

3. The purpose of, or reason for, the transactions;
4. If applicable, the identity of the replacement reinsurers; and
5. A copy of the revised provisions of the reinsurance agreement.

(d) Insurers shall report all material nonrenewals, cancellations or revisions of ceded reinsurance agreements on a non-consolidated basis unless the insurer is part of a consolidated group of insurers which utilizes a pooling arrangement or 100 percent reinsurance agreement that affects the solvency and integrity of the insurer's reserves and the insurer ceded substantially all of its direct and assumed business to the pool. An insurer is deemed to have ceded substantially all of its direct and assumed business to a pool if the insurer has less than \$1,000,000 total direct plus assumed written premiums during a calendar year that are not subject to a pooling arrangement and the net income of the business not subject to the pooling arrangement represents less than five percent of the insurer's capital and surplus.

11:1-39.6 Penalties

Failure to comply with the requirements of this subchapter shall result in the imposition of penalties as authorized by law.

SUBCHAPTER 40. (RESERVED)

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

Authority

N.J.S.A. 17:1-8.1, 17:1-15e, and P.L. 1995, c.384.

Source and Effective Date

R.1996 d.496, effective October 21, 1996.
See: 28 N.J.R. 3505(a), 28 N.J.R. 4582(a).

11:1-41.1 Purpose and scope

(a) This subchapter implements the Commissioner's responsibilities pursuant to P.L. 1995, c.384, which statute provides standards for acceptable sureties providing payment and performance bonds for contractors on public works projects. This subchapter sets forth the rating companies that may be considered by contracting officers for purposes of determining whether a surety company may be utilized to provide payment and performance bonds for a

public works project pursuant to P.L. 1995, c.384. This subchapter also sets forth the standards for a surety company which does not hold a certificate of authority issued by the United States Secretary of the Treasury to be deemed acceptable by contracting officers to provide payment and performance bonds for a public works project pursuant to P.L. 1995, c.384.

(b) This subchapter shall apply to all surety companies seeking to provide payment and performance bond coverage on a public works project at the expense of the State, contracting unit (as defined in N.J.S.A. 40A:11-2), school district, State college or county college, subject to P.L. 1995, c.384.

11:1-41.2 Definitions

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

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

"Department" means the New Jersey Department of Insurance.

"NAIC" means the National Association of Insurance Commissioners.

"Treasury listed" means a surety that holds a current certificate of authority issued by the United States Secretary of the Treasury pursuant to 31 U.S.C. § 9305, that is valid in New Jersey as listed annually in the United States Treasury Circular 570.

"Surety" means an insurer authorized or admitted to transact fidelity and surety business in this State pursuant to N.J.S.A. 17:17-10 or 17:32-1 et seq., as applicable.

11:1-41.3 Rating company

(a) The following rating companies are nationally recognized as providing ratings regarding the claims paying ability of insurers and may be used to determine whether a surety company is acceptable to provide payment and performance bonds pursuant to P.L. 1995, c.384:

1. A.M. Best Company;
2. Standard and Poor's Insurance Rating Services;
3. Moody's Investors Service, Inc.;
4. Duff and Phelps Credit Rating Company;
5. Weiss Ratings, Inc.; and
6. Fitch Investors Service, L.P.

(b) The three highest rating categories for each of the rating companies in (a) above are set forth in Appendix A to this subchapter incorporated herein by reference.

11:1-41.4 Treasury listed surety companies and alternative requirements to Treasury listing

(a) A surety company which is Treasury listed seeking to provide payment or performance bonds as required by P.L. 1995, c.384 may request to be listed by the Department as an acceptable surety for provision of bonds on public works contracts by filing a certification to that effect in the format of Appendix B to this subchapter incorporated herein by reference.

(b) A surety company that is not Treasury listed seeking to provide payment or performance bonds as required pursuant to P.L. 1995, c.384 may request to be listed by the Department as an acceptable surety for provision of bonds on public works contracts by filing a certification in the format of Appendix B to this subchapter incorporated herein by reference, that the surety satisfies the following requirements:

1. The surety shall be authorized or admitted to transact fidelity and surety in this State pursuant to N.J.S.A. 17:17-10 or 17:32-1 et seq., as applicable;

2. The surety shall not have been found to be in a hazardous financial condition by the Commissioner, its domiciliary jurisdiction, and all jurisdictions in which it is licensed, as determined pursuant to N.J.A.C. 11:2-27 or such equivalent requirements in other jurisdictions in which the surety is domicile and admitted;

3. The surety's net premium written to surplus as to policyholders shall not exceed a 3:1 premium to surplus ratio, and loss and loss adjustment expense reserve liability to surplus shall not exceed a 4:1 ratio as of the date of its most recently filed annual statement;

4. The surety shall satisfy, at a minimum, the statutorily prescribed minimum capital and surplus or net cash asset requirements for all lines of insurance that it is authorized to write pursuant to the certificate of authority issued by its domiciliary jurisdiction and all states in which it is licensed to transact business;

5. The surety shall not have received from the NAIC a "first priority" designation for the calendar year ending December 31 immediately preceding its application date;

6. If the surety is a member of an insurance holding company system, its parent or subsidiary shall not have received from the NAIC a "first priority" designation; and

7. The surety shall not have been identified as "second or third priority" and/or failed four or more Insurance Regulatory Information System (IRIS) tests, unless the applicant demonstrates to the Commissioner and its domiciliary jurisdiction that these IRIS test results and/or "priority" identification are not indicative of the applicant being in a hazardous financial condition.

(c) The Department shall publish in the New Jersey Register a list of surety companies that satisfy the requirements set forth in (a) and (b) above in or about September of each year.

(d) A surety seeking to continue to be listed by the Department as having satisfied the requirements set forth in (b) above shall file with the Department a certification in the format of Appendix B to this subchapter no later than August 1 of each year.

(e) Applications and renewal applications to be listed by the Department shall be sent to:

New Jersey Department of Banking and Insurance
 Attention: Surety Company List
 20 West State Street
 PO Box 325
 Trenton, NJ 08625-0325

Public Notice: List of Surety Companies acceptable to provide payment or performance bonds.
 See: 29 N.J.R. 4199(a).

11:1-41.5 Penalties

Failure to comply with the provisions of the subchapter shall result in the imposition of penalties as provided by law.

APPENDIX A

Rating Company	Three Highest Rating Categories	Ratings Within Three Highest Categories
A.M. Best Company	Best's Ratings: 1. Superior 2. Excellent 3. Very Good ----OR----	A + +, A + A, A - B + +, B +
	Financial Performance Rating: 1. Strong 2. Above average 3. Average	9, 8 7, 6 5
Standard & Poor's	1. Superior 2. Excellent Financial Security 3. Good Financial Security	AAA AA +, AA, AA - A +, A, A -
Moody's	1. Exceptional 2. Excellent 3. Good	Aaa Aa1, Aa2, Aa3 A1, A2, A3
Duff and Phelps Credit Rating Company	1. Highest claims paying ability 2. Very high claims paying ability 3. High claims paying ability	AAA AA +, AA, AA - A +, A, A -

Rating Company Weiss Fitch	Three Highest Rating Categories 1. Excellent 2. Good 3. Fair 1. Extremely strong 2. Very strong 3. Strong	Ratings Within Three Highest Categories A+, A, A- B+, B, B- C+, C, C- (also includes the above ratings with "s" prefix) AAA AA A
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\$_____, as reported in the statutory annual statement for that year. This amount satisfies the statutorily prescribed minimum capital and surplus or net cash asset requirements for all lines of insurance that the surety is authorized to write pursuant to the certificate of authority issued by its domiciliary jurisdiction and all states in which it is licensed to transact business. Yes ___ No ___

3. The above-referenced surety been found to be in a hazardous financial condition by the Commissioner, its domiciliary jurisdiction, or any jurisdiction in which it is licensed, as determined pursuant to N.J.A.C. 11:2-27 or such other equivalent requirements in other jurisdictions in which the surety is licensed. Yes ___ No ___

If yes, indicate jurisdiction(s) and details regarding such finding below.

4. The above-referenced surety's premium to surplus ratio as of December 31 immediately preceding is _____ and loss and loss adjustment expense reserve liability to surplus ratio for that period is _____, as reported in the statutory annual statement for that period.

5. The above-referenced surety received from the NAIC a "first priority" designation for the calendar year ending December 31 immediately preceding its application date. Yes ___ No ___

6. If the above-referenced surety is a member of an insurance holding company system, its parent or subsidiary has received from the NAIC a "first priority" designation. Yes ___ No ___

7. The above-referenced surety has been identified as "second or third priority" and/or has failed four or more IRIS tests. Yes ___ No ___

If yes, provide an explanation that demonstrates that such results are not indicative that the surety is in a hazardous financial condition.

PART III

Dated and signed this ___ day of _____. I hereby certify that the foregoing statements are true and correct to the best of my knowledge and belief. I further certify that I am aware that the New Jersey Department of Insurance will rely on this certification in connection with its determination whether the surety satisfies the requirements set forth in N.J.A.C. 11:1-41 for purposes of providing

APPENDIX B

REQUEST FOR LISTING BY NEW JERSEY DEPARTMENT OF INSURANCE AS ACCEPTABLE SURETY FOR PROVISION OF BONDS ON PUBLIC CONTRACTS PURSUANT TO P.L. 1995, C.384

COMPANY NAME _____
 ADDRESS _____
 TELEPHONE NO. _____
 COMPANY NAIC NUMBER _____
 GROUP NAME _____
 GROUP NAIC NUMBER _____

I, _____, hereby file this certification on behalf of _____ in connection with this company's application to be listed by New Jersey Department of Insurance for purposes of providing payment and performance bonds pursuant to P.L. 1995, c.384. I further certify that I am authorized to execute this certified statement on behalf of _____

PART I

1. The above-referenced surety is listed in the most recent United States Treasury Circular 570 issued July 1 of each year. Yes ___ No ___

If yes, go to Part III; if no, complete Part II.

PART II

1. The above-referenced surety is currently licensed to transact business in the following jurisdictions for the following lines:

<u>Jurisdiction</u>	<u>Line</u>
_____	_____
_____	_____
_____	_____

(Attach additional sheets if necessary)

2. The above-referenced surety's capital and surplus or net cash assets, as of December 31 immediately preceding is

payment and performance bonds pursuant to P.L. 1995,
c.384.

(Signature of Affiant)

I am aware that if any of the foregoing statements made
by me are willfully false, I am subject to punishment.

Administrative correction.
See: 29 N.J.R. 425(b).