

**CHAPTER 2
INSURANCE GROUP**

Authority

N.J.S.A. 17:1-8.1, 17:1-15e, 17:17-1 et seq., 17B:17-1 et seq., 34:15-77, and 54:18A-1 et seq.

Source and Effective Date

R.2011 d.044, effective January 6, 2011.
See: 42 N.J.R. 2199(a), 43 N.J.R. 309(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 2, Insurance Group, expires on January 6, 2018. See: 43 N.J.R. 1203(a).

Chapter Historical Note

Chapter 2, Insurance Group, was adopted and became effective prior to September 1, 1969.

Subchapter 10, Casualty Insurers, Personal Lines Insurance, was adopted as new rules by R.1970 d.71, effective June 26, 1970.

Subchapter 11, Rules Governing Advertisement of Health Insurance, was adopted as new rules by R.1972 d.95, effective May 16, 1972. See: 4 N.J.R. 69(b), 4 N.J.R. 128(d).

Subchapter 12, Mass Marketing of Property and Liability Insurance, was adopted as new rules by R.1974 d.271, effective September 25, 1974. See: 6 N.J.R. 313(d), 6 N.J.R. 408(a).

Subchapter 13, Group Coverage Discontinuance and Replacement, was adopted as new rules by R.1974 d.272, effective February 1, 1975. See: 5 N.J.R. 342(c), 6 N.J.R. 409(a).

Subchapter 17, Unfair Claims Settlement Practices, was adopted as new rules by R.1981 d.407, effective November 2, 1981, operative January 15, 1982. See: 12 N.J.R. 600(f), 13 N.J.R. 774(c), 13 N.J.R. 894(a).

Subchapter 18, Readable Policies, was adopted as new rules by R.1982 d.410, effective November 15, 1982. See: 14 N.J.R. 967(a), 14 N.J.R. 1307(c).

Subchapter 10, Casualty Insurers, Personal Lines Insurance, was repealed by R.1985 d.71, effective February 19, 1985. See: 16 N.J.R. 2920(a), 17 N.J.R. 458(b).

Subchapter 23, Advertisement of Life Insurance and Annuities, was adopted as new rules by R.1985 d.600, effective November 18, 1985. See: 16 N.J.R. 2626(a), 17 N.J.R. 2776(a).

Subchapter 19, Approval of Insurance Schools and Company Training Programs, was adopted as new rules by R.1985 d.608, effective December 2, 1985. See: 16 N.J.R. 2920(b), 17 N.J.R. 2901(b).

Subchapter 1, Educational Requirements for Licensing, was repealed, and Subchapter 19, Approval of Insurance Schools and Company Training Programs, was repealed by R.1989 d.192, effective April 3, 1989. See: 20 N.J.R. 1152(a), 21 N.J.R. 899(b).

Subchapter 26, Annual Audited Financial Reports, was adopted as new rules by R.1989 d.612, effective December 18, 1989. See: 21 N.J.R. 3054(a), 21 N.J.R. 3919(b).

Pursuant to Executive Order No. 66(1978), Chapter 2, Insurance Group, was readopted as R.1991 d.4, effective November 30, 1990, and Subchapter 8, Mid-Term Substitution by Mortgage of Insurance Policies, was repealed, effective January 7, 1991, by R.1991 d.4. See: 22 N.J.R. 1673(a), 23 N.J.R. 103(a).

Subchapter 32, Custodial Deposits, was adopted as new rules by R.1991 d.14, effective January 7, 1991. See: 22 N.J.R. 2640(a), 23 N.J.R. 105(a).

Subchapter 31, Manner of Determining Premium for Perpetual Homeowners Insurance, was adopted as new rules by R.1991 d.139, effective March 18, 1991. See: 22 N.J.R. 601(a), 23 N.J.R. 860(b).

Subchapter 29, Orderly Withdrawal of Insurance Business, was adopted as new rules by R.1991 d.262, effective May 20, 1991. See: 23 N.J.R. 15(b), 23 N.J.R. 1673(a).

Subchapter 35, Relief from Insurer Obligations Under the Fair Automobile Insurance Reform Act of 1990, was adopted as new rules by R.1991 d.519, effective October 21, 1991. See: 23 N.J.R. 660(a), 23 N.J.R. 3166(a).

Subchapter 27, Determination of Insurers in a Hazardous Financial Condition, was adopted as new rules by R.1992 d.292, effective July 6, 1992. See: 23 N.J.R. 3197(a), 24 N.J.R. 2456(a).

Subchapter 33, Workers' Compensation Self-Insurance, was adopted as new rules by R.1993 d.157, effective April 5, 1993. See: 24 N.J.R. 1944(a), 24 N.J.R. 2708(b), 25 N.J.R. 1526(a).

Subchapter 28, Credit for Reinsurance, was adopted as emergency new rules by R.1993 d.448, effective August 16, 1993, expires October 15, 1993. See: 25 N.J.R. 4289(a). The provisions of R.1993 d.448 were readopted as R.1993 d.557, effective October 15, 1993. See: 25 N.J.R. 4289(a), 25 N.J.R. 5184(a).

Subchapter 36, Risk Retention Groups and Purchasing Groups, was adopted as emergency new rules by R.1993 d.449, effective August 16, 1993, expires October 15, 1993. See: 25 N.J.R. 4298(a). The provisions of R.1993 d.449 were readopted as R.1993 d.558, effective October 15, 1993. See: 25 N.J.R. 4298(a), 25 N.J.R. 5197(a).

Subchapter 37, Producer-Controlled Insurers, was adopted as emergency new rules by R.1993 d.450, effective August 16, 1993, expires October 15, 1993. See: 25 N.J.R. 4304(a). The provisions of R.1993 d.450 were readopted as R.1993 d.559, effective October 15, 1993. See: 25 N.J.R. 4304(a), 25 N.J.R. 5202(a).

Subchapter 38, Increase in Property and Casualty Capital and Surplus Requirements, was adopted as emergency new rules by R.1993 d.451, effective August 16, 1993, expires October 15, 1993. See: 25 N.J.R. 4306(a). The provisions of R.1993 d.451 were readopted as R.1993 d.560, effective October 15, 1993. See: 25 N.J.R. 4306(a), 25 N.J.R. 5204(a).

Subchapter 39, Increase in Capital and Surplus Requirements for Life and Health Insurers, was adopted as emergency new rules by R.1993 d.452, effective August 16, 1993, expires October 15, 1993. See: 25 N.J.R. 4309(a). The provisions of R.1993 d.452 were readopted as R.1993 d.561, effective October 15, 1993. See: 25 N.J.R. 4309(a), 25 N.J.R. 5208(a).

Subchapter 40, Life, Health and Annuity Reinsurance Agreements, was adopted as emergency new rules by R.1993 d.453, effective August 16, 1993, expires October 15, 1993. See: 25 N.J.R. 4314(a). The provisions of R.1993 d.453 were readopted as R.1993 d.562, effective October 15, 1993. See: 25 N.J.R. 4314(a), 25 N.J.R. 5212(a).

Subchapter 34, Surplus Lines Insurance: Allocation of Premium Tax and Surcharge, was adopted as new rules by R.1993 d.582, effective November 15, 1993. See: 25 N.J.R. 1826(a), 25 N.J.R. 5194(a).

Petition for Rulemaking. See: 26 N.J.R. 2487(b).

Subchapter 41, Windstorm Market Assistance Program, was adopted as new rules by R.1995 d.53, effective January 17, 1995. See: 26 N.J.R. 4304(a), 27 N.J.R. 364(a).

Subchapter 1, Admission Requirements for Foreign and Alien Life and Health Insurers, was adopted as new rules by R.1995 d.80, effective February 6, 1995. See: 26 N.J.R. 4586(a), 27 N.J.R. 559(a).

Pursuant to Executive Order No. 66(1978), Chapter 2, Insurance Group, was readopted as R.1996 d.3, effective November 30, 1995, with amendments effective January 2, 1996. See: 27 N.J.R. 3278(b), 28 N.J.R. 152(b).

Subchapter 39, Increase in Capital and Surplus Requirements For Life and Health Insurers, was renamed Increase in Capital and Surplus Requirements for Insurers by R.1997 d.186, effective May 5, 1997. See: 29 N.J.R. 404(a), 29 N.J.R. 2175(b).

Pursuant to Executive Order No. 66(1978), Chapter 2, Insurance Group, was readopted as R.2001 d.6, effective November 30, 2000. See: 32 N.J.R. 3530(a), 33 N.J.R. 85(a).

Subchapter 14, Procedures for the Conduct of Voting on a Plan of Reorganization of a Domestic Mutual Life Insurer, was adopted as new rules by R.2001 d.84, effective March 5, 2001. See 32 N.J.R. 4330(a), 33 N.J.R. 802(a).

Subchapter 19, Designation of Third Party for Certain Notifications by Senior Citizen Insureds, was adopted as new rules by R.2002 d.210, effective July 1, 2002. See: 34 N.J.R. 366(a), 34 N.J.R. 2315(a).

Subchapter 42, Homeowners' Insurance: Standard Hurricane Deductibles And Expedited Process for Homeowners' Insurance Changes, was adopted as new rules by R.2003 d.450, effective November 17, 2003. See: 35 N.J.R. 1189(a), 35 N.J.R. 5280(b).

Subchapter 43, Treatment of Allocated Deposit-Type Deferred Contract Funds for Purposes of Calculating the Special Purpose Apportionment and the Fraud Assessment, was adopted as new rules by R. 2004, d.407, effective November 1, 2004. See: 36 N.J.R. 2976(a), 36 N.J.R. 4929(a).

Chapter 2, Insurance Group, was readopted as R.2005 d.350, effective September 21, 2005. As part of R.2005 d.350, Subchapter 38, Temporary Waiver from Increase in Property and Casualty Capital and Surplus Requirements, was repealed, effective October 17, 2005. See: 37 N.J.R. 2285(a), 37 N.J.R. 4026(a).

Subchapter 39, Increase in Capital and Surplus Requirements for Insurers, was renamed Increase in Capital and Surplus Requirements for Insurers and Health Maintenance Organizations by R.2005 d.421, effective December 5, 2005. See: 37 N.J.R. 2992(a), 37 N.J.R. 4556(b).

Subchapter 23A, Military Sales Practices, was adopted as new rules by R.2008 d.67, effective March 17, 2008. See: 39 N.J.R. 4053(a), 40 N.J.R. 1663(b).

Subchapter 26, Annual Audited Financial Reports, was renamed Annual Financial Reporting by R.2010 d.026, effective January 19, 2010. See: 41 N.J.R. 3364(a), 42 N.J.R. 486(b).

Chapter 2, Insurance Group, was readopted as R.2011 d.044, effective January 6, 2011. As a part of R.2011 d.044, Subchapter 41, Windstorm Market Assistance Program, was repealed, effective February 7, 2011. See: Source and Effective Date. See, also, section annotations.

Subchapter 34, Surplus Lines Insurance: Allocation of Premium Tax and Surcharge, was repealed by R.2012 d.112, effective June 4, 2012. See: 44 N.J.R. 548(a), 44 N.J.R. 1701(b).

Subchapter 42, Homeowners' Insurance: Standard Hurricane Deductibles And Expedited Process For Homeowners' Insurance Rate Changes, was renamed Homeowners Insurance: Standard Hurricane Deductibles And Expedited Process For Homeowners Insurance Rate Changes by R.2014 d.089, effective May 19, 2014. See: 45 N.J.R. 1217(a), 46 N.J.R. 858(a).

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. ADMISSION REQUIREMENTS FOR FOREIGN AND ALIEN LIFE AND HEALTH INSURERS

- 11:2-1.1 Purpose
- 11:2-1.2 Scope
- 11:2-1.3 Definitions

- 11:2-1.4 General eligibility requirements
- 11:2-1.5 Letter of intent
- 11:2-1.6 Final application
- 11:2-1.7 Review procedures; appeals
- 11:2-1.8 Severability

SUBCHAPTER 2. INSURANCE ON FINANCED AUTOMOBILES

- 11:2-2.1 Return of unearned premiums

SUBCHAPTER 3. CREDIT LIFE INSURANCE AND CREDIT ACCIDENT AND HEALTH INSURANCE

- 11:2-3.1 Scope
- 11:2-3.2 Definitions
- 11:2-3.3 Forms
- 11:2-3.4 Amount
- 11:2-3.5 Term
- 11:2-3.6 Policy provisions, disclosure to debtors
- 11:2-3.7 Credit life insurance in connection with leases of personal property
- 11:2-3.8 Credit accident and health insurance in connection with leases of personal property
- 11:2-3.9 Open-end credit coverage
- 11:2-3.10 Balloon coverage
- 11:2-3.11 Prohibited provisions of credit insurance policies
- 11:2-3.12 Delivery of policy; procedures
- 11:2-3.13 Application or notice of proposed insurance
- 11:2-3.14 Filing
- 11:2-3.15 Group policy; delivery
- 11:2-3.16 Disapproval by Commissioner
- 11:2-3.17 Standards for premium rates
- 11:2-3.18 Joint credit accident and health insurance
- 11:2-3.19 Maximum payments by debtors
- 11:2-3.20 Refunds
- 11:2-3.21 Maintenance of statistics
- 11:2-3.22 Issuance of policies
- 11:2-3.23 Payment of claims
- 11:2-3.24 Existing insurance; choice of insurer
- 11:2-3.25 Separability
- 11:2-3.26 Effect on previously filed forms and rates

APPENDIX. CREDIT ACCIDENT AND HEALTH INSURANCE

SUBCHAPTER 4. ELECTRONIC DATA PROCESSING EQUIPMENT

- 11:2-4.1 Cost of equipment as admitted asset

SUBCHAPTER 5. PROXIES, CONSENTS AND AUTHORIZATIONS

- 11:2-5.1 Applicability
- 11:2-5.2 Solicitation; prohibition
- 11:2-5.3 Disclosure of equivalent information
- 11:2-5.4 Definitions
- 11:2-5.5 Information to be furnished to stockholders
- 11:2-5.6 Proxy requirements
- 11:2-5.7 Material required to be filed
- 11:2-5.8 False or misleading statements
- 11:2-5.9 Undated or postdated proxy; prohibition
- 11:2-5.10 Election contests; special provisions

SUBCHAPTER 6. INFORMATION REQUIRED IN PROXY STATEMENT, GENERALLY

- 11:2-6.1 Revocability of proxy
- 11:2-6.2 Dissenters' rights of appraisal
- 11:2-6.3 Solicitation by management
- 11:2-6.4 Solicitation by nonmanagement
- 11:2-6.5 Solicitation by specially engaged employees or paid solicitors
- 11:2-6.6 Disclosure of interests of solicitors
- 11:2-6.7 Stocks and principal stockholders

INSURANCE GROUP

- 11:2-28.12 Reinsurance contract
- 11:2-28.13 Suspension or revocation of accreditation or certification

APPENDIX

SUBCHAPTER 29. ORDERLY WITHDRAWAL OF INSURANCE BUSINESS

- 11:2-29.1 Purpose and scope
- 11:2-29.2 Definitions
- 11:2-29.3 Informational filing withdrawals
- 11:2-29.4 Requests for waivers
- 11:2-29.5 Replacement carrier
- 11:2-29.6 Notifications to the Department
- 11:2-29.7 Confidentiality of informational filing withdrawal
- 11:2-29.8 Fines and penalties
- 11:2-29.9 Severability
- 11:2-29.10 (Reserved)

SUBCHAPTER 30. (RESERVED)

SUBCHAPTER 31. MANNER OF DETERMINING PREMIUM FOR PERPETUAL HOMEOWNERS INSURANCE

- 11:2-31.1 Purpose
- 11:2-31.2 Scope
- 11:2-31.3 Definitions
- 11:2-31.4 Determination of premium
- 11:2-31.5 Data filed; examination
- 11:2-31.6 Penalties

SUBCHAPTER 32. CUSTODIAL DEPOSITS

- 11:2-32.1 Purpose and scope
- 11:2-32.2 Definitions
- 11:2-32.3 Deposits with custodian; establishment of fees
- 11:2-32.4 Compliance dates
- 11:2-32.5 Penalties

SUBCHAPTER 33. WORKERS' COMPENSATION SELF-INSURANCE

- 11:2-33.1 Purpose and scope
- 11:2-33.2 Definitions
- 11:2-33.3 Exemption from insuring compensation liability; filing requirements
- 11:2-33.4 Renewals
- 11:2-33.5 Confidentiality
- 11:2-33.6 Cancellation of exemption
- 11:2-33.7 Failure to comply with subchapter; denial of exemption
- 11:2-33.8 Severability

APPENDIX. EXHIBITS A THROUGH B

SUBCHAPTER 34. (RESERVED)

SUBCHAPTER 35. RELIEF FROM INSURER OBLIGATIONS UNDER THE FAIR AUTOMOBILE INSURANCE REFORM ACT OF 1990

- 11:2-35.1 Purpose and scope
- 11:2-35.2 Definitions
- 11:2-35.3 Application procedures and filing format
- 11:2-35.4 Informational filing requirements
- 11:2-35.5 Relief
- 11:2-35.6 Hearings

SUBCHAPTER 36. RISK RETENTION GROUPS AND PURCHASING GROUPS

- 11:2-36.1 Purpose and scope
- 11:2-36.2 Definitions
- 11:2-36.3 Risk retention group registration requirements
- 11:2-36.4 Additional risk retention groups requirements

- 11:2-36.5 Notice and registration requirements of purchasing groups
- 11:2-36.6 Surplus lines coverage
- 11:2-36.7 Fines and penalties
- 11:2-36.8 Purchasing groups rate, rule and form filings

APPENDIX A

APPENDIX B

APPENDIX C

APPENDIX D

SUBCHAPTER 37. PRODUCER-CONTROLLED INSURERS

- 11:2-37.1 Purpose
- 11:2-37.2 Scope
- 11:2-37.3 Definitions
- 11:2-37.4 Filing of Producer-Controlled Insurer Information Report
- 11:2-37.5 Contents of the Producer-Controlled Insurer Information Report
- 11:2-37.6 Confidentiality of documents
- 11:2-37.7 Penalties

APPENDIX A

SUBCHAPTER 38. (RESERVED)

SUBCHAPTER 39. INCREASE IN CAPITAL AND SURPLUS REQUIREMENTS FOR INSURERS AND HEALTH MAINTENANCE ORGANIZATIONS

- 11:2-39.1 Purpose and scope
- 11:2-39.2 Definitions
- 11:2-39.3 RBC reports
- 11:2-39.4 Company action level event
- 11:2-39.5 Regulatory action level event
- 11:2-39.6 Authorized control level event
- 11:2-39.7 Mandatory control level event
- 11:2-39.8 Filings of RBC Plans
- 11:2-39.9 Hearings
- 11:2-39.10 Confidentiality and prohibition on announcements
- 11:2-39.11 Supplemental provisions
- 11:2-39.12 Foreign insurers
- 11:2-39.13 Severability clause
- 11:2-39.14 Notices
- 11:2-39.15 (Reserved)

SUBCHAPTER 40. LIFE, HEALTH AND ANNUITY REINSURANCE AGREEMENTS

- 11:2-40.1 Purpose and scope
- 11:2-40.2 Definitions
- 11:2-40.3 Reinsurance agreements
- 11:2-40.4 Agreements or conditions precluding reduction of liability or inclusion as an asset
- 11:2-40.5 Exceptions to agreements or conditions precluding reduction of liability or inclusion as an asset
- 11:2-40.6 Additional standards
- 11:2-40.7 Penalties
- 11:2-40.8 Severability

APPENDIX

SUBCHAPTER 41. (RESERVED)

SUBCHAPTER 42. HOMEOWNERS INSURANCE: STANDARD HURRICANE DEDUCTIBLES AND EXPEDITED PROCESS FOR HOMEOWNERS INSURANCE RATE CHANGES

- 11:2-42.1 Purpose and scope
- 11:2-42.2 Definitions
- 11:2-42.3 Expedited rate filings; general requirements

- 11:2-42.4 Expedited process calculations for homeowner's insurance rates
 11:2-42.5 Limitation on filer's rate request
 11:2-42.6 Review; general principles; actions
 11:2-42.7 Hurricane deductibles; standard policy language
 11:2-42.8 Hurricane deductibles; notice requirements
 11:2-42.9 Application of hurricane deductibles
 11:2-42.10 Reports

APPENDIX. EXHIBITS A THROUGH E

SUBCHAPTER 43. TREATMENT OF ALLOCATED DEPOSIT-TYPE DEFERRED ANNUITY CONTRACT FUNDS FOR PURPOSES OF CALCULATING THE SPECIAL PURPOSE APPORTIONMENT AND THE FRAUD ASSESSMENT

- 11:2-43.1 Purpose and scope
 11:2-43.2 Definitions
 11:2-43.3 Treatment of allocated deposit-type funds for purposes of calculating the special purpose apportionment and the fraud assessment
 11:2-43.4 Credit
 11:2-43.5 Penalties

APPENDIX

SUBCHAPTER 1. ADMISSION REQUIREMENTS FOR FOREIGN AND ALIEN LIFE AND HEALTH INSURERS

11:2-1.1 Purpose

This subchapter establishes the procedures, requirements and standards which govern the application of foreign and alien insurers engaged in the business of life and health insurance for a certificate of authority to transact the business of insurance in this State.

11:2-1.2 Scope

This subchapter applies to all foreign and alien insurers that apply for a certificate of authority to transact the business of life and health insurance in this State. The filing requirements contained in this subchapter shall not apply to the continuation, renewal or timely reinstatement of existing certificates of authority except where the Commissioner, pursuant to law, shall otherwise require.

11:2-1.3 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 Department of Banking and Insurance of this State.

"Committee on Admissions" means the advisory committee within the Department appointed by the Commissioner to aid in the review of applications for admission to transact the business of insurance in this State and to render to the Commissioner recommendations as to the disposition of such applications.

"Department" means the Department of Banking and Insurance of this State.

"TRIS" means the NAIC Insurance Regulatory Information System.

"NAIC" means National Association of Insurance Commissioners.

Amended by R.2001 d.6, effective January 2, 2001.

See: 32 N.J.R. 3530(a), 33 N.J.R. 85(a).

Amended "Commissioner" and "Department".

11:2-1.4 General eligibility requirements

(a) In order for a foreign or alien insurer to be admitted as a life and health insurer in this State, the requirements in this section shall be satisfied in addition to any other requirements in this subchapter or any other provision of law.

1. The applicant shall satisfy the Commissioner that its condition or methods of operation are not such as would render its operation hazardous to the public or its policyholders in this State. In determining whether a hazardous financial condition exists, the factors identified in N.J.A.C. 11:2-27.3 shall be considered. A hazardous financial condition shall exist when those factors indicate, either singly or in combination of two or more, that the financial condition of any applicant which has applied to transact, or is already transacting the business of insurance in any jurisdiction, is considered by the Commissioner to be hazardous to the policyholders, stockholders, claimants, creditors, or the general public. The Commissioner shall further consider any other fact or circumstance that indicates that an insurer's operations may be hazardous.

2. The applicant shall satisfy at least the minimum capital and surplus requirements of a similar domestic insurer of this State for all lines of insurance that it is authorized to write pursuant to the certificate of authority issued by its place of domicile, whether or not the applicant desires to transact any of those lines of insurance in this State, subject to the following:

i. In determining whether an applicant meets the minimum capital and surplus requirements, the following shall be deducted from unassigned funds:

(1) The statement value of any and all special deposits not held for the protection of all policyholders;

(2) Reserves and losses reinsured with companies not authorized in New Jersey, accredited as reinsurers in New Jersey, or otherwise in compliance with N.J.S.A. 17:51B-1 et seq., net of any offsets;

(3) The statement value for the portion of assets held in excess of investment limitations for life and health insurers pursuant to N.J.S.A. 17B:20-1 et seq.;

(4) Reserve shortfalls caused by the company holding reserves weaker than those mandated by N.J.S.A. 17B:19, or such other standards provided by

administrative rule, actuarial guidelines, or determined necessary by actuarial analysis;

(5) The excess of the statement value over the market value of bonds held by the applicant; and

(6) Off balance sheet guarantees and contingent liabilities for which the company has not previously established a liability in an appropriate amount.

ii. Capital and surplus requirements may be reduced to the level required for the kinds of insurance actually being marketed if the applicant:

(1) Does not transact one or more of the kinds of insurance contained in the certificate of authority issued by its state or country of domicile; and

(2) Submits a resolution by its board of directors stating that it will refrain from transacting the kind(s) of insurance permitted by the certificate of authority issued by its state or country of domicile.

3. An applicant which has total adjusted capital of less than its company action level risk-based capital or which has otherwise triggered a company action level event, as these terms are defined in N.J.A.C. 11:2-39, as of December 31 of the preceding calendar year, shall not be considered for admission until the applicant's status has improved.

4. The applicant shall be deemed to have its application deferred if any one of the following conditions exist:

i. An applicant which has failed four or more IRIS tests shall have its application deferred until it has dem-

onstrated to the Commissioner and its place of domicile that the IRIS test results are not indicative of a financial condition that may be hazardous to the policyholders, stockholders, claimants, creditors or the general public; or

ii. An applicant which has failed to file with the NAIC an annual statement for the prior year shall have its application deferred until it has filed with the NAIC such annual statement.

5. The applicant shall satisfy the following seasoning requirements:

i. Subject to the provisions of this subchapter, no applicant shall be considered for a certificate of authority to transact the business of insurance in this State unless the Commissioner has been furnished with evidence that the applicant has been authorized by its state or country of domicile to engage in the kind(s) of insurance business for which the applicant seeks a certificate of authority, and has in fact been actively, continuously and successfully engaged in such business, without a change in control, for a period of at least five years prior to the date of the application for the New Jersey certificate of authority.

ii. An applicant qualified under (a)5i above shall demonstrate that:

(1) During any three of the last five years, including therein the two most recent years of business operations, it generated a net gain from operations, after Federal taxes, as reported in the annual statement; and

SUBCHAPTER 41. (RESERVED)

SUBCHAPTER 42. HOMEOWNERS INSURANCE:
STANDARD HURRICANE DEDUCTIBLES AND
EXPEDITED PROCESS FOR HOMEOWNERS
INSURANCE RATE CHANGES**11:2-42.1 Purpose and scope**

(a) This subchapter sets forth the expedited process for a homeowner's insurer or rating organization to file changes to its rating system; sets forth the uniform policy language that may be used with respect to hurricane deductibles; and sets forth information that shall be included in notices provided to insureds by insurers regarding hurricane deductibles, pursuant to N.J.S.A. 17:36-5.33 to 5.36.

(b) This subchapter shall apply to all insurers writing or transacting homeowner's insurance in this State, rating organizations, and the FAIR Plan.

(c) These rules shall apply to base rate changes by form, territorial relativities, deductibles, protection/construction class factors, "coverage A" and "coverage C" amount of insurance factors, homeowner's liability rates and associated liability increased limit factors, minimum premiums, and other factors and credits.

11:2-42.2 Definitions

The following words and terms, as 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 Banking and Insurance.

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

"Earned premium" or "EP" means direct, earned premium net of dividends paid or incurred.

"FAIR Plan" means the New Jersey Insurance Underwriting Association established pursuant to N.J.S.A. 17:37A-1 et seq.

"Form" means:

1. Owners forms, including, but not limited to, HO-1, HO-2, HO-3, HO-3 w/15, HO-5, and HO-8;
2. Tenants forms, including, but not limited to, HO-4;
3. Condominium forms, including, but not limited to, HO-6;
4. Dwelling;
5. Extended Coverage; and

6. Mobile Home Owners.

"Homeowners insurance" means personal lines insurance provided against loss to real and personal property as defined in the standard fire policy and extended coverage endorsement thereon, a dwelling policy, the homeowners multiple peril policy, insurance against the perils of vandalism, malicious mischief, burglary, or theft, or liability insurance or any combination thereof, or any other such policy delivered, issued, or renewed or approved by the Commissioner for issuance, delivery, or renewal in this State.

"ISO" means the Insurance Services Office, Inc.

"NAIC" means the National Association of Insurance Commissioners.

"Qualified actuary" is as defined in N.J.A.C. 11:1-21.1(a)2.

"Rate change" means a rate increase of no more than five percent overall. Rate change also means any decrease in rates or a change in rates that is revenue neutral.

"Written premium (WP)" means direct written premium net of dividends paid or incurred.

Amended by R.2014 d.089, effective May 19, 2014.
See: 45 N.J.R. 1217(a), 46 N.J.R. 858(a).

Added definition "Homeowners insurance".

11:2-42.3 Expedited rate filings; general requirements

(a) All filings shall meet the following requirements and shall be submitted to the Department through the use of the NAIC electronic filing system SERFF (System for Electronic Rate and Form Filing).

1. The margin at the top of each page shall show the filer's name, filer's identifying number for this filing, NAIC company number(s) and NAIC group number. The right hand side of the page shall show the section, exhibit and sheet number;

2. All data shall be reported on a direct basis exclusive of business ceded to reinsurers or reinsurance assumed from other companies;

3. Data submitted in any prior approval rate or loss cost filing shall report only voluntary market experience and shall not include experience derived from risks insured through any assigned risk plan, except for filings submitted by the FAIR Plan;

4. The most recent accident year data used in the filing shall end no more than 15 months prior to the date of submission of the filing. An accident year need not coincide with a calendar year; and

5. Three copies of the filing shall be submitted.

(b) An insurer and/or rating organization, pursuant to N.J.S.A. 17:36-5.35 may file for a rate change in accordance with this subchapter. The filer shall provide the following information in support of its filing:

1. A cover letter notifying the Department of its intention to make a rate change according to the provisions of this subchapter; a completed Exhibit C in the subchapter Appendix incorporated herein by reference; a statement containing the effective date of the change; and the name, telephone number and mailing address of the company officer familiar with the filing to whom further inquires regarding the filing may be directed. Filers may choose to eliminate the submission of a cover letter provided that the SERFF Filing's General Information Filing Description Section is fully completed with a clear and precise description of the filing;

2. A checklist that sets forth the information in Exhibit A in the subchapter Appendix incorporated herein by reference;

3. The manual rating pages containing the territorial base rates by form to be implemented, accompanied by an explanatory memorandum showing the calculation of the new rates by form, using the existing rates by form as the starting point in the calculation. The memorandum shall also include the company's file number and effective dates for new and renewal policyholders;

4. Completed rating examples using the examples set forth in Exhibits A, B and C in the Appendix to N.J.A.C. 11:4-29, which shows the proposed premium amounts;

5. A completed Exhibit B in the subchapter Appendix incorporated herein by reference;

6. By form on a percentage basis, the maximum increase (or smallest decrease if no insured would receive an increase) and maximum decrease (or smallest increase if no insured would receive a decrease), along with a profile of the insured and the number of insureds that would receive each;

7. A list of territorial definitions. If the filer uses the territorial definitions from the latest approved ISO filing, a statement to that effect may be provided in lieu of a list;

8. A completed Justification for Minimum Premium if a change is being proposed. This form can be found on the Department website at <http://www.nj.gov/dobi/propcas.htm#FORMS>, or will be provided by the Department upon request of the filer;

9. Exhibit(s) showing the effects of each proposed change separately and the overall impact of all changes combined. The exhibit shall include an exposure or premium distribution by item changed (such as, by territory, amount of insurance, protection/construction classification, etc.), with current and proposed factors and calculated changes, if revisions to these factors are being proposed; and

10. A seven-year rate history with effective dates by form.

(c) The filer may supplement a complete filing in response to questions from the Department about matters that require clarification or additional explanation, provided that the prompt review of the filing within the time frames set forth in this subchapter is not adversely affected.

Amended by R.2007 d.91, effective April 2, 2007.

See: 38 N.J.R. 4976(b), 39 N.J.R. 1313(a).

Rewrote (a)2; and in (b)1, inserted the last sentence.

Amended by R.2009 d.190, effective June 15, 2009.

See: 41 N.J.R. 365(a), 41 N.J.R. 2486(a).

Rewrote the introductory paragraph of (a); deleted former (a)1 and (a)2; recodified former (a)3 through (a)7 as (a)1 through (a)5; and in (b)1, substituted "SERFF Filing's General Information Filing Description Section" for "Filing Description" of the NAIC Uniform Property and Casualty Transmittal Document is".

11:2-42.4 Expedited process calculations for homeowner's insurance rates

(a) General requirements for expedited rate filings are as follows:

1. Filers shall provide form indications for all forms for which changes are proposed based on five accident years of data; and

2. Form indications shall be calculated as follows:

i. All Owners forms combined;

ii. Tenants and Condominiums forms, either combined or separately;

iii. Dwelling Fire;

iv. Extended Coverage; and

v. Mobile Home Owners.

(b) Filers shall provide New Jersey (NJ) earned exposures by form and by accident year.

(c) Trended earned premium at present rates shall be the product of earned premium and the factors calculated below:

1. NJ earned premium by form, by accident year;

2. On-level factors by form, based on company specific historical New Jersey rate changes, along with the calculations thereof;

3. Current amount factors calculated from internal data and showing all calculations, including an amount of insurance distribution and the average relativity by year. The factors may be tempered by a factor of no less than 0.90. In lieu of the preceding, the filer may use selections from the latest approved ISO filing in New Jersey;

4. Premium trend factors calculated from internal data, based on average relativity by year, fitted and projected; factors may be tempered by a factor of no less than 0.90. The filer may choose to use selections from the latest approved ISO filing in New Jersey instead; and