

\_\_\_\_\_  
(Street Address) (City or Town) (State) (Zip Code)

Insurance Coverage \_\_\_\_\_  
(Type of Coverage) (Policy Limits)

\_\_\_\_\_  
(Name of Surplus Lines Agent Representing Insured Above)

\_\_\_\_\_  
(Title of Representative for Corporation or Partnership)

\_\_\_\_\_  
(Name of Business, Corporation or Partnership)

\_\_\_\_\_  
(Street Address) (City or Town) (State) (Zip Code)

The above named individual is duly licensed as an insurance producer with surplus lines authority pursuant to *N.J.S.A. 17:22-1 et seq.*

Name of Ineligible Unauthorized Insurer that business was placed with:

	<u>NAIC #</u>	<u>ISI#</u>
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____
4. _____	_____	_____

Attach additional listings if needed.

The named ineligible unauthorized insurer has deposited with the Commissioner in accordance with N.J.A.C. 11:2-32, securities in the amount acceptable to the Commissioner, which are held by the Commissioner for the benefit of New Jersey policyholders; and

(I) (We) have procured from such ineligible unauthorized insurer and filed with the Commissioner a certified copy of its current annual statement of financial condition in accordance with N.J.S.A. 17:22-6.45(h).

(I) (We) do not know of this coverage(s) being offered by companies I represent or by other companies in the admitted market.

(I) (We) certify that the foregoing statements made by me are true. I am aware that if any of the statements are willfully false, I am subject to civil and criminal penalties.

\_\_\_\_\_  
Name of Surplus Lines Agent

By: \_\_\_\_\_  
(Signature)

SUBCHAPTER 34. SURPLUS LINES: EXPORTABLE LIST

11:1-34.1 Purpose and scope

(a) The purpose of this subchapter is to identify the procedures concerning the creation and modification of an exportable list of certain classes of insurance coverages or risks and to promulgate the list as a rule, in implementation of N.J.S.A. 17:22-6.43.

(b) This subchapter shall apply to all surplus lines insurers and producers. Pursuant to N.J.S.A. 17:22-6.40, this subchapter shall not apply to life insurance companies, which may not become eligible surplus lines insurers.

11:1-34.2 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 coming within the definition of life insurance as set forth in N.J.S.A. 17B:17-3, or health insurance as set forth in N.J.S.A. 17B:17-4, 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. Such a contract which includes extra benefits of the kinds set forth in N.J.S.A. 17B:17-3 or 17B:17-4 shall nevertheless be deemed to be an annuity if such extra benefits constitute a subsidiary or incidental part of the entire contract.

“Authorized insurer” means a domestic or foreign insurer duly authorized by a Certificate of Authority issued by the Commission to transact the business of insurance in this State.

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

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

“Exportable list” means a list of any class or classes of insurance coverages or risks declared and promulgated by the Commissioner for which there is no reasonable or adequate market among authorized insurers in this State.

“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 coverages.

“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 includes also the granting of endowment benefits and

optional modes of settlement of proceeds of life insurance as well as provisions for additional benefits in event of death by accident or accidental means or in event of dismemberment or loss of sight, or safeguarding such insurance against lapse or giving a special surrender value or special benefit or an 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 workers' compensation coverages.

"State" means the State of New Jersey.

"Surplus lines insurer" means an eligible, unauthorized insurer with which an insurance coverage is placed or may be placed pursuant to N.J.S.A. 17:22-6.40 et seq. (see Appendix A to this subchapter, incorporated herein by reference).

Amended by R.2001 d.75, effective March 5, 2001.  
See: 32 N.J.R. 4184(a), 33 N.J.R. 794(a).

### 11:1-34.3 Exportable list hearing

(a) In the month of November or December of each year, the Commissioner or his or her designee shall hold a hearing, pursuant to N.J.S.A. 17:22-6.43, for the purpose of determining the extent of the existence or a reasonable or adequate market among authorized insurers for certain classes of insurance coverages and risks. Additionally, the hearing shall provide interested parties the opportunity to present relevant information for the Commissioner's consideration as to why forms disapproved or withdrawn should be approved.

1. This 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 (a)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 items currently on the list, or whether the hearing will consider only specific additions, deletions or clarifications regarding the list.

4. The notice shall provide a list of disapproved policy forms or contracts that have been disapproved or withdrawn by the Commissioner since the previous exportable list hearing was held.

(b) 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 shall be within the discretion of the hearing officer.

(c) Interested parties may present evidence to the Commissioner that the conditions of non-procurability have changed. Evidence of non-procurability should demonstrate that there exists no reasonable or adequate market among authorized insurers.

(d) 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 an appropriate fee.

Public Notice: Public hearing on the Exportable List.  
See: 28 N.J.R. 4680(b).

Public Notice: Public hearing on the Exportable List.  
See: 29 N.J.R. 5028(b).

Public Notice: Public hearing on the Exportable List.  
See: 30 N.J.R. 4291(b).

Public Notice: Public hearing on the Exportable List.  
See: 31 N.J.R. 3860(a).

Public Notice: Public hearing on the Exportable List.  
See: 32 N.J.R. 4019(a).

Amended by R.2001 d.75, effective March 5, 2001.  
See: 32 N.J.R. 4184(a), 33 N.J.R. 794(a).

Rewrote (a).

Public Notice: Public Hearing on the Exportable List.  
See: 34 N.J.R. 315(a), 3994(a).

Public Notice: Public Hearing on the Exportable List.  
See: 35 N.J.R. 5446(a).

Public Notice: Public Hearing on the Exportable List.  
See: 36 N.J.R. 5173(a).

Public Notice: List of Special Risks.

See: 37 N.J.R. 2260(a).

Public Notice: Notice of Public Hearing on the Exportable List.  
See: 37 N.J.R. 4477(b).

Public Notice: Public Hearing on the Exportable List.  
See: 38 N.J.R. 5178(b).

Public Notice: Public Hearing on the Exportable List.  
See: 39 N.J.R. 4963(a).

Public Notice: Public Hearing on the Exportable List.  
See: 40 N.J.R. 7004(a).

Public Notice: Public Hearing on the Exportable List.  
See: 41 N.J.R. 4565(a).

Public Notice: Public Hearing on the Exportable List.  
See: 42 N.J.R. 3076(a).

Public Notice: List of Special Risks.

See: 43 N.J.R. 210(b).

Public Notice: Public Hearing on the Exportable List.  
See: 43 N.J.R. 2676(a).

Public Notice: Public Hearing on the Exportable List.  
See: 44 N.J.R. 2917(b).

Public Notice: Public Hearing on the Exportable List.  
See: 45 N.J.R. 2509(b).

Public Notice: Public Hearing on the Exportable List.  
See: 46 N.J.R. 2202(b).

### 11:1-34.4 Exportable list hearing record

(a) The record of the hearing shall include the following:

1. Timely-received written public comments;
2. The transcript of the hearing; and
3. Any other information which the hearing officer may deem relevant.

### 11:1-34.5 Promulgation and modification of exportable list

(a) Upon review of the exportable list hearing record, the Commissioner shall, by rule, declare eligible for export generally, and notwithstanding the provisions of N.J.S.A. 17:22-

6.43(a), (b) and (c), any class or classes of insurance coverage or risk for which he or she finds there exists no reasonable or adequate market among authorized insurers; provided, however, that if adequate documentary evidence has been presented which satisfies the Commissioner that a reasonable or adequate market does exist among authorized insurers, he or she may, by rule, strike any class or classes of insurance coverage or risks from the exportable list.

(b) The Commissioner may, by rule amending this subchapter, specifically declare ineligible for export any class or classes of insurance coverage or risk which he or she determines to be generally procurable through diligent effort among authorized insurers pursuant to N.J.S.A. 17:22-6.43(a).

(c) When, during the term of a duly promulgated exportable list, the Commissioner determines that changed conditions require a modification of the exportable list, he or she may, after a hearing, by rule, amend the list.

1. Notice of the Commissioner's action shall be provided to all surplus lines agents, eligible surplus lines insurers, authorized insurers and others who have previously requested receipt of such information.

#### 11:1-34.6 Exportable list

(a) The exportable list is as follows:

1. Amusement Devices, Parks and Carnivals;
2. Animal Mortality;
3. Armored Cars;
4. Auto Racing and Race Tracks;
5. Day Care Center Liability;
6. Difference In Condition;
7. Environmental Impairment Liability Insurance;
8. Excess and Buffer Liability;
9. Excess Loss and Excess Aggregate for Self-Insurers; Public Liability and Workers' Compensation;
10. Golf Driving Range;
11. Fine Arts Dealers;
12. First Loss and Excess of First Loss Insurance;
13. House Movers and Building Demolition;
14. Kidnapping, Ransom and Extortion Insurance;
15. Manufacturers and Contractors Liability for Floor Waxers, Building Maintenance People, Window Washers and Exterminators;
16. "Large Risks" which means any insured:

i. Which procures insurance for any property casualty risk by use of the services of either an employee who is a full-time insurance manager or buyer, or a regularly and continuously retained qualified insurance consultant; and

ii. Whose aggregate commercial premiums for insurance (excluding, Life, Health and Accident, Annuities and Workers' Compensation insurance) total at least \$500,000;

17. Motor vehicle coverage as follows:

- i. Physical Damage Coverage for Limousines; and
- ii. Physical Damage Coverage for Trucks, including trailers and trailer interchange (over 10,000 pounds) for Non-Fleet (one to five) risks, and commercial fleet (over five) risks irrespective of gross vehicle weight;

18. Mortgage Impairment;

19. Pony Rides/Riding Academies;

20. Physical Damage Coverage for Private Passenger and Commercial Vehicles with an original cost new of \$60,000 or above;

21. Product Liability Products or Products Recall Coverage;

22. Professional Liability insurance as follows:

- i. Errors and Omissions; and
- ii. Professional Liability except:
  - (1) Legal malpractice liability;
  - (2) Medical malpractice liability
    - (A) Hospitals Professional Liability
    - (B) Physicians and Surgeons Professional Liability
    - (C) Dentist Professional Liability
    - (D) Employees Professional Liability
    - (E) Nurses Professional Liability
    - (F) Optometrists Professional Liability
    - (G) Physiotherapists Professional Liability
    - (H) Chiropractors Professional Liability
    - (I) Surgery Centers Professional Liability;

23. Short Term Events;

24. Skating Rinks (Roller and Ice) and Skate Board Parks;

25. Swim Clubs/Swim Pools;
26. Vacant and Unoccupied Building;
27. Warehouseman's Legal Liability;
28. Automobile Personal Injury Protection (PIP) coverage in excess of \$250,000;
29. Commercial auto liability for taxicabs and limousines; (Eligible Surplus Lines insurer's certificate of eligibility must state that they are permitted to write this risk.)
30. Commercial auto liability for intermediate and long-haul trucking; (Eligible Surplus Lines insurer's certificate of eligibility must state that they are permitted to write this risk.)
31. Liquor Liability;
32. Employment Practices Liability;
33. Livestock Gross Margin Policies for Dairy Cattle;
34. Gap Coverage for Private Passenger and Commercial Automobile; and
35. Flood insurance for primary and excess coverage.

(b) With the exception of Special Risk Disability and Personal Accident Coverage as set forth in (b)3 and 4 below, the following kinds of insurance, if sold by eligible surplus lines insurers, are specifically not eligible for export, since the Department has determined that they are procurable from authorized or admitted insurers after a diligent effort:

1. Health insurance, including specific excess or aggregate excess purchased by self-funded health benefit plans, as defined by N.J.S.A. 17B:17-4.
2. Annuities including Funding Agreements or Guaranteed Investment Contracts (GIC's) as defined by N.J.S.A. 17B:17-5.
3. "Special Risk Disability and Personal Accident Coverage" means insurance providing coverage on a professional athlete, a professional musician or entertainer, or an executive essential to the insured's business operations obtained by a policyholder who procures insurance:

i. For risk of financial loss caused by the cessation of earned income due to disability from sickness, ailment or bodily injury;

ii. For risk of financial loss caused by a contractual requirement to pay an executive or other person essential to the insured's business operations who can no longer perform his or her duties due to disability from sickness, ailment or bodily injury;

iii. For risk of accidental death in an amount equal to or exceeding \$1,000,000 in face amount only where no

reasonable or adequate market exists among admitted insurers; or

iv. For risk of financial loss caused by a contractual requirement to pay an executive or other person essential to the insured's business operations who can no longer perform his or her duties due to death. Such coverage, where no reasonable or adequate market exists among admitted insurers, must be purchased in an amount equal to or exceeding \$1,000,000 in face amount only and with a policy period not to exceed 24 months.

4. Insurance providing coverage on a person that is not a professional athlete, professional musician or entertainer, or executive or other person essential to a business operation, for any of the risks listed in (b)3i through iv above may be placed with an eligible surplus lines insurer after a diligent effort has been made by a licensed New Jersey insurance producer to procure the insurance from authorized or admitted insurers. The New Jersey surplus lines producer that placed such insurance shall submit a separate report to the Life and Health Office of the Department of Banking and Insurance of placements made during each calendar quarter, within 15 days after the end of such calendar quarter. Such report shall include a copy of the certification of diligent effort (Form No. SLPS-6CERT) and a description of the nature of the risk and the basis of export. This reporting requirement shall apply to placements made through December 31, 2012.

(c) Life insurance is specifically not eligible for export pursuant to N.J.S.A. 17:22-6.40 et seq.

(d) The Department shall publish and update on its website a list of Unauthorized Insurers that qualify as Eligible Surplus Lines Insurers in New Jersey.

Amended by R.1997 d.488, effective November 17, 1997.  
See: 29 N.J.R. 1009(b), 29 N.J.R. 5023(a).

Added (a)31 and (a)32.  
Amended by R.2001 d.75, effective March 5, 2001.  
See: 32 N.J.R. 4184(a), 33 N.J.R. 794(a).

Rewrote (a) and added (d).  
Public Notice: Unauthorized insurers qualified as eligible surplus lines insurers.

See: 33 N.J.R. 2349(c).  
Public Notice: Unauthorized insurers qualified as eligible surplus lines insurers.

See: 34 N.J.R. 1055(a).  
Public Notice: List of Unauthorized Insurers Which Qualify as Eligible New Jersey Surplus Lines Insurers.

See: 36 N.J.R. 2562(a).  
Amended by R.2005 d.135, effective May 2, 2005.  
See: 36 N.J.R. 4622(a), 37 N.J.R. 1522(b).

In (a), inserted "and limousines" following "auto liability for taxicabs" in 29.

Amended by R.2005 d.442, effective December 19, 2005.  
See: 37 N.J.R. 3214(a), 37 N.J.R. 5014(a).

In (a)20, increased the original cost new of \$40,000 to \$60,000; rewrote the introductory paragraph of (b) and (b)1.

Public Notice: Department of Banking and Insurance; Surplus Lines Examining Office: list of unauthorized insurers which qualify as eligible New Jersey Surplus Lines insurers.

See: 38 N.J.R. 1603(a).