

"Unpaid claims" or "unpaid losses" means case reserves and reserves for incurred but not reported claims attributed to the fund net of any recoverable per occurrence or aggregate excess insurance or reinsurance for a particular year.

"Workers' compensation law" means the provisions of N.J.S.A. 34:15-7 et seq.

Amended by R.1989 d.507, effective September 18, 1989.

See: 21 N.J.R. 3051(b), 21 N.J.R. 3017(a).

Definitions for "Fiscal year", "Intertrust fund transfer", "Interyear fund transfer", "Net current surplus", and "Unpaid claims" added. Amended by R.1991 d.16, effective January 7, 1991.

See: 22 N.J.R. 16(a), 23 N.J.R. 112(a).

Amended definitions of "actuary", "indemnity and trust agreement", "local unit of government" and "property damage"; added "automobile and equipment liability" and deleted "motor vehicular and equipment liability".

Amended by R.1995 d.408, effective August 7, 1995.

See: 26 N.J.R. 2725(a), 26 N.J.R. 3592(a), 27 N.J.R. 2938(a).

Added definitions for "Chairman", "Environmental impairment liability fund", "Producer" and "Secretary" and amend "Administrator", "Excess insurance", "Executive committee", "Indemnity and trust agreement", "Joint insurance fund", "Joint insurance fund commissioners", "Lead agency", "Local unit of government", "Net current surplus", "Servicing organization", "Unpaid claims" and "Workers' compensation law".

Amended by R.1996 d.534, effective November 18, 1996.

See: 28 N.J.R. 4027(a), 28 N.J.R. 4877(a).

11:15-2.3 Agreement to join joint insurance fund; duration

(a) Pursuant to N.J.S.A. 40A:10-36, the governing body of any local unit of government may by resolution or ordinance, as appropriate, agree to join together with any other local unit or units to establish a joint insurance fund as defined in this subchapter. The resolution or ordinance shall provide for execution of a written agreement specifically providing for acceptance of the fund's bylaws as approved and adopted pursuant to N.J.S.A. 40A:10-39. The agreement shall specify the extent of the local unit's participation in the fund with respect to the types of insurance coverage to be provided by the fund and shall include the duration of fund membership, which in no event shall exceed three years, pursuant to N.J.S.A. 40A:11-15(6). The agreement shall also specify that the fund members have never defaulted on claims if self-insured and have not been cancelled for nonpayment of insurance premiums for a period of at least two years prior to application.

(b) Members may renew their participation by the execution of a new agreement to rejoin the joint insurance fund. If the existing ordinance or resolution did not specify the duration of fund membership, the member shall affirm the new membership agreement by resolution. If the existing ordinance or resolution specified the duration for fund membership, the member shall either amend the existing ordinance or resolution, or adopt a new ordinance or resolution, as appropriate, to authorize the continued participation in the joint insurance fund prior to the execution of the new membership agreement. In lieu of filing with the Department and Department of Community Affairs copies of the new ordinance or resolution and new indemnity and trust agreement referred to in N.J.A.C. 11:15-2.6(b)10 for each member's renewal of membership, the fund shall file a notice with the Department which sets forth the members that have renewed membership and the respective durations of such membership, as well as the members that have not rejoined the fund.

(c) For purposes of N.J.S.A. 40A:10-52, the governing body of any municipality and the board of education of the local school district operating within that municipality may, subject to N.J.S.A. 40A:10-52, by ordinance or resolution, as the case may be, agree to join together for purposes of insuring coverages as set forth in that statute, provided that the district is not part of a limited purpose regional school district, an all purpose regional school district, or a consolidated school district. All purpose regional school districts, consolidated school districts, limited purpose regional school districts, the board of education of local school districts which are part of a limited purpose regional school district as described above, and county vocational school districts and the board of education of local school districts within a county vocational school district, may otherwise agree to join together with one or more constituent municipalities for the purposes of insuring coverages as described in and in accordance with N.J.S.A. 40A:10-53 to 57, as applicable. The board of education of a local or regional school district, consolidated school district or county vocational school district may not otherwise join with any municipality to form a fund pursuant to N.J.S.A. 40A:10-36 et seq. for the purpose of insuring coverages of the kinds set forth in N.J.S.A. 40A:10-52 to 57, except pursuant to this subsection. Notwithstanding any other provision to the contrary, no board of education, except the board of education of county vocational school districts, may join together with a municipality or other local unit for the purpose of providing contributory or non-contributory group health insurance or term life insurance, or both, to employees or their dependents, or both, as otherwise permitted pursuant to N.J.S.A. 40A:10-36 et seq.

Amended by R.1991 d.16, effective January 7, 1991.

See: 22 N.J.R. 16(a), 23 N.J.R. 112(a).

Changes reflect current practice and changes in applicable statutes.

Amended by R.1995 d.408, effective August 7, 1995.

See: 26 N.J.R. 2725(a), 26 N.J.R. 3592(a), 27 N.J.R. 2938(a).

Amended existing text and redesignated section as (a) and (b); and added (c).

11:15-2.4 General requirements

(a) Every joint insurance fund shall be subject to and operate in compliance with the provisions of the "Local Fiscal Affairs Law" (N.J.S.A. 40A:5-1 et seq.), the "Local Public Contracts Law" (N.J.S.A. 40A:11-1 et seq.), regulations (including, but not limited to, N.J.A.C. 5:34), the various statutes authorizing the investment of public funds, including but not limited to, N.J.S.A. 40A:10-10(b), 40A:10-38, 17:12B-241 and 17:16I-1 et seq., and in the case of a joint insurance fund providing environmental impairment liability coverage, the "Local Bond Law" (N.J.S.A. 40A:2-1 et seq.), but shall not be subject to the debt limitation set forth in N.J.S.A. 40A:2-6.

(b) All monies, assessments, funds and other assets of a joint insurance fund shall be under the exclusive control of its board of insurance fund commissioners or executive committee, as applicable.

(c) A joint insurance fund shall be considered a local unit for purposes of the "Local Public Contracts Law" (N.J.S.A. 40A:11-1 et seq.) and shall be governed by the provisions of that law in the purchase of any goods, materials, supplies and services.

(d) Each joint insurance fund shall utilize as its fiscal year, the calendar year, January 1 through December 31.

(e) Each joint insurance fund shall adopt a resolution designating a public depository or depositories for its monies pursuant to N.J.S.A. 40A:5-14. Such resolution shall also designate a person to be custodian of funds for the joint insurance fund and shall authorize the custodian to invest the temporarily free balances of any claim/trust or administrative accounts periodically as authorized by law. The custodian of funds shall possess a certified municipal finance officer certificate issued pursuant to N.J.S.A. 40A:9-140.2, or to the extent the fund is comprised of entities other than municipalities, possess the appropriate professional credentials required by the Department of Community Affairs pursuant to the "Local Fiscal Affairs Law" (N.J.S.A. 40A:5-1 et seq.). The custodian shall report to the fund commissioners at least quarterly on investment and interest income.

(f) The joint insurance fund commissioners shall annually prepare in November of each year the proposed budget for the fund's subsequent fiscal year. The budget shall identify the proposed items and amounts of expenditure for its operations in the aggregate and allocated by member, the anticipated amounts and sources of assessments and other income to be received during the fiscal year, and the status of the self-insurance or loss retention trust accounts maintained by the joint insurance fund. The budget shall be prepared on a basis that does not recognize investment income or discounting of claim reserves, but recognizes all anticipated or forecasted losses and administrative expenses associated with that fiscal year.

1. A copy of the fund's proposed budget or any amendments thereto shall be made available to each member of the joint insurance fund at least two weeks prior to the time scheduled for its adoption. No budget or amendment shall be adopted until a public hearing has been held in accordance with N.J.S.A. 40A:4-1 et seq. giving all members of the joint insurance fund the opportunity to present comments or objections.

2. Not later than December 31 of each year, the joint insurance fund commissioners, or the executive committee thereof, shall adopt by majority vote the budget for the fund's operations for the subsequent fiscal year.

3. An adopted budget may be amended by majority vote of the membership of the joint insurance fund commissioners, or executive committee thereof.

4. A copy of each adopted budget shall be filed with the governing body of each participating local unit, the Commissioner and the Commissioner of the Department of Community Affairs within 30 days of its adoption, including a certification by an actuary that the budget is actuarially sound with respect to funding for the claim or loss retention fund accounts.

5. A copy of any amendment to a fund budget shall be filed quarterly with the governing body of each participating local unit.

6. A copy of any amendment to a fund budget shall be filed with the Commissioner and the Commissioner of the Department of Community Affairs within 30 days of the adoption of any budget amendment which either singly or cumulatively with other adopted budget amendments changes the total budget five percent from the original budget or the latest filed amended budget.

(g) All books, records, files, documents and equipment of the joint insurance fund are the property of the fund, except as provided at N.J.A.C. 11:15-2.22(e), and shall be retained by the secretary of the fund or fund administrator at the discretion of the fund commissioners or executive committee.

1. All claims information for a particular fund year and all financial information shall be retained for a period not less than the longer of either:

i. For financial information, seven years from the date of their creation; for claims information, seven years after all claims for that year have been fully paid; or

ii. Until the completion and filing of the next financial condition examination of the fund by the Commissioner.

(h) Each fund shall maintain written minutes of its meetings and shall file such approved, ratified and adopted minutes with the Commissioner within 30 days after such minutes are approved, ratified and adopted.

(i) A joint insurance fund shall provide its members with periodic reports covering the activities and status of the fund for the reporting period. Such reports shall be made at least quarterly and may be made more frequently at the discretion of the joint insurance fund commissioners and shall include, but not be limited to, the minutes, the administrator's or lead agency's report and a summation of fund activity, including comments on previously reported claims and newly reported claims, and any other information required by the fund commissioners, but excluding any closed session minutes of portions of a meeting as provided in N.J.S.A. 10:4-12b. The Department may require that such reports be submitted to the Department if it is deemed necessary to ensure compliance with these reporting requirements. Such reports shall also be made available to the Department for review during any examination of the joint insurance fund. The Department may also require that copies of closed session minutes be filed for its review. Copies of closed session minutes filed with the Department shall be held confidential by the Department 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.

(j) All officers, employees and agents of the joint insurance fund, including the administrator and servicing organization of the fund, on the final day of their contract or employment shall surrender and deliver to their successors all accounts, funds, property, records, books and any other material relating to their contract or employment.

(k) A joint insurance fund may utilize the services of a member to serve as lead agency for the fund.

1. A lead agency may be compensated for its reasonable expenses incurred in administering the affairs of a joint insurance fund. Any administrative costs agreed upon to be paid to a lead agency shall be received by it as a Miscellaneous Revenue and be available for expenditure through the budget appropriation method.

2. A lead agency shall not advance funds of its own to cover a purchase on behalf of the fund or the other participating units.

Amended by R.1991 d.16, effective January 7, 1991.

See: 22 N.J.R. 16(a), 23 N.J.R. 112(a).

At (g) added "fund administrator" as retainer of records and at (i) added specifications to reports.

Amended by R.1995 d.408, effective August 7, 1995.

See: 26 N.J.R. 2725(a), 26 N.J.R. 3592(a), 27 N.J.R. 2938(a).

At (a) added requirements for provision of environmental impairment liability coverage; at (e) required custodian of funds to be a certified municipal finance officer; at (f) changed the basis on which the annual budget is prepared; at (g) added 1.i and 1.ii; and at (k) amended duties of the lead agency.

Amended by R.1996 d.534, effective November 18, 1996.

See: 28 N.J.R. 4027(a), 28 N.J.R. 4877(a).

11:15-2.5 Bylaws and plan of risk management; filing requirements

(a) Each joint insurance fund shall file with the Department for approval by the Commissioner and the Commis-

sioner of the Department of Community Affairs, as provided in N.J.S.A. 40A:10-41, its bylaws and plan of risk management and any amendments thereto. In addition, the initial filing shall contain and be accompanied by the information and documentation specified at N.J.A.C. 11:15-2.6, and such other information as the Commissioner may request. All filings shall be in loose-leaf form inserted into standard two-ring or three-ring binders tabbed or otherwise indexed to correspond to the requirements set forth in N.J.A.C. 11:15-2.6. The loose-leaf sheets used shall be eight and one-half inches wide by 11 inches long and punched for two-ring and three-ring binders, as appropriate. The fund shall submit five copies of a filing in the format set forth in this subsection to the Department and one copy to the Department of Community Affairs. All information shall be submitted completely and accurately.

(b) All of the information and documentation set forth in N.J.A.C. 11:15-2.6 shall constitute the fund's bylaws and plan of risk management for purposes of N.J.S.A. 40A:10-41. No joint insurance fund shall begin providing insurance coverage to its member units until its bylaws and plan of risk management, including all of the information required pursuant to N.J.A.C. 11:15-2.6, have been approved by the Commissioner.

(c) No amendment to a fund's bylaws or plan of risk management shall take effect until such amendment is approved by the Commissioner.

(d) Within 10 days following any change in the information or documentation required to accompany the filing of the fund's bylaws or amendments thereto, as provided in (a) above, the fund shall file notice of the change, with the Department and the Department of Community Affairs.

(e) The bylaws and plan of risk management and all information required to accompany the initial filing shall set forth an identifying number or code and the filing date on each page of the specific document filed. For example, each page of the bylaws shall set forth an identifying number or code; each page of the plan of risk management shall set forth a different identifying number or code; the sample resolution and trust agreement shall set forth a different identifying number or code; etc. Any amendment or supplemental form to any information previously filed shall contain the original identifying number or code, indicate that the document is an amendment or supplement to the information previously filed, and set forth the date of revision.

(f) In addition to the information set forth in N.J.A.C. 11:15-2.6, the fund shall provide a cover letter stating the name, telephone number(s) and telefax number(s) of two contact persons (one primary, one secondary) familiar with the filing to whom the Department may direct any questions, as well as the fund's official mailing address for the

purpose of disseminating Department information, in accordance with N.J.A.C. 11:1-25.

(g) All information required to be submitted shall be sent to the Department and the Department of Community Affairs at:

1. New Jersey Department of Banking and Insurance
 Division of Financial Examinations
 Attn: Municipal JIF Admissions
 20 West State Street
 CN 325
 Trenton, NJ 08625-0325; and
2. New Jersey Department of Community Affairs
 Division of Local Government Services
 101 South Broad Street
 CN-803
 Trenton, NJ 08625-0803

Emergency amendment, R.1984 d.616, effective December 24, 1984 (expires February 22, 1985).

See: 17 N.J.R. 218(a).

(a) substantially amended.

Adopted by R.1985 d.128, effective February 22, 1985.

See: 17 N.J.R. 218(a), 17 N.J.R. 709(a).

Amended by R.1995 d.408, effective August 7, 1995.

See: 26 N.J.R. 2725(a), 26 N.J.R. 3592(a), 27 N.J.R. 2938(a).

Substantially amended (a) and (b) and added (e) through (g).

Amended by R.1996 d.534, effective November 18, 1996.

See: 28 N.J.R. 4027(a), 28 N.J.R. 4877(a).

11:15-2.6 Bylaws and plan of risk management; contents

(a) The commissioners of a joint insurance fund shall prepare and, after the approval, by resolution, of the governing body of each participating local governmental unit, shall adopt bylaws for the joint insurance fund. The bylaws shall include, but not be limited to:

1. Procedures for the organization and administration of the joint insurance fund, the insurance fund commissioners and alternates and, if appropriate, the executive committee of the fund and alternates. The procedures may include the designation of one member local unit to serve as the lead agency;
2. Procedures for the assessment of members for their contributions to the fund and for the collection of contributions in default;
3. Procedures for the establishment, maintenance and administration of appropriate reserves in accordance with sound actuarial principles;
4. Procedures for the purchase of direct insurance or reinsurance if any;
5. Contingency plans for paying losses in the event that the fund is exhausted, including provision for supplemental assessments as provided at N.J.A.C. 11:15-2.16;

6. Procedures governing loss adjustment and legal fees;

7. Procedures for the joining of the fund by a non-member local unit;

8. Procedures in compliance with N.J.A.C. 11:15-2.10 for the withdrawal or expulsion from the fund by a local unit, including any requirement that a terminated or withdrawing member provide security in a form and amount acceptable to the Commissioner and fund commissioners as applicable, as a guarantee for the continued payment of the member's obligations pursuant to N.J.A.C. 11:15-2.10(c);

9. Procedures for the termination and liquidation of the joint insurance fund and the payment of its outstanding obligations; and

10. Procedures governing trust fund accounts, including transfers, withdrawals and distribution of surplus therefrom and supplemental assessments.

(b) In addition, the bylaws shall:

1. Include the fund's name, location of its principal office, date of organization, and name and address of each initial member;

2. Specify the insurance coverages to be provided by the fund and the minimum participation required of any member;

3. Describe the responsibilities and obligations of the participants, the terms and conditions of continued participation and discontinuance of participation in the fund;

4. Be accompanied by a pro forma financial statement, with underlying assumptions and methodology, on a form acceptable to the Commissioner showing the financial strength and liquidity of the fund to assure that all obligations will be met promptly;

5. Where self-insured, provide a plan for specific and aggregate excess insurance or reinsurance and for retention in accordance with sound actuarial principles and the plan of risk management;

6. Be accompanied by proof of competent personnel and ample facilities within the fund organization with respect to claims administration, underwriting matters, loss prevention and safety engineering or present a contract with a servicing organization for the provision of such services;

7. Establish the claims handling procedure to be utilized by the fund which procedure shall provide for the prompt, fair and equitable settlement of claims;

8. Establish the complaint handling procedure to be utilized by the fund;