

CHAPTER 12
LEGAL INSURANCE

Authority

N.J.S.A. 17:1-8.1, 17:1-15e and 17:46C-1 et seq.

Source and Effective Date

R.2007 d.96, effective March 6, 2007.
See: 38 N.J.R. 4393(a), 39 N.J.R. 1314(a).

Chapter Expiration Date

Chapter 12, Legal Insurance, expires on March 6, 2012.

Chapter Historical Note

Chapter 12, Legal Insurance, was adopted as R.1981 d.422, effective November 2, 1981. See: 13 N.J.R. 601(a), 13 N.J.R. 776(a).

Chapter 12, Legal Insurance, was readopted as R.1986 d.462, effective October 27, 1986. See: 18 N.J.R. 1782(b), 18 N.J.R. 2330(a).

Pursuant to Executive Order No. 66(1978), Chapter 12, Legal Insurance, was readopted as R.1991 d.520, effective September 27, 1991. See: 23 N.J.R. 2304(a), 23 N.J.R. 3170(a).

Pursuant to Executive Order No. 66(1978), Chapter 12, Legal Insurance, was readopted as R.1996 d.498, effective September 27, 1996. See: 28 N.J.R. 3880(a), 28 N.J.R. 4591(a).

Chapter 12, Legal Insurance, was readopted as R.2001 d.460, effective November 8, 2001. See: 33 N.J.R. 3238(a), 33 N.J.R. 4379(a).

Chapter 12, Legal Insurance, was readopted as R.2007 d.96, effective March 6, 2007. See: Source and Effective Date.

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SUBCHAPTER 1. INSURERS AUTHORIZED TO TRANSACT THE BUSINESS OF LEGAL INSURANCE

11:12-1.1 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 New Jersey Commissioner of Banking and Insurance.

“Insurer” means any person who obtains a certificate of authority in accordance with the provisions of N.J.S.A. 17:46C-4 and any person authorized to transact the business of insurance under Subtitle 3 of Title 17 or Subtitle 3 of Title 17B of the New Jersey Statutes.

“Legal insurance” means the assumption of a contractual obligation to provide specified legal services or reimbursement for legal expenses in consideration of a specified payment for an interval of time, regardless of whether the payment is made by the beneficiaries individually or by a third person for them, in such a manner that the total cost incurred by assuming the obligation is to be spread directly or individually among a group of persons. Legal insurance shall not include the provision of or reimbursement for legal services incidental to other insurance coverages such as the duty to defend, nor shall the following be considered legal insurance:

1. Retainer contracts made with individual clients with the fees based on estimates of the nature and the amount of services that will be provided to the specific client, and similar contracts made with a group of clients involved in the same or closely related legal matters such as class actions.

2. Plans providing no benefits other than a limited amount of consultation and advice on simple matters either alone or in combination with referral services or the promise of fee discounts for other matters.

3. Plans providing limited benefits on simple legal matters on an informal basis not involving a legally binding promise, in the context of an employment or educational or similar relationship.

4. Legal services provided by unions or employee associations to their members in matters relating to employment or occupation.

5. Employee benefit plans regulated by the “Employee Retirement Income Security Act of 1974,” 29 U.S.C. §§ 1001 et seq.; or

6. Plans or legal services provided by a legal aid office or public defender office, a military legal assistance office, a lawyer referral service operated, sponsored or approved by a bar association representative of the general bar of the geographical area in which the association exists, or any other nonprofit organization that recommends, furnishes or pays for legal services to its members or beneficiaries in a manner incidental and reasonably related to a primary purpose of such organization to promote a public interest, including, without limitation, defense of human and civil rights, elimination of prejudice and discrimination as to race, religion, sex and national origin, lessening neighborhood tensions, preservation of scenic beauty, combating or preventing pollution, preservation of natural resources, protection of consumer interest, promotion of cultural, historical or other educational activities, and prevention of cruelty to animals.

As used in this definition, “contractual obligation” includes any arrangement in which those persons for whom services

are to be provided under the arrangement have reasonable expectations of enforceable rights.

New Rule, R.2001 d.460, effective December 17, 2001.

See: 33 N.J.R. 3238(a), 33 N.J.R. 4379(a).

Former N.J.A.C. 11:12-1.1, Authorization of insurers, recodified to N.J.A.C. 11:12-1.2.

11:12-1.2 Authorization of insurers

(a) An insurer defined in N.J.S.A. 17:46C-3b may transact the business of insurance in New Jersey after satisfying the following conditions:

1. Notify the Commissioner of the intent to write legal insurance, submit satisfactory evidence of authorization to transact the business of insurance and pay the required fee of \$250.00. Such evidence shall include proof of the necessary corporate power to transact the business of legal insurance.

2. Submit to and have approved by the Commissioner a copy of the policy and certificate forms to be used.

3. Submit to and have approved by the Commissioner the rating system upon which the legal insurance rates will be based. The Commissioner has determined not to allow a file and use rating procedure at this time.

Recodified from N.J.A.C. 11:12-1.1 and amended by R.2001 d.460, effective December 17, 2001.

See: 33 N.J.R. 3238(a), 33 N.J.R. 4379(a).

In (a)1, inserted "and pay the required fee of \$250.00" following "business of insurance". Former N.J.A.C. 11:12-1.2, Experience reports, recodified to N.J.A.C. 11:12-1.3.

11:12-1.3 Experience reports

An insurer transacting legal insurance in New Jersey shall submit experience reports on or before the first day of March which will be based on activities up through the prior December 31 on a form to be prescribed by the Commissioner.

Repealed by R.1988 d.186, effective April 18, 1988.

See: 20 N.J.R. 225(c), 20 N.J.R. 904(b).

This section was "Persons authorized to sell legal insurance". Recodified from N.J.A.C. 11:12-1.2 and amended by R.2001 d.460, effective December 17, 2001.

See: 33 N.J.R. 3238(a), 33 N.J.R. 4379(a).

Rewrote the section. Former N.J.A.C. 11:12-1.3, was reserved.

11:12-1.4 Annual reports

An insurer who obtains a certificate of authority under N.J.S.A. 17:46C-4 shall submit an annual report on or before the first day of March on a form to be prescribed by the Commissioner and pay the required fee of \$20.00.

Amended by R.2001 d.460, effective December 17, 2001.

See: 33 N.J.R. 3238(a), 33 N.J.R. 4379(a).

Inserted "on or before the first day of March" following "annual report", and added "and pay the required fee of \$20.00".