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New Rule, R.1998 d.302, effective June 15, 1998.
 See: 30 N.J.R. 267(a), 30 N.J.R. 2214(a).

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SUBCHAPTER 40. LIFE/HEALTH/ANNUITY FORMS

11:4-40.1 Purpose and scope

(a) The purpose of this subchapter is to implement P.L. 1995, c.73 (the Life and Health Insurance and Health Maintenance Organization Form Approval Reform Act) by setting forth standards and procedures whereby all life insurance, health insurance, and annuity forms, and rates where applicable, are to be submitted to the Commissioner for his or her approval prior to use. This subchapter also establishes a file and use system for certain forms deemed eligible by the Commissioner provided that a certification is filed that the particular form complies with the law and rules applicable to it.

(b) This subchapter shall apply to all life insurance, health insurance and annuity forms issued pursuant to N.J.S.A. 17B:17-1 et seq.; all hospital service corporation contracts issued pursuant to N.J.S.A. 17:48-1 et seq.; all medical service corporation contracts issued pursuant to N.J.S.A. 17:48A-1 et seq.; all health service corporation contracts issued pursuant to N.J.S.A. 17:48E-1 et seq.; and all health maintenance organization contracts, evidence of coverage and related forms issued pursuant to N.J.S.A. 26:2J-1 et seq. This subchapter shall not apply to any forms issued pursuant to N.J.S.A. 17B:27A-2 et seq. or 17B:27A-17 et seq., but shall apply to all forms issued pursuant to N.J.S.A. 17B:27A-7 and N.J.S.A. 17B:27A-19.

11:4-40.2 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 included within the definitions of life insurance or health insurance as set forth in this section, 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. A contract which includes extra benefits of the kinds set forth in the definitions of life insurance or health insurance set forth in this section shall nevertheless be deemed to be an annuity if such extra benefits constitute a subsidiary or incidental part of the entire contract.

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

“Contract on a variable basis” or “variable contract” means any separate account contract providing for the dollar amount of life insurance or annuity benefits or other contractual payments or values thereunder to vary so as to reflect investment results of one or more separate accounts in which amounts with respect to any such contracts shall have been placed.

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

“Form” or “policy form” or “life/health/annuity form or contract” means any individual or group policy form or contract providing life insurance, health insurance or annuity benefits; any application for such a policy, contract or certificate if a written application is required and is to be made part of that policy or contract; any rider or endorsement for use with such a policy or contract; certificates of such insurance; any evidence of such insurability form; any health maintenance organization contract; and any evidence of such coverage or related form delivered or issued for delivery in this State.

“Funeral insurance policy” means a policy as defined at N.J.S.A. 17B:17-5.1.

“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 coverage or stop-loss coverage.

“Insurer” means a hospital service corporation operating pursuant to N.J.S.A. 17:48-1 et seq.; a medical service corporation operating pursuant to N.J.S.A. 17:48A-1 et seq.; a health service corporation operating pursuant to N.J.S.A. 17:48E-1 et seq.; a life, health or annuity company operating pursuant to N.J.S.A. 17B:17-1 et seq.; and a fraternal benefit society operating pursuant to N.J.S.A. 17:44A-1 et seq. to the extent that it issues certificates or evidence of coverage forms containing accident or health benefits. A fraternal benefit society that issues certificates containing life insurance benefits is not considered an insurer for purposes of this subchapter.

“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 also includes the granting of endowment benefits and optional modes of settlement of proceeds of life insurance, as well as provisions for additional benefits in the event of death by accident or accidental means or in the event of dismemberment or loss of sight; or safeguarding such insurance against lapse or giving a special surrender value, or special benefit or 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 worker's compensation coverage.

"Limited death benefit policy" means a policy as defined at N.J.A.C. 11:4-21.

"Private placement form" means an individual variable life insurance form or individual variable annuity form where the purchaser meets the definition of "accredited investor" set forth in Rule 501 of Regulation D under the Securities Act of 1933, 15 U.S.C. §77b.(15) or "qualified purchaser" set forth in Section 2(a)(51) of the Investment Company Act of 1940, 15 U.S.C. §80a-2(a)(51).

"Published guidelines" means guidelines published by the Commissioner on or before April 10, 1995.

"Responsible officer of the insurer" means a corporate officer of the level of vice president or higher, or of an equivalent title within the insurer's corporate structure, who is either an actuary of the insurer with responsibility for the type of form filed, or the individual with responsibility for managing the form filing process for the insurer with regard to the type of form filed.

"Separate account" means any segregated portfolio of investment or designated account of an insurer established pursuant to N.J.S.A. 17B:28-1 et seq.

"State" means the State of New Jersey.

"Stop loss or excess risk insurance" means insurance designed to reimburse a self-funded arrangement for catastrophic and unexpected expenses exceeding specified per person retention limits of no less than \$25,000 per year and/or aggregate retention limits of no less than 125 percent of expected claims per year, wherein neither the employees nor other individuals are third party beneficiaries under the policy, contract or plan.

"Universal flexible-factor form" means any life insurance policy, rider or endorsement, whether participating or non-participating, which permits the insurer to reserve the right to modify (upward or downward) premiums, premium factors (interests, mortality, expenses), or benefits (death benefits, cash or loan values) on the basis of future anticipated or emerging experience.

Amended by R.2001 d.7, effective January 2, 2001.
See: 32 N.J.R. 3546(a), 33 N.J.R. 101(a).

Amended by R.2007 d.131, effective May 7, 2007.
See: 38 N.J.R. 4392(a), 39 N.J.R. 1733(a).

Added definition "Private placement form".

11:4-40.3 Life/health/annuity form approval standards

(a) All life, health and annuity forms shall comply with the standards set forth in this subchapter and in any other applicable statutes, rules and published guidelines before being delivered or issued for delivery in this State.

(b) No form delivered or issued for delivery in this State shall contain provisions which are unjust, unfair, inequitable, misleading or contrary to law or to the public policy of this State.

(c) The following types of contracts and forms are exempt from compliance with this subchapter:

1. Annuity contracts, other than individual contracts and synthetic guaranteed investment contracts;
2. Annuity contracts used solely for structured settlements that are purchased by an insurer or an obligor for the purpose of funding defined periodic payments pursuant to a court order or an out of court settlement of a tort liability claim, or for periodic payments in settlement of a workers compensation claim; and
3. Individual variable life forms and individual variable annuity forms sold exclusively as private placement forms.

(d) Forms drafted exclusively to meet the requirements for favorable tax treatment of a life insurance policy or annuity contract under the Internal Revenue Code of 1986, as amended (Code), are exempt from compliance with this Subchapter. Such requirements include those found in Sections 401, 403(b) and 408A, and in any similar section of the Code applicable to Federal tax treatment of life insurance policies or annuity contracts. This exemption shall not apply to any form which contains additional or optional provisions, requirements or modifications included by the insurer.

Amended by R.2001 d.408, effective November 5, 2001.

See: 33 N.J.R. 2263(a), 33 N.J.R. 3747(a).

Added (c).

Amended by R.2004 d.174, effective May 3, 2004.

See: 35 N.J.R. 4437(a), 36 N.J.R. 2197(a).

Added (d).

Amended by R.2007 d.131, effective May 7, 2007.

See: 38 N.J.R. 4392(a), 39 N.J.R. 1733(a).

Rewrote (c).

11:4-40.4 General requirements

(a) All insurers submitting forms or other correspondence to the Department pursuant to this subchapter shall comply with the following general procedures:

1. All individual health, group health, blanket, prepaid legal contracts, group life and service corporation forms and other related correspondence submitted or resubmitted for approval or for file and use pursuant to this subchapter shall be submitted to the Department at the following address:

New Jersey Department of Banking and Insurance
Health Bureau
20 West State Street
PO Box 470
Trenton, NJ 08625-0470

2. All individual life, credit life and health, mortgage guaranty, separate account, variable contract and annuity

forms and other related correspondence pursuant to this subchapter submitted or resubmitted for approval or for file and use shall be submitted to the Department at the following address:

New Jersey Department of Banking and Insurance
Life Bureau
20 West State Street
PO Box 470
Trenton, NJ 08625-0470

3. All submissions and resubmissions of forms to the Department shall include a self-addressed, stamped envelope.

4. For purposes of computing time limits in this subchapter, "days" shall mean calendar days, except that when

the last day of any specified time period is a Saturday, Sunday or State holiday, then the time period shall end on the next following business day. With regard to any specified time period relating to documents or correspondence transmitted between the Department and the insurer, the Department shall rely on one of the following:

i. The date appearing on a clear, legible postmark affixed by the United States Postal Service;

ii. The legible date of receipt from the sender appearing on the transmission documents of a private delivery service; or

iii. In the absence of either (a)4i or ii above, the actual date of receipt by the Department.

Amended by R.2001 d.7, effective January 2, 2001.
See: 32 N.J.R. 3546(a), 33 N.J.R. 101(a).

11:4-40.5 Life/health/annuity form approval procedures

(a) No insurer shall deliver or issue for delivery in this State any form unless the form has been approved by the Commissioner pursuant to the procedures set forth in this subchapter, except for those forms eligible for submission to the Commissioner pursuant to the file and use system described in this subchapter at N.J.A.C. 11:4-40.9 and 40.10 or specifically exempt from compliance with this subchapter.

(b) An insurer seeking approval of a form shall submit a complete form filing to the Department, which shall include the items set forth below:

1. A properly completed Initial Submission Data Form as set forth at Exhibit A in the Appendix to this subchapter, incorporated herein by reference;

2. A specimen copy of the form in duplicate;

3. A cover letter in duplicate, which shall include the following:

i. The insurer's identity;

ii. The form number(s) of the form(s) being submitted. If several forms are being submitted, the form numbers may be included as an attachment to the cover letter;

iii. A general description of the nature of the form(s), including, but not limited to, the specific market and issue ages;

iv. The identity of one individual authorized as the insurer's contact person for the form(s) being filed;

v. A statement as to whether the form was previously submitted to the Department, including the date and status of any such submission; and

vi. For rider forms or endorsements, an explanation of the manner in which the rider or endorsement affects the mortality basis or premiums for the base policy;

4. A certification signed by a responsible officer of the insurer that the forms comply with all laws, rules, bulletins and published guidelines applicable to the particular type of form. The certification may be included in the text of the cover letter described in (b)3 above if the cover letter is signed by a responsible officer of the insurer;

5. A readability certification if required pursuant to N.J.S.A. 17B:17-21d;

6. An actuarial memorandum which complies with the requirements of any applicable statutes, rules or published guidelines, and premium rates if required by this subchapter or other law or rule, for the particular type of form being submitted;

7. The appropriate service fee set forth at N.J.A.C. 11:1-32 if required;

8. Any additional items required to be submitted for forms as specifically set forth at other sections of this subchapter; and

9. Where the form submitted is a rider, endorsement, insert page or supplemental form, a listing of the policy form number(s) and approval date(s) of the policy form(s) with which the form submitted is to be used and a specimen copy of an approved policy form.

(c) The Department shall, within 25 days of receipt, return an incomplete filing to the insurer with a notice indicating that the filing is being returned with no action by the Department, and that time for the Department's substantive review for approval of the form and/or rate filing has not commenced.

(d) A form/rate filing shall be deemed approved upon the expiration of 60 days following submission of the filing to the Commissioner unless the Department approves or disapproves the filing in writing within that 60-day period. If approval is deemed, the insurer shall notify the Department in writing prior to use of its intent to use the form.

1. The Department's written disapproval of a filing shall include the following:

i. The specific reasons for the disapproval, which shall be limited to only the standards set forth in this subchapter at N.J.A.C. 11:4-40.3, and in any laws, rules, bulletins or published guidelines applicable to the particular type of form being disapproved; and

ii. A Resubmission Data Form for use by the insurer in resubmitting the disapproved filing.

2. A form filing which is disapproved by the Department prior to the expiration of the 60-day disapproval period shall be deemed withdrawn at the expiration of the 60-day period following notice of disapproval unless the insurer resubmits the disapproved form filing within the 60-day period pursuant to the procedures set forth in (e) below.

(e) An insurer may resubmit a form filing which has been disapproved by the Commissioner pursuant to (d) above. The resubmission shall include the items set forth below:

1. A properly completed Resubmission Data Form;

2. A cover letter in duplicate, which shall include all the information required to be included in the initial submission cover letter as set forth at (b) above, in addition to the Department submission number;

3. The revised form(s) or page(s) only, if practicable, of the disapproved form(s). One copy shall be marked to show the changes from the prior submission, and one copy shall be unmarked. The resubmission shall also

include a marked copy of any revised support material (for example, a periodic report);

4. A certification signed by a responsible officer of the insurer that the resubmission is the same as the original form filing, with the exception of the item(s) identified as modified or new; and

5. The resubmission shall completely respond to all the objections raised in the Department's disapproval of the initial or previous submission; otherwise, the Department shall return the resubmission as incomplete.

(f) A complete form filing resubmission shall be deemed approved upon the expiration of 30 days following resubmission of the filing to the Commissioner unless the Department approves or disapproves the resubmission in writing within that 30-day period. If approval is deemed, the insurer shall notify the Department in writing prior to use of its intent to use the form.

1. The Department's written disapproval of a form filing resubmission shall include the specific reasons for disapproval of the resubmission, which shall be limited to only the objections specifically stated in the Department's initial disapproval of the form filing except to the extent that the resubmission contains new provisions not included in the initially disapproved form filing or any changes or modifications to any substantive provisions of the form filing.

(g) If the Department issues a written disapproval of a resubmitted form filing prior to the expiration of the 30-day disapproval period, the filing shall be deemed withdrawn at the expiration of the 30-day period following disapproval unless the insurer resubmits a disapproved form filing within the 30-day period pursuant to the procedures set forth in this subsection.

Amended by R.2001 d.408, effective November 5, 2001.
See: 33 N.J.R. 2263(a), 33 N.J.R. 3747(a).

In (a), amended N.J.A.C. references and added "or specifically exempt from compliance with this subchapter."

11:4-40.6 Individual life and annuities variable form approval procedures

(a) In addition to those items set forth at N.J.A.C. 11:4-40.5, insurers seeking approval of individual life and annuities variable forms shall include, if applicable, the following items in the submission to the Department:

1. A prospectus; and
2. An actuarial memorandum which discusses the derivation of cash values and all current and maximum charges deducted in determining the separate account values.

Amended by R.2000 d.130, effective March 20, 2000.
See: 31 N.J.R. 3910(a), 32 N.J.R. 1024(a).
In (a), deleted former 3.

11:4-40.7 Valuation and non-forfeiture interest rates form approval procedures

(a) In addition to those items set forth at N.J.A.C. 11:4-40.5, insurers seeking approval of valuation and non-forfeiture interest rate changes to previously filed forms shall include, if applicable, the following items in the submission to the Department:

1. If the interest rate and/or non-forfeiture values appearing on the form change as a result of the new interest rate, the submission shall include the new page(s) bearing distinct identifying form numbers for filing;
2. A revised actuarial memorandum reflecting the change in interest rate or a statement that the new rate does not affect the memorandum currently on file;
3. Pursuant to N.J.S.A. 17B:25-19h(x), an insurer is not required to refile other provisions of the form to file the changes described in (a)1 and 2 above; and
4. The interest rate and non-forfeiture values may be filed as variable to the extent they are equal to or determinable from the maximum interest rate, and cash values calculated using that rate, as described in N.J.S.A. 17B:25-19. Insurers shall place variable brackets around the appropriate item(s) on the revised policy page(s).

(b) The Department shall acknowledge a submission indicating a change in the valuation interest rate and amending actuarial data related to reserve calculations. If a form actually refers to, or contains provisions depending on, the valuation interest rate, the submission shall be treated as a refiling of policy pages to change the interest rate pursuant to (a)1 and 2 above.

11:4-40.8 Certificate of assumption form approval procedures

(a) In addition to those items set forth at N.J.A.C. 11:4-40.5, insurers seeking approval of certificates of assumption shall include, if applicable, the following items in the submission to the Department:

1. A clear indication whether the assuming and ceding insurers are authorized in this State for the lines of business being assumed;
2. A general description of the type of business being assumed;
3. A list of the forms and filing dates with which the certificate will be used, together with a copy of the Department's filing letters applicable to these forms;
4. For forms intended for use with group business, the provisions of the form must be consistent with both the group contract and certificate form;
5. Evidence of approval of both the transaction and the forms, if required, by the state of domicile of the assuming and ceding insurers;

6. All communications between either the assuming or ceding insurer with the policyholders, including letters, memoranda, identification cards, advertisements or other material;

7. Affirmative consent of the owner is not required, but if obtained, the consent form shall be part of the submission. The certificate of assumption form shall not include a provision indicating that consent of the policyholder is deemed or implied as the result of some positive or negative action;

8. A certification by the assuming insurer that it will adhere to all conditions and representations which were part of the original filing of the forms being assumed;

9. Certifications by the assuming and ceding insurers that any communications by a policyholder with the ceding insurer will have the same legal status as a communication which is sent directly to the assuming insurer. Additionally, the ceding insurer shall certify that it will maintain systems to forward all communications of this nature to the assuming insurer;

10. The certificate of assumption form shall include the following:

- i. An appropriate title, such as Certificate of Assumption;
- ii. The business address of both the ceding and assuming insurers;
- iii. Clear directions regarding the submission of payments and claims; and
- iv. The signature of an officer of the insurer, and a statement that the form is to be attached to and made part of the policy; and

11. If health insurance or credit insurance is being assumed, the assuming insurer shall agree that rate revisions will be based on the experience since the original issue date. It is the responsibility of the assuming insurer to obtain and maintain the necessary experience data.

11:4-40.9 File and use eligibility

(a) An insurer may deliver or issue for delivery in this State a form providing life, health or annuity benefits, and accompanying rates if applicable, without obtaining prior approval from the Commissioner pursuant to this subchapter provided the form is set forth in this section as a type eligible for file and use and is filed with the Commissioner pursuant to the procedures set forth at N.J.A.C. 11:4-40.10, or the form is specifically exempt from compliance with this subchapter.

(b) The following types of non-variable individual life insurance forms shall be eligible for file and use pursuant to this section:

1. Scheduled premium term policies without cash values, other than universal/flexible-factor forms, multiple-life forms with survivorship benefits, limited death benefit

forms, policies with re-entry options, single premium forms, field issued forms or funeral insurance;

2. Accidental death benefit;
3. Business exchange/substitute insured;
4. Cost of living benefit;
5. Option to purchase additional insurance;
6. Waiver of premium;
7. Spouse and/or child rider; and
8. Applications.

(c) The following types of non-variable individual annuity forms shall be eligible for file and use pursuant to this section:

1. Immediate annuities, other than structured settlement, field issued forms or funeral insurance;
2. Scheduled premium deferred annuities, other than structured settlement, field issued forms or funeral insurance;
3. Flexible premium deferred annuities, other than structured settlement, field issued forms or funeral insurance;
4. Waiver of premium; and
5. Applications.

(d) The following types of individual health insurance forms shall be eligible for file and use pursuant to this section:

1. Business buyout, keyperson and overhead expense disability income policies;
2. Medical expense conversion policies in which a portion of the premium is chargeable to or subsidized by the group policy from which conversion is made;
3. Benefit riders for use with the type of policies set forth at (d)1 and 2 above; and
4. Applications other than those used with medicare supplement and long-term care policies.

(e) The following types of non-variable group life insurance forms shall be eligible for file and use pursuant to this section:

1. Policies and certificate forms which provide life insurance benefits only, and which do not provide cash values or loan values other than funeral expense;
2. Retired lives reserve contracts;
3. Benefit riders for use with the type of policies set forth at (e)1 and 2 above; and
4. Applications and evidence of coverage forms.

(f) The following types of group health insurance forms shall be eligible for file and use pursuant to this section:

1. Policies, certificates and evidence of coverage which provide only temporary disability benefits pursuant to N.J.S.A. 34:15-1 et seq.;

2. Policies and certificates which provide only disability income benefits for loss due to both accident and sickness and which are sold exclusively to employer groups;

3. Benefit riders for use with the type of policies set forth at (f)1 and 2 above; and

4. Applications and evidence of coverage forms.

(g) In the month of September or October of each year, the Department shall conduct a hearing pursuant to P.L. 1995, c.73 for the purpose of determining the specific types of forms eligible for file and use pursuant to this section.

1. The 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 (g)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 forms currently on the file and use eligibility list, or whether the hearing will consider only specific additions, deletions or clarifications regarding the list.

4. 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 will be within the discretion of the hearing officer.

5. 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 the appropriate fee.

6. The record of the hearing shall include the following:

- i. Timely-received written public comments;
- ii. The transcript of the hearing; and
- iii. Any other information which the hearing officer may deem relevant.

7. The record and transcript of the hearing shall be public records pursuant to N.J.S.A. 47:1A-1 et seq. except to the extent that any information is submitted pursuant to a statute or rule providing for confidentiality.

8. Upon review of the file and use eligibility list hearing record, the Commissioner shall determine within 30

days whether any modifications should be made by rule to the current list.

9. If the Commissioner determines during the term of a duly promulgated file and use eligibility list that changed conditions require a modification of the list, the Commissioner may amend the list by rule following a hearing conducted pursuant to this subsection.

Public Notice: Hearing to determine forms eligible for filing and use.
See: 28 N.J.R. 4121(a).

Public Notice: Hearing to determine forms eligible for filing and use.
See: 30 N.J.R. 3108(b).

Public Notice: Hearing to determine forms eligible for filing and use.
See: 33 N.J.R. 3379(a).

Amended by R.2001 d.408, effective November 5, 2001.

See: 33 N.J.R. 2263(a), 33 N.J.R. 3747(a).

In (a), added “, or the form is specifically exempt from compliance with this subchapter”; deleted former (g); recodified former (h) as (g) and substituted “(g)1” for “(h)1”.

Public Notice: Notice of Public Hearing; Life/Health/Annuity Forms Certification Eligibility.

See: 34 N.J.R. 3544(b).

Public Notice: Life/Health/Annuity Forms certification eligibility.

See: 35 N.J.R. 4144(a).

Amended by R.2004 d.174, effective May 3, 2004.

See: 35 N.J.R. 4437(a), 36 N.J.R. 2197(a).

In (b), deleted former 8 and recodified former 9 as 8; in (c), deleted former 4 and recodified former 5 and 6 as 4 and 5.

Public Notice: Life/Health/Annuity Forms Certification Eligibility.

See: 36 N.J.R. 3940(a).

Public Notice: Life/Health/Annuity Forms Certification Eligibility.

See: 37 N.J.R. 3463(a).

Public Notice: Life/Health/Annuity Forms Certification Eligibility.

See: 38 N.J.R. 3928(a).

Public Notice: Life/Health/Annuity Forms Certification Eligibility.

See: 39 N.J.R. 3566(c).

Public Notice: Life/Health/Annuity Forms Certification Eligibility.

See: 40 N.J.R. 5294(b).

Public Notice: Life/Health/Annuity Forms Certification Eligibility.

See: 41 N.J.R. 3464(a).

11:4-40.10 File and use procedures

(a) An insurer seeking to file and use a form specified at N.J.A.C. 11:4-40.9 to be eligible for file and use shall, in addition to the items set forth at N.J.A.C. 11:4-40.5(b), submit the following to the Department:

1. A certification memorandum signed and acknowledged by a responsible officer of the insurer, which shall include the following:

i. A statement that the certification is filed pursuant to P.L. 1995, c.73, section 17;

ii. A statement that the responsible officer signing the certification memorandum is authorized to execute the document;

iii. A statement that the responsible officer signing the certification memorandum is familiar with the insurer’s filing and all laws, regulations, bulletins and published guidelines applicable to the particular type of form, and that the form complies with all laws, regulations, bulletins and published guidelines applicable to the particular type of form;

iv. A statement that the insurer intends for the Department to rely on the certification in accepting the filing made pursuant to this subsection;

v. A statement that the responsible officer signing the certification memorandum is aware of the penalties for submitting an improper certification or false filing;

vi. A statement that the responsible officer signing the certification memorandum has supervised and is responsible for the completion and submission to the Department of the checklist required for the particular type of form; and

vii. A statement that the insurer shall not use the form before receipt of the form is acknowledged by the Department.

(b) The Department shall provide the insurer with a written acknowledgement that the Department received the form and a proper certification.

(c) Upon receipt of the written acknowledgment described in (b) above, the insurer may use the form in this State.

(d) If the Commissioner determines that the form submitted to the Department by the insurer pursuant to (a) above fails to comply with any law, or regulation, bulletin or published guideline applicable to the particular type of form, the Department shall notify the insurer in writing of the specific reasons for objecting to the form, and may disapprove the form for further use in this State.

(e) If the Commissioner determines that the certification submitted to the Department by the insurer pursuant to (a) above is an improper certification, the insurer shall be

subject to the following penalties specifically determined by the Commissioner in consideration of the severity of the violation based on the potential adverse impact to the public and whether it is the insurer's first such violation:

1. A fine not to exceed \$50,000; and

2. A maximum penalty of \$1,000 per contract or certificate issued with a form determined to be improperly certified pursuant to this subsection.

i. For purposes of this subsection, an "improper certification" means a certification that provides any misrepresentation or false statement material to a certification form.

(f) If, following notice and a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and the Uniform Administrative Procedure Rules, N.J.A.C. 17:27, an insurer is found by the Commissioner to be in violation of any of the requirements of this section, the form may be disapproved and the insurer may be barred from participating in the certification process pursuant to this section for a period not to exceed one year. These penalties are in addition to any penalties that may be imposed pursuant to any other law or regulation applicable to the particular insurer for such violation(s).

11:4-40.11 Service fees

A form submitted by an insurer to the Commissioner for either prior approval or file and use pursuant to this subchapter shall be accompanied by the service fee(s) set forth at N.J.A.C. 17:27 unless the insurer is exempt from the payment of such fees pursuant to section 13 of P.L. 1995, c.156, enacted on June 30, 1995.

APPENDIX

EXHIBIT A

FOR DEPARTMENT OF INSURANCE
USE ONLY, DO NOT USE SHADED AREAS

PAGE: OF

NEW JERSEY
DEPARTMENT OF INSURANCE
POLICYFORM REVIEW

** NEW SUBMISSION **

SUBMISSION NO.: - -

NAIC CODE:

COMPANY NAME:

GROUP CODE (if any):

DATE SENT: / /

DATE RECEIVED: / /

SERVICE FEE submitted: . (if applicable)

CHECK NUMBER:

CHECK DATE: / /

CATEGORY OF FORMS:

NUMBER OF FORMS SUBMITTED:

POLICYFORM NUMBER	COVER. TYPE	FORM TYPE	REQ. TYPE	RATE CHANGE (%)
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/> . <input type="text"/>
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ATTACHMENT 1

INSTRUCTIONS FOR INITIAL SUBMISSION
DATA FORMS

The Initial Submission Data Form requires that you provide codes for the Category, Coverage Type, and Request Type. These codes are attached.

Submission No:

Leave Blank-For Department Use.

NAIC Code:

5 Digit NAIC Code. All companies are identified in the system by NAIC code rather than name.

Company Name:

This may be abbreviated, but should not conflict with the 5 digit NAIC Code.

Group Code:

This is the NAIC 3 digit group code for related groups of companies.

Date Sent:

Date mailed or submitted to delivery service.

Date Received:

Leave Blank-For Department Use.

Service Fee Submitted:

Total Service Fee Required pursuant to N.J.A.C. 11:4-36.5.

Check Number; Check Date:

Self-Explanatory.

Category:

Refer to Attachment 2. Enter the code which represents the category of the submission. The category represents the section of the statute under which the form is filed. For example, Category A corresponds to N.J.S.A. 17B:25-18.

Number of Forms Submitted:

This is the number of lines you will fill in on the lower part of the sheet.

Policy Form Data:

This information must be filled in for each policy form (separately numbered item) contained in the submission.

Policy Form Number:

This is the unique identifying form number. The Department will observe any spaces and punctuation marks in the number.

Where the submission refers to a policy form number (i.e., rate or factor change, or advertising) use the policy form number even if that form itself is not being submitted for filing.

Coverage Type:

Refer to Attachment 2 for listing of coverage types. The listing is organized by general types of coverage. In particular:

Codes 01 through 0Z are for individual life policies.

Codes A1 through AZ are for variable life policies.

Codes 11 through 1Z are for riders/endorsements to individual life.

Codes B1 through BZ are for riders/endorsements to variable life.

Codes 21 through 2Z are for individual annuities.

Codes C1 through CZ are for individual variable annuities.

Form Type:

Choose the form type which best describes the form. In some cases, the "form type" refers to the type of action requested: for a rate change on a health insurance policy which was previously approved, indicate RC for rate change, not PP for policy. Note that RC refers to health insurance or credit insurance; FR or PM refers to changes in non-guaranteed elements for life insurance.

Request Type:

Enter the appropriate two digit code. For the initial filing of a (health or credit) policy which also requires rates, still use 01. For a (health or credit) rate revision, use 05. For a change in factors or premiums on life policies, use 12.

Rate Change (%):

For rate changes, enter the (overall) % increase requested.

**ATTACHMENT 2
CATEGORY OF FORM CODES**

CODE	
A	INDIVIDUAL LIFE AND ANNUITIES (Fraternal use FR)
B	INDIVIDUAL HEALTH (Sold By Ins. Co.) (Fraternal use FR) (Service Corporations use S)
CR	CREDIT LIFE AND HEALTH INSURANCE
FR	FRATERNAL BENEFIT SOCIETY CONTRACTS
G	GROUP HEALTH (Service Corporations use S)
J	PRE-PAID LEGAL CONTRACTS
L	GROUP LIFE AND ANNUITIES (Forms that are both Group Life and Group Health use L; Group annuities issued in the general account also use L.)
MG	MORTGAGE GUARANTEE INSURANCE
MI	ANY OTHER INSURANCE
S	SERVICE CORPORATIONS
V	VARIABLE AND SEPARATE ACCOUNT CONTRACTS (Individual or Group; Life and Annuities)

FORM TYPE CODES

CODE	
AA	APPLICATION
AD	ADVERTISING MATERIAL
AS	ASSUMPTION AGREEMENT
CC	CERTIFICATE
CI	CERTIFICATE INSERT PAGES (MORE THAN 1)
CR	CERTIFICATE AND RATES
DG	DISCRETIONARY AUTHORITY REQUEST
EE	ENDORSEMENT OR AMENDMENT
EN	ENDORSEMENT OR AMENDMENT (NO CHARGE)
FE	FUNERAL EXPENSE PRE-NEED AGREEMENT
FR	FACTOR REVISIONS
FU	FOLLOW UP
IC	CERTIFICATE INSERT PAGE
ID	ID CARD (STUDENT POLICIES)
IL	INFORMATIONAL
IP	POLICY INSERT PAGE
NA	NO AUTHORITY
NC	RATE CHANGE (NO CHARGE)
NF	NONFORFEITURE OR RESERVE RATE CHANGE
NI	NOTICE OF PROPOSED INSURANCE
PI	POLICY INSERT PAGES (4 OR MORE PAGES)
PM	PREMIUM REVISIONS
PN	POSTING NOTICE
PP	POLICY
PR	POLICY AND RATES
RC	RATE CHANGE
RM	RATE MANUAL
RN	RATE CHANGE—NEW ISSUES ONLY
RR	RIDER
SC	SERVICE CORP. FORM
SF	SPECIAL FORMS
SR	SUPPLEMENTAL RATES
VW	VARIABLE WORDING

Notes: Form Type AS refers to assumption agreement between insurers, not a certificate of assumption.
 RC is for individual health or credit insurance.
 FR is for factor revision of a non-guaranteed element.
 PM is for a premium revision to an indeterminate premium policy.

REQUEST TYPE CODES

CODE	
01	FILE A FORM
02	WITHDRAW A FORM
03	ACKNOWLEDGE A FORM
05	FILE A RATE CHANGE
06	WITHDRAW A RATE CHANGE
07	FILE SUPPLEMENT RATES
08	WITHDRAW SUPPLEMENTAL RATES
09	ACKNOWLEDGE A RATE CHANGE
10	ACKNOWLEDGE SUPPLEMENTAL RATES
11	INFORMATIONAL SUBMISSION
12	APPROVE FACTOR OR PREMIUM REV.
13	WITHDRAW FACTOR OR PREMIUM REV.
99	OTHER

COVERAGE TYPE CODES
INDIVIDUAL LIFE

CODE	COVERAGE TYPE
01	Level Premium Whole Life—Non-Par

CODE	COVERAGE TYPE
02	Level Premium Whole Life—Par
03	Whole Life—Indeterminate Premiums
04	Interest Sensitive Whole Life—Level Death Benefit
05	Interest Sensitive Whole Life—Recalculated DB
06	Universal Life—Flexible Premium
07	Single Premium Life
08	Funeral Expense (Single or Limited Pay)
09	Universal Life—Minimum Guaranteed Premium Period
0A	Level Premium Term
0K	Level Premium Term—Indeterminate Premium
0B	Increasing Premium Term
0M	Increasing Premium Term—Indeterminate Premium
0C	Modified Premium Whole Life (Jumping Juvenile)
0D	Graded Premium Whole Life
0N	Graded Premium Whole Life—Indeterminate Premium
0E	Deposit Term
0F	Limited Death Benefit
0H	Field Issue (Any Policy Design)
0O	Joint (First to Die)—Universal Life
0G	Joint (First to Die)—Whole Life
0P	Joint (First to Die)—Whole Life—Indeterminate Premium
0Q	Joint (First to Die)—Term
0R	Joint (First to Die)—Term—Indeterminate Premium
0J	Joint (First to Die) (other)
0S	Last Survivor—Universal Life
0T	Last Survivor—Whole Life
0U	Last Survivor—Whole Life—Indeterminate Premium
0L	Last Survivor (other)
0V	Decreasing Term
0W	Decreasing Term—Indeterminate Premium
0Y	Combination of Coverage—Individual Life
0Z	Other Individual Life

Notes: Combination of Coverage code is used when a rider, endorsement or application are intended for use with more than one Coverage Type.
 Code Endowment or Limited Pay policies as if they are whole life.
 Code 0B and 0M includes term policies that are level premium for a period and then increases.
 Some Funeral Expense Policies are limited death benefit. Code them as 08 rather than 0F.
 In Coding a factor or premium change list each form in which there is a change. For Form Type use FR or PM. For Request Type use 12. If the change requires an endorsement, there should be a separate form record for the endorsement.

COVERAGES PROVIDED BY RIDER OR ENDORSEMENT

(Type of form must be RR or EE)

CODE	COVERAGE TYPE
11	Waiver of Premium (Form RR or EE)
12	Disability Income (Form RR or EE)
13	Accidental Death (Form RR or EE)
14	Payor Benefit (Form RR or EE)
15	Term Insurance (Form RR or EE)
16	Paid up Insurance (Form RR or EE)
17	Insurance on Family Members (Form RR or EE)
18	Insurability Option (Form RR or EE)
19	CPI Option (Form RR or EE)

CODE	COVERAGE TYPE
1A	Premium Deposit (Form RR or EE)
1B	Designated Lives (Form RR or EE)
1C	Accelerated Death Benefit (Form RR or EE)
1D	Non-life Options (e.g. LTC) (Form RR or EE)
1E	Exclusions (Form RR or EE)
1F	Policy Split (for JL) (Form RR or EE)
1G	Change of Insured (Form RR or EE)
1H	Pension Plan Qualification (Form RR or EE)
1I	Dividend Option (Form RR or EE)
1J	Persistency Bonus (Form RR or EE)
1K	Change in Non-Forfeiture Interest Rate (Form RR or EE)
1L	Other Non-Forfeiture Change (Form RR or EE)
1M	Assumption Certificate (Form RR or EE)
1N	Name Change/Merger/Redomicile (Form RR or EE)
1O	Modified Maturity Date
1P	Estate Protector (4 year term)
1Z	Other (Form RR or EE)

VARIABLE LIFE INSURANCE (INDIVIDUAL OR GROUP)

CODE	COVERAGE TYPE
A1	Level Premium Variable Life—Non-Par
A2	Level Premium Variable Life—Par
A3	Indeterminate Premium Variable Life—Par
A4	Interest Sensitive Variable Life—Level Death Benefit
A5	Interest Sensitive Variable Life—Recalculated DB
A6	Variable Universal Life
A7	Single Premium Variable Life (Any policy design)
A9	Variable Universal Life—Minimum Guaranteed Premium Period
AC	Group Variable Life (COLI)
AG	Group Variable Life—All other
AH	Field Issue (Any Variable Policy Design)
AJ	Joint (First to Die) (Any Policy Design)
AL	Last Survivor (Any Policy Design)
AY	Combination of Coverage (Variable Life)
AZ	Other Individual Variable Life

Notes: Joint variable policies would be coded AJ or AL regardless of policy design.
 A1 and A2 correspond to traditional design Variable Contracts; A4, A6 and A7 should categorize most modern variable contracts.
 Combination of Coverage code is used when a rider, endorsement or application are intended for use with more than one Coverage Type.

**COVERAGES PROVIDED BY RIDER OR ENDORSEMENT (VARIABLE)
 (Type of form must be RR or EE)**

CODE	COVERAGE TYPE
B1	Waiver of Premium (Form RR or EE) (Var.)
B2	Disability Income (Form RR or EE) (Var.)
B3	Accidental Death (Form RR or EE) (Var.)
B4	Payor Benefit (Form RR or EE) (Var.)
B5	Term Insurance (Form RR or EE) (Var.)
B6	Paid up Insurance (Form RR or EE) (Var.)
B7	Insurance on Family Members (Form RR or EE) (Var.)
B8	Insurability Option (Form RR or EE) (Var.)
B9	CPI Option (Form RR or EE) (Var.)
BA	Premium Deposit (Form RR or EE) (Var.)

CODE	COVERAGE TYPE
BB	Designated Lives (Form RR or EE) (Var.)
BC	Accelerated Death Benefit (Form RR or EE) (Var.)
BD	Non-life Options (e.g. LTC) (Form RR or EE) (Var.)
BE	Exclusions (Form RR or EE) (Var.)
BF	Policy Split (for JLs) (Form RR or EE) (Var.)
BG	Change of Insured (Form RR or EE) (Var.)
BH	Pension Plan Qualification (Form RR or EE) (Var.)
BI	Dividend Option (Form RR or EE) (Var.)
BJ	Persistency Bonus (Form RR or EE) (Var.)
BK	Change in Non-forfeiture Interest Rate (Form RR or EE) (Var.)
BL	Other Non-forfeiture change (Form RR or EE) (Var.)
BM	Assumption Certificate (Form RR or EE) (Var.)
BN	Name Change/Merger/Redomicile (Form RR or EE) (Var.)
BO	Modified Maturity Date (Var.)
BP	Estate Protector (4 year term) (Var.)
BQ	General Account Option (Var.)
BZ	Other (Form RR or EE) (Var.)

INDIVIDUAL ANNUITIES

CODE	COVERAGE TYPE
21	Single Premium Deferred
22	Flexible Premium Deferred
23	Fixed Premium Deferred
24	Immediate
25	Structured Settlement
26	Market Value Adjusted Annuity
2A	Pension Plan Endorsement
2B	Waiver of Premium
2C	Waiver of Surrender Charge
2H	Field Issue (Individual Annuities)
2J	Persistency Bonus (Form RR or EE)
2K	Change in Non-forfeiture Interest Rate
2L	Other Non-forfeiture change
2M	Assumption Certificate
2N	Name Change/Merger/Redomicile
2Y	Combination of Coverage (Individual Annuities)
2Z	Other (Individual Annuities)

INDIVIDUAL VARIABLE ANNUITIES

CODE	COVERAGE TYPE
C1	Single Premium Deferred (Var.)
C2	Flexible Premium Deferred (Var.)
C3	Fixed Premium Deferred (Var.)
C4	Immediate (Var.)
C5	Structured Settlement (Var.)
C6	Market Value Adjusted Annuity (Var.)
CA	Pension Plan Endorsement (Var.)
CB	Waiver of Premium (Var.)
CC	Waiver of Surrender Charge (Var.)
CH	Field Issue (Individual Variable Annuities)
CJ	Persistency Bonus (Var.) (Form RR or EE)
CK	Change in Non-forfeiture Interest Rate (Var.)
CL	Other Non-forfeiture change (Var.)
CM	Assumption Certificate (Var.)
CN	Name Change/Merger/Redomicile (Var.)
CQ	General Account Option
CY	Combination of Coverage (Individual Variable Annuities)
CZ	Other (Individual Variable Annuities)

Notes: Combination of Coverage code is used when a rider, endorsement or application are intended for use with more than one Coverage Type.

GROUP ANNUITIES (NON-VARIABLE)

CODE	COVERAGE TYPE
31	Single Premium Deferred (Group)
32	Flexible Premium Deferred (Group)
33	Fixed Premium Deferred (Group)
34	Immediate (Group)
35	Structured Settlement (Group)
36	Market Value Adjusted Annuity (Group)
3A	Pension Plan Endorsement (Group)
3B	Waiver of Premium (Group)
3C	Waiver of Surrender Charge (Group)
3K	Change in Non-forfeiture Interest Rate (Group)
3L	Other Non-forfeiture change (Group)
3M	Assumption Certificate (Group)
3N	Name Change/Merger/Redomicile (Group)
3Y	Combination of Coverage (Group Annuities)
3Z	Other (Group)

GROUP VARIABLE ANNUITIES

CODE	COVERAGE TYPE
D1	Group Variable Qualified, Single Case
D2	Group Variable Qualified, Multiple Case
D3	Group Variable Non-Qualified, Single Case
D4	Group Variable Non-Qualified, Multiple Case
D5	Group Separate Account, Renewable Int. Guarantee, Single Case
D6	Group Separate Account, Renewable Int. Guarantee, Mult. Case
D9	Group Variable Contract, all others
DA	New or Modified Separate Account for GVA (RR or EE)
DB	Group IRA (RR or EE)
DC	Group Variable, Federal Requirement (RR or EE)
DD	New Jersey approved, Separate Account Plan of Operation
DE	Synthetic GIC
DY	Combination of Coverage (Group Variable Annuities)
DZ	Group Variable, all others (RR or EE)

Notes: Combination of Coverage code is used when a rider, endorsement or application are intended for use with more than one Coverage Type.

GROUP LIFE

CODE	COVERAGE TYPE
40	Group Life (Term)
41	Group Life (Permanent/Paid-Up)
42	Single Premium Group Life
43	Group Life (Universal)
44	Group Life (Limited Death Benefits)
45	Group Life (Interest Sensitive)
46	Group Life and Medical Expense
47	Group Life and Other Health (AD&D)
4C	Group Accelerated Death Benefit
4F	Funeral Expense
4M	Assumption Certificate (Group Life)
4N	Name Change/Merger/Redomicile (Group Life)
4Z	Other (Group Life)

INDIVIDUAL HEALTH

CODE	COVERAGE TYPE
50	Individual Major Medical
51	All other Medical Expense (Individual)
52	Individual Medicare Supplement
53	Individual Disability Income
54	Individual Long Term Care
55	Individual Accident Only
56	Individual Limited Benefit
57	Individual Business Buyout
58	Individual Overhead Expense
59	Individual Key Person
60	Individual Hospital Confinement
64	Individual Conversion
65	Individual Legal Insurance
6C	Individual Health (Combination type of form)
6M	Assumption Certificate (Ind. Health)
6N	Name Change/Merger/Redomicile (Ind. Health)
6Z	Other (Individual Health)

INDIVIDUAL HEALTH (SERVICE CORP.)

CODE	COVERAGE TYPE
S0	Individual Major Medical (Service Corp.)
S1	All other Medical Expense (Individual) (Service Corp.)
S2	Individual Medicare Supplement (Service Corp.)
S3	Individual Hospital Confinement (Service Corp.)
S4	Individual Long Term Care (Service Corp.)
S5	Individual Accident Only (Service Corp.)
S6	Individual Limited Benefit (Service Corp.)
SZ	Service Corp. Individual Health (Other)

GROUP HEALTH

CODE	COVERAGE TYPE
70	Group Medical Expense
71	Group Medicare Supplement (Includes Out-Of-State)
72	Group Long Term Disability Income
73	Group Short Term Disability Income
74	Group Long Term Care
75	Group Dental
76	Group Accident Only
77	Group Blanket Insurance
78	Group Student Coverage
79	Group Stop Loss Coverage (Excess Coverage)
7D	Group SEH Benefit Decrease
7H	Group HIV Coverage
7S	Group SEH Renewals
80	Group Hospital Confinement
81	Group Prescription Drug Coverage
82	Out-Of-State (Group Health)
83	Group Overhead Expense
84	Group Temporary Disability Benefits
85	Group Preferred Provider
86	Group Legal Insurance
87	Group Vision Care
88	Assumption Certificate (Group Health)
89	Name Change/Merger/Redomicile (Group Health)
8Z	Other (Group Health)

GROUP HEALTH (SERVICE CORP.)

CODE	COVERAGE TYPE
U0	Group Medical Expense (Service Corp.)
U1	Group Medicare Supplement (Service Corp.)
U4	Group Long Term Care (Service Corp.)
U5	Group Dental (Service Corp.)
U6	Group Accident Only (Service Corp.)
U7	Group Blanket Insurance (Service Corp.)
U8	Group Student Coverage (Service Corp.)
U9	Group Stop Loss Coverage (Excess Coverage) (Service Corp.)
UZ	Other (Group Health Service Corp.)

Notes: Use the form number on the face page of a policy or certificate when type of form is PP or CC (A complete policy or certificate). (Complete Applications, Endorsements, and Riders with multiple pages can be coded the same way.)

When the submission contains multiple insert pages (not a complete policy or certificate) only the first form number should be coded followed by the suffix et al. Use the Form Type CI or PI.

INDIVIDUAL CREDIT

CODE	COVERAGE TYPE
90	Credit Life—Single Premium
91	Credit Health—Single Premium
92	Credit Life—MOB
93	Credit Health—MOB
94	Credit L & H—Truncated Coverage
95	Credit L & H—Leases
96	Mortgage Life
97	Mortgage Health
98	Other Credit (Riders & Endorsements)
99	Critical Period Coverage (Individual Credit)
9Y	Combination of Coverage (Individual Credit)

GROUP CREDIT

CODE	COVERAGE TYPE
9A	Credit Life—Single Premium (Group)
9B	Credit Health—Single Premium (Group)
9C	Credit Life—MOB (Group)
9D	Credit Health—MOB (Group)
9E	Credit L & H—Truncated Coverage (Group)
9F	Credit L & H—Leases (Group)
9G	Mortgage Life (Group)
9H	Mortgage Health (Group)
9I	Other Credit (Riders & Endorsements) (Group)
9J	Critical Period Coverage (Group Credit)
9K	Combination of Coverage (Group Credit)

MORTGAGE GUARANTEE

CODE	COVERAGE TYPE
MG	Mortgage Guarantee

Notes: Use codes other than 98 or 9I to classify policies, certificates, and notices which apply to a particular sort of insurance.

Use codes 98 and 9I for forms that apply to all sorts of coverage (i.e., certificates of assumption). Combination of Coverage code is used when a rider, endorsement or application are intended for use with more than one Coverage Type.

SUBCHAPTER 40A. "40 STATES" FILE AND USE STANDARDS AND PROCEDURES

11:4-40A.1 Purpose and scope

(a) The purpose of this subchapter is to implement P.L. 2001, c.237 (N.J.S.A. 17B:25-18.4), which establishes a special procedure whereby insurers may forego prior approval of certain life insurance, annuity and variable contract forms.

(b) This subchapter shall apply to all individual life insurance, individual annuity, group annuity, group life, variable life and variable annuity contract forms to be issued by an insurer authorized to do business in this State. This subchapter shall not apply to any health insurance policy, or contract forms or benefits, including specified disease or critical illness policies, contracts or benefits.

11:4-40A.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 all contracts meeting the definition set forth at N.J.S.A. 17B:17-5.

"Available for sale or use" means that the insurer has complied with the state's laws, regulations, and procedures to allow the insurer to sell or use the form in that state.

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

"Department" means the Department of Banking and Insurance.

"Form," "contract form" and "policy form" mean all annuity contract forms; all life insurance policy and contract forms; all variable contract forms; and all group insurance certificates as defined within this subchapter, including endorsements, riders and application forms.

"Health insurance" means all policies, contracts and benefits meeting the definition set forth at N.J.S.A. 17B:17-4, including specified disease and critical illness policies, contracts and benefits as defined at N.J.A.C. 11:4-53.

"Improper certification" means providing any misrepresentation or false statement material to a certification form.

"Life insurance" means all policies and contracts meeting the definition set forth at N.J.S.A. 17B:17-3.

“Responsible officer of the insurer” means a corporate officer of the level of vice president or higher, or of equivalent title within the insurer’s structure, who is either the actuary of the insurer with responsibility for the type of form filed, or the individual with responsibility for managing the form filing process for the insurer with regard to the type of form filed.

“Unique product features or design” means that the contract language that expresses the methodology used to calculate values, benefits and rates is materially the same. Non-material differences include unique requirements mandated by a state’s law (for example, mandated use of a unisex mortality table); synonyms used (for example, “period” instead of “term,” “face amount” instead of “insurance amount”); and quantitative differences of no more than 10 percent (for example, one policy contains a \$50.00 charge, while another contains a \$55.00 charge). Standard contract provisions are not considered part of the unique product feature or design.

“Variable contracts” means all contracts meeting the definition set forth at N.J.S.A. 17B:28-1 et seq.

11:4-40A.3 Eligibility

(a) Forms submitted to the Commissioner on the basis that they have been made available for sale or use in 40 states, subject to state variations that do not alter the unique features or design of the product, shall be eligible for sale or use pursuant to the requirements of this subchapter. Notwithstanding eligibility, any such form shall comply with New Jersey law regarding standard contract provisions as identified below.

1. Individual Life:

- i. Free Look as set forth in N.J.S.A. 17B:25-2.1;
- ii. Grace Period as set forth in N.J.S.A. 17B:25-3;
- iii. Incontestability as set forth in N.J.S.A. 17B:25-4, 16 and 17;
- iv. Entire Contract as set forth in N.J.S.A. 17B:25-5;
- v. Misstatement of Age as set forth in N.J.S.A. 17B:25-6;
- vi. Dividends as set forth in N.J.S.A. 17B:25-7;
- vii. Policy Loan as set forth in N.J.S.A. 17B:25-8;
- viii. Reinstatement as set forth in N.J.S.A. 17B:25-9;
- ix. Payment of Premium as set forth in N.J.S.A. 17B:25-10;

- x. Automatic Premium Loan Notice as set forth in N.J.S.A. 17B:25-10.1;
- xi. Payment of Claims as set forth in N.J.S.A. 17B:25-11;
- xii. Beneficiary as set forth in N.J.S.A. 17B:25-12;
- xiii. Nonforfeiture Benefits as set forth in N.J.S.A. 17B:25-19(a) and (I);
- xiv. Title as set forth in N.J.S.A. 17B:25-14; and
- xv. Period in Which to Commence Cause of Action as set forth in N.J.S.A. 17B:25-15;

2. Group Life:

- i. Requirements for Eligible Groups as set forth in N.J.S.A. 17B:27-1;
 - ii. Dependents as set forth in N.J.S.A. 17B:27-9;
 - iii. Grace Period as set forth in N.J.S.A. 17B:27-11;
 - iv. Incontestability as set forth in N.J.S.A. 17B:27-12;
 - v. Application, Representations not Warranties, Entire Contract as set forth in N.J.S.A. 17B:27-13;
 - vi. Evidence of Insurability as set forth in N.J.S.A. 17B:27-14;
 - vii. Age Adjustments as set forth in N.J.S.A. 17B:27-15;
 - viii. Participating Policies as set forth in N.J.S.A. 17B:27-16;
 - ix. Beneficiary and Facility of Payment as set forth in N.J.S.A. 17B:27-17;
 - x. Certificates as set forth in N.J.S.A. 17B:27-18;
 - xi. Conversion as set forth in N.J.S.A. 17B:27-19 and 20;
 - xii. Death within Conversion Period as set forth in N.J.S.A. 17B:27-21;
 - xiii. Certificate to Debtors as set forth in N.J.S.A. 17B:27-22; and
 - xiv. Conversion of Debtors as set forth in N.J.S.A. 17B:27-23;
- #### 3. Individual Annuity:
- i. Standard Nonforfeiture Law as set forth in N.J.S.A. 17B:25-20(f), (I), (o) and (p);
 - ii. Misstatement of Age or Sex as set forth in N.J.A.C. 11:4-43.3(c)4; and

iii. Premium payments as set forth in N.J.A.C. 11:4-43.5(a); and

4. Variable Contracts:

i. Required statements as set forth in N.J.S.A. 17B:28-4; and

ii. Form of contract as set forth in N.J.S.A. 17B:28-5(c) and (d), except that a periodic report that complies with N.J.A.C. 11:4-45 shall be considered to be approved by the Commissioner as required by N.J.S.A. 17B:28-5(c)(iii).

(b) Carriers shall solicit, market, administer and service forms made available for sale or use pursuant to P.L. 2001, c.237 in accordance with all applicable New Jersey statutes and rules, including as of April 7, 2003:

1. Advertisement of life insurance and annuity, N.J.A.C. 11:2-23;

2. Accelerated death benefit, N.J.A.C. 11:4-30;

3. Fraud warning statement, N.J.S.A. 17:33A-6c;

4. Funeral insurance policy, N.J.A.C. 11:4-25;

5. Group coverage discontinuance and replacement, N.J.A.C. 11:2-13;

6. Illustrations, N.J.A.C. 11:4-52 and N.J.S.A. 17B:28-5(b);

7. Juvenile insureds, N.J.A.C. 11:4-24.4;

8. Life Insurance Solicitation, N.J.A.C. 11:4-11;

9. Life and Health Insurance Policy Language Simplification Act, N.J.S.A. 17B:17-17 et seq.;

10. Limited Death Benefit Form, N.J.A.C. 11:4-21;

11. Loan notices, N.J.A.C. 11:4-41.3(b)7;

12. New Jersey Fair Credit Reporting Act, N.J.S.A. 56:11-33;

13. Periodic reports, N.J.A.C. 11:4-45;

14. Replacement of life insurance policy, N.J.A.C. 11:4-2;

15. Standards for smoker/nonsmoker and/or tobacco/nontobacco reclassification, N.J.A.C. 11:4-41.14;

16. Trade practices and discrimination, N.J.S.A. 17B:30-1 et seq.; and

17. Unfair claims settlement practices, N.J.A.C. 11:2-17.

11:4-40A.4 Submission procedures

(a) Submissions pursuant to N.J.A.C. 11:4-40A.3(a) shall include the following:

1. For each form submitted, a separate certification memorandum signed by a responsible officer of the insurer,

which shall include: a statement that the form has been made available for sale or use in 40 states, subject to state variations that do not alter the unique features or design of the product; and the form number of the form to which it applies.

i. The certification shall be acknowledged by a responsible officer of the insurer. The acknowledgement process shall be the same as that which applies to documents for recording instruments conveying or affecting interests in real estate in this State pursuant to N.J.S.A. 46:14-2.1 et seq;

2. An Initial Submission Data form required by N.J.A.C. 11:4-40. The Request Type Code referred to in the Data Form shall be "40." The form shall be filled in for complete specimen issue, including any necessary schedule(s); and

3. A submittal letter, which shall specify the issue ages and intended market for the form.

(b) The Department shall acknowledge receipt of the form and a proper certification by providing the insurer with such acknowledgement by first class mail within 30 days of receipt.

(c) If the Department determines that the form submitted fails to satisfy all of the eligibility requirements set forth at N.J.A.C. 11:4-40A.3, the Department shall return the submission to the insurer for non-action within 30 days of receipt. Additionally, if the submission fails to satisfy the submission procedures set forth in this section, the Department may return the submission to the insurer for non-action. Any return for non-action shall specify the deficiencies in the submission. Any submission returned for non-action may be resubmitted pursuant to P.L. 2001, c.237 after the identified deficiencies have been cured.

11:4-40A.5 Penalties

(a) If the Commissioner determines that a certification submitted to the Department by an insurer pursuant to this subchapter is an improper certification, the insurer shall be subject to the following penalties specifically determined by the Commissioner in consideration of the severity of the violation based on the potential adverse impact to the public and whether it is the insurer's first such violation:

1. A fine not to exceed \$50,000; and

2. A maximum penalty of \$1,000 per policy issued on a form determined to be improperly certified pursuant to this subchapter.

(b) If, after notice and a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, an insurer is found by the Commissioner to be in violation of this subchapter, the form may be disapproved, and, in addition to any other penalties that may be imposed pursuant to law, the Commissioner may bar

the insurer from participating in the certification process pursuant to this subchapter for a period not to exceed one year.

11:4-40A.6 Effect on previously acknowledged forms

(a) Any form and certification submitted pursuant to P.L. 2001, c.237 prior to April 7, 2003, which was acknowledged by the Commissioner but does not meet the requirements of this subchapter, shall be deemed withdrawn July 6, 2003, and the form may not be available for sale or use after that date. Forms deemed withdrawn may be resubmitted pursuant to P.L. 2001, c.237, but shall include a new form number.

(b) With respect to forms and certifications submitted pursuant to P.L. 2001, c.237 prior to April 7, 2003, which were acknowledged by the Commissioner and which do meet the requirements of this subchapter, the insurer shall submit a new certification memorandum pursuant to N.J.A.C. 11:4-40A.4(a)1 by October 4, 2003. The insurer may continue to make the previously acknowledged form available for sale or use during this period. Any condition specified in the Department's prior letter of acknowledgment which is inconsistent with this subchapter is invalidated and of no force or effect.

SUBCHAPTER 41. STANDARDS FOR INDIVIDUAL LIFE INSURANCE POLICY FORMS

11:4-41.1 Purpose and scope

(a) The purpose of these rules is to implement P.L. 1995, c.73 (the Life and Health Insurance and Health Maintenance Organization Form Approval Reform Act) by setting forth the Department's standards for approval of all individual life insurance forms delivered or issued for delivery in this State.

(b) These rules shall apply to all individual life insurance forms issued pursuant to N.J.S.A. 17B:25-1 et seq.

11:4-41.2 Definitions

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

"Account value policy" means any policy, including, but not limited to, true universal life (flexible premium universal life) and interest sensitive whole life (fixed premium universal life), where benefits (including non-forfeiture or surrender benefits) may be calculated by reference to a policy accumulation account. Policy accumulation accounts reflect the actual premiums paid, actual interest credited, and any mortality or expense charges assessed.

"Act of war" means any act peculiar to military, naval or air operations in time of war.

"Bail-out feature" means a feature whereby the owner may elect to surrender the policy for the cash value without incurring a surrender charge under specified conditions, such as the interest rate(s) credited to the policy falling below a pre-determined rate.

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

"Department" means the New Jersey Department of Banking and Insurance.

"Designated life option" means an option whereby the beneficiary of a policy may purchase a policy on a designated life.

"Field issue" means a contract where, upon acceptance of a premium, the agent issues the contract for delivery in the field rather than from the home office.

"Flexible premium" means a policy where the policyholder is permitted to vary the amount or timing of premium payments subject to any specified limits.

"Home area" means the 50 states of the United States, District of Columbia and Canada.

"Indeterminate premium policy" means a policy where the insurer retains the right to recalculate the premium required to maintain the policy in force on the basis of future or emerging experience. Indeterminate premium policies may or may not be account value policies.

"Insurer" means any person or persons, corporation, partnership or company authorized by the laws of this State to transact the business of life insurance in this State.

"Life insurance" is as defined at N.J.A.C. 11:4-40.2.

"Minimum guarantee provision" means a provision which provides that a policy with a policy value not exceeding zero will not lapse so long as premiums paid to date exceed a target sum of stipulated minimum premiums.

"Minimum premium test provision" means a provision which provides that a policy which uses the account value less surrender charge to determine lapse will not lapse so long as the account value remains positive, and the premiums paid to date exceed a target sum of stipulated minimum premiums.

"Option to suspend premiums" means a premium payment option whereby premiums can be paid from the excess of actual cash value over guaranteed cash value to keep the policy in full force on a premium-paying basis.