endowment benefits and optional modes of settlement of proceeds of life insurance as well as provisions for additional benefits in event of death by accident or accidental means or in event of dismemberment or loss of sight, or safeguarding such insurance against lapse or giving a special surrender value or special benefit or an annuity in the event that the insured shall become totally and permanently disabled, whether such provisions are incorporated in a policy or contract of life insurance or in a policy or contract supplemental thereto. Life insurance does not include workers’ compensation coverages.

“State” means the State of New Jersey.

“Surplus lines insurer” means an eligible, unauthorized insurer with which an insurance coverage is placed or may be placed pursuant to N.J.S.A. 17:22-6.40 et seq. (see Appendix A to this subchapter, incorporated herein by reference).

Amended by R.2001 d.75, effective March 5, 2001.
See: 32 N.J.R. 4184(a), 33 N.J.R. 794(a).

11:1-34.3 Exportable list hearing

(a) In the month of November or December of each year, the Commissioner or his or her designee shall hold a hearing, pursuant to N.J.S.A. 17:22-6.43, for the purpose of determining the extent of the existence or a reasonable or adequate market among authorized insurers for certain classes of insurance coverages and risks. Additionally, the hearing shall provide interested parties the opportunity to present relevant information for the Commissioner’s consideration as to why forms disapproved or withdrawn should be approved.

1. This hearing shall be preceded by a notice of hearing published in the New Jersey Register at least 30 days prior to the date of the hearing, which notice shall include information concerning the date by which, and the person to whom, written public comment may be made. Notice shall also be provided to persons who have previously requested receipt of such notice.

2. The notice published in the New Jersey Register and as otherwise provided pursuant to (a)1 above shall also request that persons who wish to testify at the hearing provide the Department with timely notice of this intention, including a brief summary of the subject matter of their testimony.

3. The notice shall indicate whether the hearing shall address the merits of maintaining all items currently on the list, or whether the hearing will consider only specific additions, deletions or clarifications regarding the list.

4. The notice shall provide a list of disapproved policy forms or contracts that have been disapproved or withdrawn by the Commissioner since the previous exportable list hearing was held.

(b) The hearing shall be conducted by a hearing officer designated by the Commissioner. The length of testimony permitted at the hearing and the receipt of questions from the floor shall be within the discretion of the hearing officer.

(c) Interested parties may present evidence to the Commissioner that the conditions of non-procurability have changed. Evidence of non-procurability should demonstrate that there exists no reasonable or adequate market among authorized insurers.

(d) A transcript of the hearing shall be made and a copy thereof shall be made available to any interested person upon request and payment of an appropriate fee.

Public Notice: Public hearing on the Exportable List.
See: 28 N.J.R. 4680(b).
Public Notice: Public hearing on the Exportable List.

See: 29 N.J.R. 5028(b).
 Public Notice: Public hearing on the Exportable List.
 See: 30 N.J.R. 4291(b).
 Public Notice: Public hearing on the Exportable List.
 See: 31 N.J.R. 3860(a).
 Public Notice: Public hearing on the Exportable List.
 See: 32 N.J.R. 4019(a).
 Amended by R.2001 d.75, effective March 5, 2001.
 See: 32 N.J.R. 4184(a), 33 N.J.R. 794(a).
 Rewrote (a).
 Public Notice: Public Hearing on Exportable List.
 See: 34 N.J.R. 315(a), 34 N.J.R. 3994(a).
 Public Notice: Public Hearing on the Exportable List.
 See: 35 N.J.R. 5446(a).

11:1-34.4 Exportable list hearing record

(a) The record of the hearing shall include the following:

1. Timely-received written public comments;
2. The transcript of the hearing; and
3. Any other information which the hearing officer may deem relevant.

11:1-34.5 Promulgation and modification of exportable list

(a) Upon review of the exportable list hearing record, the Commissioner shall, by rule, declare eligible for export generally, and notwithstanding the provisions of N.J.S.A. 17:22-6.43(a), (b) and (c), any class or classes of insurance coverage or risk for which he or she finds there exists no reasonable or adequate market among authorized insurers;

provided, however, that if adequate documentary evidence has been presented which satisfies the Commissioner that a reasonable or adequate market does exist among authorized insurers, he or she may, by rule, strike any class or classes of insurance coverage or risks from the exportable list.

(b) The Commissioner may, by rule amending this subchapter, specifically declare ineligible for export any class or classes of insurance coverage or risk which he or she determines to be generally procurable through diligent effort among authorized insurers pursuant to N.J.S.A. 17:22-6.43(a).

(c) When, during the term of a duly promulgated exportable list, the Commissioner determines that changed conditions require a modification of the exportable list, he or she may, after a hearing, by rule, amend the list.

1. Notice of the Commissioner's action shall be provided to all surplus lines agents, eligible surplus lines insurers, authorized insurers and others who have previously requested receipt of such information.

11:1-34.6 Exportable list

(a) The exportable list is as follows:

1. Amusement Devices, Parks and Carnivals;

11:1-43.4 Request for review by the Commissioner

(a) A claimant may request a review by the Commissioner of a determination of the Association or Fund, as applicable, denying a request for a finding of unusual hardship within 20 days of receipt of the Association's or Fund's written decision by submitting to the Commissioner a request for review addressed to:

Office of Financial Solvency
New Jersey Department of Banking and Insurance
20 West State Street
PO Box 325
Trenton, NJ 08625-0325

(b) A request for review shall include those items presented in the initial request, a written statement explaining why the determination of the Association or Fund denying the initial request was incorrect, and any additional documentation in support of the request for review.

1. A copy of the request for review shall be simultaneously filed by the claimant with the Association or Fund, as applicable.

2. The Association or Fund, upon receipt of the request for review, shall forward the claimant's file to the Commissioner for his or her review.

(c) The Commissioner's final decision shall be provided to the Association or Fund, as applicable, and shall be mailed to the claimant or his or her legal representative by certified mail, return receipt requested and by regular mail. The Commissioner's decision shall constitute a final agency decision.

11:1-43.5 Confidentiality

All documents provided by a claimant pursuant to N.J.A.C. 11:1-43.3 shall be confidential 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.