

1. The name and address of the automobile club or clubs or automobile association or associations with respect to guaranteed arrest bond certificates of which the surety company undertakes to be surety;

2. The unqualified obligation of the surety company to pay the fine or forfeiture in an amount not to exceed \$500.00 of any person who, after posting a guaranteed arrest bond certificate with respect to which the surety company has undertaken to be surety, failed to make the appearance for which the guaranteed arrest bond certificate was posted.

(b) Such finding shall be filed with the Commissioner 10 days prior to its effective date. If such undertaking is terminated, the Commissioner shall be notified as promptly as possible but not later than the effective date of such termination.

R.1974 d.282, effective October 11, 1974.

See: 6 N.J.R. 322(a), 6 N.J.R. 437(a).

Amended by R.1991 d.4, effective January 7, 1991.

See: 22 N.J.R. 1673(a), 23 N.J.R. 103(a).

Increased maximums in (a) from \$200.00 to \$500.00.

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

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

In (a), added "Banking and" in reference to the Commissioner; in (b), deleted "of Insurance"; and deleted (c).

SUBCHAPTER 17. UNFAIR CLAIMS SETTLEMENT PRACTICES

11:2-17.1 Purpose

N.J.S.A. 17:29B-4(9) and 17B:30-13.1 prohibit insurers from engaging in unfair claims settlement practices. The purpose of this subchapter is to promote the fair and equitable treatment of claimants by defining certain minimum standards for the settlement of claims which, if violated with such frequency as to indicate a general business practice, would constitute unfair claims settlement practices in the business of insurance.

Case Notes

Immunity provided to New Jersey Full Insurance Underwriting Association servicing carriers for judgments arising from policy claims does not extend to acts outside scope of duties under contract that rise to level of bad faith. *Miglicio v. HCM Claim Management Corp.*, 288 N.J.Super. 331, 672 A.2d 266 (L.1995).

11:2-17.2 Scope

This subchapter applies to all persons and all policies except the following: ocean marine, fidelity and surety, boiler and machinery and workers' compensation. It shall also not apply to commercial property and liability policies for which the annual premium is more than \$10,000 and where the claim is made by the commercial insured. This subchapter is not exclusive, and other acts, not herein specified, may also be found to constitute unfair claims settlement practices. This subchapter is not intended to supersede any other rule or regulation.

11:2-17.3 Definitions

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

"After market part" means sheet metal or plastic parts which constitute the exterior of an automobile, including inner and outer panels, manufactured by any manufacturer other than the original manufacturer of the part. Examples of after market parts include, but are not limited to, the following: doors, hoods, fenders, trunk lids, grills and bumper components.

"Catastrophe" means a calamity or other disastrous event that causes widespread losses resulting in excessive claims volume.

"Claimant" means either a first party claimant, a third party claimant, or both and includes such claimant's designated legal representative and includes a member of the claimant's immediate family designated by the claimant.

"Claims settlement" means all the activities of an insurer relating directly or indirectly to the determination of the extent of liabilities due or potentially due under coverages afforded by the policy, and which result in a claim payment or acceptance, compromise or rejection.

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

"Department" means the Department of Banking and Insurance.

"First party claimant" means an individual, corporation, association, partnership, or other legal entity asserting a right to payment under an insurance policy or insurance contract arising out of the occurrence of the contingency or less covered by such policy or contract.

“Insurer” means any person, corporation, association, partnership, company, fraternal benefit society, eligible unauthorized surplus lines insurer and any other legal entity engaged as an indemnitor or contractor in the business of insurance. For the purposes of this subchapter, “insurer” shall include any individual, corporation, association, partnership or other legal entity authorized to represent an insurer with respect to a claim.

“Investigation” means all activities of an insurer related directly or indirectly to the determination of liabilities under coverages afforded by an insurance policy.

“Notification of claim” means any notification, whether in writing or other means acceptable under the terms of an insurance policy or insurance contract, to an insurer or its agent, by a claimant, which reasonably apprises the insurer of the facts pertinent to a claim.

“Pertinent communication” means all correspondence as well as conversations or other forms of communication that are materially related to the handling of a claim.

“Policy” means any contract of insurance and includes, but is not limited to, all policies, contracts, certificates, riders and endorsements which provide insurance coverage.

“Proof of loss” means the necessary documentation required from a claimant to establish entitlement to payment or benefits under a policy.

“Third party claimant” means any individual, corporation, association, partnership or other legal entity asserting a claim against any individual, corporation, association, partnership or other legal entity insured under an insurance policy or insurance contract of an insurer.

“Workers’ compensation” includes, but is not limited to, Longshoreman’s and Harbor Workers’ Compensation.

Amended by R.1988 d.480, effective October 17, 1988.

See: 20 N.J.R. 1159(a), 20 N.J.R. 2578(a).

Added definition “after market part”.

Petition for Rulemaking.

See: 25 N.J.R. 6065(a).

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

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

Added definitions, “Commissioner” and “Department”.

11:2-17.4 Miscellaneous rules

(a) Every insurer shall distribute copies of this subchapter to every person directly responsible for the handling and settlement of claims subject to this subchapter. Every insurer shall satisfy itself that all such responsible persons are thoroughly conversant with and are complying with this subchapter.

(b) All correspondence to a claimant required of an insurer pursuant to this subchapter shall be written in easy to read and understandable terms. This subsection shall not apply to correspondence to a claimant’s legal representative.

11:2-17.5 Misrepresentation of policy provisions

(a) No insurer shall fail to fully disclose to first party claimants all pertinent benefits, coverages or other provisions of an insurance policy or insurance contract under which a claim is presented.

(b) No agent, broker, or insurer shall conceal from first party claimants benefits, coverages or other provisions of any insurance policy or insurance contract when such benefits, coverages or other provisions are pertinent to a claim.

(c) No insurer shall, except where there is a time limit specified in the policy, make statements, written or otherwise, requiring a claimant to give written notice of loss or proof of loss within a specified time limit and which seek to relieve the company of its obligations if such time limit is not complied with unless the failure to comply with such time limit prejudices the insurer’s rights.

(d) No insurer shall request a claimant to sign a release that extends beyond the subject matter that gave rise to the claim payment.

(e) No insurer shall issue checks or drafts in partial settlement of a loss or claim using language which releases the insurer or its insured from its total liability.

11:2-17.6 Rules for replying to pertinent communications

(a) All claims must be reported to the designated insurer by a broker no later than three working days following receipt of notification of claim by the broker. For the purposes of this subsection, “broker” shall include a producer of record with respect to any residual market mechanism created by statute.

(b) Every insurer, upon receiving notification of claim shall, within 10 working days, acknowledge receipt of such notice unless payment is made within such period of time. This acknowledgement shall include the address and telephone number of the insurer claims office or authorized claims representative which will handle the claim. Notification given to an agent of an insurer shall be considered notice to the insurer.

(c) Every insurer, upon receiving notification of claim, shall promptly provide first party claimants with necessary claim forms, instructions, and reasonable assistance so that such claimants can comply with the policy conditions and the insurer’s reasonable requirements. Compliance with this subsection (c) within 10 working days of notification of a claim shall constitute compliance with (b) above.

(d) Every insurer, upon receipt of any inquiry from the Department respecting a claim shall, within 15 working days of receipt of such inquiry, furnish the Department with, based on the information available to the insurer, a complete and accurate written response to the inquiry.

(e) An appropriate reply shall be made within 10 working days on all other pertinent communications from a claimant which reasonably suggest that a response is expected.

Amended by R.1991 d.4, effective January 7, 1991.

See: 22 N.J.R. 1673(a), 23 N.J.R. 103(a).

Deleted references to “New Jersey Automobile Insurance Plan and the New Jersey Insurance Underwriting Association”.

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

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

In (d), deleted "Insurance" in reference to the Department.

11:2-17.7 Rules for prompt investigation and settlement of claims

(a) Every insurer shall commence an investigation on all claims other than auto physical damage within 10 working days of receipt of notification of claim.

(b) The maximum payment period for all personal injury protection (PIP) claims shall be 60 calendar days after the insurer is furnished written notice of the fact of a covered loss and of the amount of same; provided, however, that an insurer may secure a 45-day extension in accordance with N.J.S.A. 39:6A-5.

(c) Unless a clear justification exists, or unless otherwise provided by law, the maximum payment periods for property/liability claims shall be as follows:

1. For all first party claims other than personal injury protection (PIP) and auto physical damage (see N.J.A.C. 11:3-10.5(a)), 30 calendar days from receipt by the insurer of properly executed proofs of loss.

2. For all third party property damage claims, 45 calendar days from receipt by the insurer of notification of claim.

3. For all third party bodily injury claims, 90 calendar days from receipt by the insurer of notification of claim.

(d) Unless a clear justification exists, or unless otherwise provided by the policy, all life insurance claims shall be paid within a maximum payment period of 30 calendar days. The payment period is defined as the period between the date proof of loss is received by the insurer and the date of claims settlement.

(e) Rules for the payment of health insurance claims may be found at N.J.A.C. 11:22-1.

(f) If the insurer is unable to settle the claim within the time periods specified in (c) through (e) above, the insurer must send the claimant written notice by the end of the payment periods specified in (c) through (e) above. The written notice must state the reasons additional time is needed, and must include the address of the office responsible for handling the claim and the insured's policy number and claim number. This notice shall also include a telephone number which is toll free, or which can be called collect, or which is within the claimant's area code. This number shall provide direct access to the responsible claims office or shall enable the claimant to gain such access at no greater expense than the cost of a telephone call within his or her area code. An updated written notice setting forth the reasons additional time is needed shall be sent within 45 days after the initial notice and within every 45 days thereafter until all elements of the claim are either honored or rejected. The written notifications required under this subsection shall not continue to apply to that aspect of a claim for which the claimant has become represented by an attorney, as evidenced by a letter of representation.

(g) Unless otherwise provided by law, every insurer shall pay any amount finally agreed upon in settlement of all or part of any claim not later than 10 working days from either the receipt of such agreement by the insurer or the date of the performance by the claimant of any conditions set by such agreement, whichever is later.

(h) Where there is a reasonable basis supported by specific information available for review by the Department that the first party claimant has fraudulently caused or contributed to the loss by arson, or other fraudulent schemes, the insurer shall be relieved from the requirements of (c) through (f) above. Provided, however, that the claimant shall be advised of the acceptance or denial of the claim within a reasonable time for full investigation after receipt by the insurer of a properly executed proof of loss.

Amended by R.1982 d.400, effective November 15, 1982.

See: 14 N.J.R. 966(a), 14 N.J.R. 1307(b).

Amended by R.1992 d.93, effective February 18, 1992.

See: 23 N.J.R. 2830(a), 24 N.J.R. 622(a).

Maximum payment period for personal claims specified at (b).

Amended by R.1992 d.493, effective December 7, 1992.

See: 23 N.J.R. 3196(c), 24 N.J.R. 4391(a).

Subsection (d) added to provide for payment of all health insurance claims within 60 days, with certain exceptions as specified.

Petition for Rulemaking.

See: 25 N.J.R. 6065(a).

Amended by R.1996 d.497, effective October 21, 1996.

See: 28 N.J.R. 3703(a), 28 N.J.R. 4585(a).

Petition for Rulemaking: Notice of Receipt of and Action on a Petition for Rulemaking.

See: 28 N.J.R. 5509(a), 29 N.J.R. 264(c), 29 N.J.R. 2188(a), 29 N.J.R. 4722(b).

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

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

Amended by R.2001 d.13, effective January 2, 2001.

See: 32 N.J.R. 1985(a), 33 N.J.R. 105(a).

Rewrote (e).

11:2-17.8 Rules for fair and equitable settlements and reasonable explanations applicable to all insurance

(a) No insurer shall deny or offer to compromise a claim because of a policy provision, including any concerning liability, a condition, or an exclusion without providing a specific reference to such language and a statement of the facts which make that language operative.

(b) Any denial or offers of compromise to the claimant shall be confirmed in writing and shall be kept in the appropriate claim file.

(c) In any case where a first party claim is denied or a compromise is offered, the insurer shall notify the first party claimant of any applicable policy provision limiting such claimant's right to sue the insurer.

(d) Insurer shall not fail to settle first party claims on the basis that responsibility for payment should be assumed by others except as may otherwise be provided by law or policy provisions such as Workers' Compensation exclusions, or coordination of benefits provisions.

ii. Is regulated, supervised and examined by federal or state authorities having regulatory authority over banks and trust companies; and

iii. Has been determined by either the Commissioner, or the Securities Valuation Office of the NAIC, to meet such standards of financial condition and standing as are considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit will be acceptable to the Commissioner; or

2. As used elsewhere in this subchapter means an institution that:

i. Is organized or, in the case of a branch or agency office of a foreign banking organization in the United States, licensed, under the laws of the United States or any state thereof and has been granted authority to operate with fiduciary powers; and

ii. Is regulated, supervised and examined by federal or state authorities having regulatory authority over banks and trust companies.

“Reinsurance” means a contractual arrangement, as evidenced by a written agreement, whereby an insurer, for some consideration, agrees to indemnify a ceding insurer, for all or part of a loss which the ceding insurer may incur under one or more policies that the ceding insurer has or will issue.

“Reinsurance intermediary” means a reinsurance intermediary-broker or a reinsurance intermediary-manager.

“Reinsurance intermediary-broker” means a person, other than an officer or employee of the ceding insurer, which solicits, negotiates or places reinsurance cessions or retrocessions on behalf of a ceding insurer without the authority or power to bind reinsurance on behalf of that insurer unless expressly provided in a broker of record letter.

“Reinsurance intermediary-manager” means a person which has authority to bind or manages all or part of the assumed reinsurance business of a reinsurer, including the management of a separate division, department or underwriting office, and acts as an agent for that reinsurer whether known as a reinsurance intermediary-manager, manager or other similar term, except that the following persons shall not be considered a reinsurance intermediary-manager, with respect to that reinsurer, for the purposes of this subchapter:

1. An employee of the reinsurer;
2. A United States manager of a United States branch of an alien reinsurer;
3. An underwriting manager which, pursuant to contract, manages all or part of the reinsurance operations of the reinsurer, is under common control with the reinsurer, subject to N.J.S.A. 17:27A-1 et seq., and whose compen-

sation is not solely based on the volume of premiums written;

4. The manager of a group, association, pool or organization of insurers which engage in joint underwriting or joint reinsurance and who are subject to examination by the insurance commissioner or other similar regulatory officer of the state in which the manager’s principal business office is located;

5. A licensed attorney-at-law who negotiates contracts or provides general financial counsel provided no commission or brokerage fee is provided.

“Substantially similar standards” means standards on credit for reinsurance which the Commissioner determines are equal to or exceed the standards of this subchapter.

“Surplus as regards policyholders” means the net assets of the insurer or assuming insurer.

Amended by R.1993 d.557, effective November 15, 1993.

See: 25 N.J.R. 4289(a), 25 N.J.R. 5184(a).

Amended by R.1996 d.3, effective January 2, 1996.

See: 27 N.J.R. 3278(b), 28 N.J.R. 152(b).

In the definition of “beneficiary” added 2.

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

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

11:2-28.3 Reinsurer licensed in New Jersey

An insurer shall be permitted to take a credit for reinsurance ceded to an assuming insurer where the assuming insurer is licensed to transact business in this State as of the date of the ceding insurer’s statutory financial statement, except as limited in accordance with N.J.A.C. 11:2-27.

11:2-28.4 Reinsurer accredited in New Jersey

(a) An insurer shall be permitted to take a credit for reinsurance ceded to an assuming insurer where the assuming insurer is accredited as a reinsurer in this State as of the date of the ceding insurer’s statutory financial statement. An accredited reinsurer is one which meets all of the following standards:

1. Files with the Commissioner a letter requesting approval for accreditation and listing the information upon which it will rely and is submitting in connection therewith;
2. Submits a non-refundable filing fee made payable to Treasurer, State of New Jersey, of \$1,000 for an initial filing and \$1,000 for a renewal filing;
3. Files with the Commissioner a properly executed form AR-1 (incorporated herein by reference as Exhibit 1 in the Appendix) which establishes that it submits to this State’s jurisdiction and this State’s authority to examine its books and records;
4. Files with the Commissioner a certified copy of a certificate of authority, a certificate of compliance or an equivalent document which has been properly notarized,

as evidence that it is currently licensed to transact insurance or reinsurance in at least one state or, in the case of a United States branch of an assuming alien insurer, is entered through and licensed to transact insurance or reinsurance in at least one state;

5. Files annually with the Commissioner:

- i. A copy of its most recent annual statement filed with the insurance department of its state of domicile;
- ii. Its most recent audited financial statement;
- iii. A current actuarial opinion which certifies:

(1) For a property and casualty insurer, to the adequacy of the loss and loss adjustment expense reserves; or

(2) For a life and health assuming insurer that:

(A) Its policy reserves are adequate;

(B) It satisfies all minimum capital and surplus requirements in all states in which it is licensed to transact business; and

(C) That its capital and surplus levels are adequate relative to its distribution by type and level of risk of its invested assets and the business being written, and attaches any and all documents in support thereof; and

iv. The quarterly statement for the quarter immediately preceding the application, except for renewals which shall require the quarterly statement due May 15;

6. Either:

i. Maintains a surplus as regards policyholders in an amount not less than \$20,000,000 and whose accreditation has not been denied by the Commissioner within 120 days of filing its submission with the Commissioner; or

ii. Maintains a surplus as regards policyholders of less than \$20,000,000 whose accreditation has been approved by the Commissioner; and

7. Provides any additional information which may include, but is not limited to, information which the Commissioner deems necessary to ensure that the particular reinsurer's condition and methods of operation are not such as would render its operations hazardous to the public or its policyholders.

(b) The above information shall be filed with the Commissioner at:

Office of Financial Examinations
Attention: Reinsurance Accreditation
Department of Banking and Insurance
20 West State Street
PO Box 325
Trenton, New Jersey 08625-0325

(c) Except for applicants for accreditation that maintain surplus as regards policyholders of less than \$20,000,000, an initial application for accreditation shall be deemed approved unless the Commissioner transmits a letter to the filer, within 120 days from the date of the filing of the completed application identifying the reasons upon which the Commissioner has denied the filer's accreditation. Where a filing is deemed approved, the initial approval shall be valid until August 31. If the initial approval is issued after June 1, it shall be deemed valid until August 31, of the following year.

(d) A reinsurer shall apply for renewal of its accreditation annually at the address in (b) above, to the attention of "Renewal Reinsurance Accreditation." The reinsurer shall file its application for renewal no later than June 1 of any year in which it seeks to continue its accreditation and shall submit updated information as required in (a) above.

(e) A renewal filed in accordance with the above shall be deemed approved unless denied by the Commissioner prior to August 31.

(f) An accredited reinsurer shall notify the Commissioner within 30 days of the occurrence of any of the following actions taken against it by any state or jurisdiction:

1. Any limitation on its ability to write new or renewal business;
2. Any delinquency proceedings;
3. The suspension, revocation or nonrenewal of its certificate of authority in any state or jurisdiction;
4. An order or any action by any state or jurisdiction which requires it to cease writing new or renewal business; or
5. Any action by any state or jurisdiction requiring that the reinsurer file a plan or any document to increase its capital, for example, a risk based capital plan.

(g) Where the Commissioner determines that an assuming insurer has failed to maintain any of the qualifications set forth in (a)1 through 7 and (f) above, after written notice and opportunity for a hearing in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., the Commissioner may revoke or refuse to renew the assuming insurer's accreditation.

(h) The Department shall promulgate annually on October 31, a list of accredited reinsurers. The list shall be published in the New Jersey Register as a public notice.

(i) An insurer shall be prohibited from reporting a credit with respect to reinsurance ceded after 90 days from the date an assuming insurer has had its accreditation denied, revoked or nonrenewed.

Amended by R.1993 d.557, effective November 15, 1993.
See: 25 N.J.R. 4289(a), 25 N.J.R. 5184(a).

Public Notice: List of accredited reinsurers.
 See: 26 N.J.R. 4836(a).
 Public Notice: List of accredited reinsurers.
 See: 27 N.J.R. 5058(a).
 Amended by R.1996 d.3, effective January 2, 1996.
 See: 27 N.J.R. 3278(b), 28 N.J.R. 152(b).
 Public Notice: List of accredited reinsurers.
 See: 29 N.J.R. 5339(a).
 Public Notice: List of accredited reinsurers.
 See: 31 N.J.R. 80(a).
 Public Notice: List of accredited reinsurers.
 See: 32 N.J.R. 608(a).
 Public Notice: List of accredited reinsurers.
 See: 32 N.J.R. 4314(a).
 Amended by R.2001 d.6, effective January 2, 2001.
 See: 32 N.J.R. 3530(a), 33 N.J.R. 85(a).
 Public Notice: List of accredited reinsurers.
 See: 34 N.J.R. 315(b).

11:2-28.5 Reinsurer domiciled and licensed in another state or jurisdiction which employs substantially similar standards to this subchapter

(a) An insurer shall be permitted to take a credit for reinsurance ceded to an assuming insurer which, as of the date of the ceding insurer's statutory financial statement:

1. Is domiciled and licensed in, or in the case of a United States branch of an alien assuming insurer, is entered through and licensed in, a state which employs substantially similar standards regarding credit for reinsurance to those set forth in this subchapter;

2. Submits a non-refundable filing fee of \$250.00 made payable to Treasurer, State of New Jersey;

3. Files with the Commissioner a certified copy of a certificate of authority, a certificate of compliance or an equivalent document which has been properly notarized as evidence that it is licensed to transact insurance or reinsurance in its state of domicile or, in the case of a United States branch of an assuming alien insurer, is entered through and licensed to transact insurance or reinsurance in at least one state;

4. Files with the Commissioner a properly executed form AR-1 (see Appendix) as evidence that it submits to this State's jurisdiction and authority to examine its books and records;

5. Files with the Commissioner a certification executed by an authorized officer of the reinsurer which certifies that the reinsurer's condition and method of operations are financially sound and will not render its operations hazardous to the public or its policyholders as determined by the factors set forth at N.J.A.C. 11:2-27.3. The officer shall certify that:

i. For a life and health assuming insurer, that:

(1) Its policy reserves are adequate; and

(2) It satisfies all minimum capital and surplus requirements in all states in which it is licensed to transact business; and

(3) Its capital and surplus levels are adequate relative to its distribution by type and level of risk of its invested assets and the business being written, and attaches any and all documents in support thereof;

ii. For a property and casualty assuming insurer, that net premium written to surplus as to policyholders does not exceed a 3:1 premium to surplus ratio and loss and loss adjustment expense reserve liability to surplus does not exceed a 4:1 ratio as of the date of the certified balance sheet from its most recent annual statement; and

iii. Except for reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system, that it maintains a surplus as regards policyholders in an amount not less than \$20,000,000;

6. A reinsurer shall append to the certification set forth in (a)5 above, a certified balance sheet from the reinsurer's most recent annual statement;

7. Within 90 days from the date of receipt of the completed filing, the filing shall either be deemed approved or the Commissioner shall transmit a letter to the filer which identifies the reasons upon which the Commissioner has found that either the reinsurer's state or jurisdiction of domicile does not employ substantially similar standards or the reinsurer otherwise fails to satisfy the requirements of this subchapter;

8. A reinsurer authorized pursuant to this section shall notify the Commissioner within 30 days of the occurrence of any of the following actions taken against it by any state or jurisdiction:

i. Any limitation on its ability to write new or renewal business;

ii. Any delinquency proceedings;

iii. A suspension, revocation or nonrenewal of its certificate of authority in any state or jurisdiction;

iv. An order or any action by any state or jurisdiction which requires it to cease writing new or renewal business; or

v. Any action, by any state or jurisdiction, requiring that the reinsurer file a plan or any document to increase its capital, for example, a risk based capital plan.

9. The above information shall be filed with the Commissioner at:

Office of Financial Examinations
 Attention: Reinsurance—Similar Standards
 New Jersey Department of Banking and Insurance
 20 West State Street
 PO Box 325
 Trenton, New Jersey 08625-0325

Amended by R.1996 d.3, effective January 2, 1996.
 See: 27 N.J.R. 3278(b), 28 N.J.R. 152(b).
 Amended by R.2001 d.6, effective January 2, 2001.
 See: 32 N.J.R. 3530(a), 33 N.J.R. 85(a).

11:2-28.6 Reinsurer maintaining trust funds

(a) An insurer shall be permitted to take a credit for reinsurance ceded to an assuming insurer where as of the date of the ceding insurer's statutory financial statement the assuming insurer meets the standards set forth in (a)1 and 2 below, in accordance with the procedures set forth in (a)3 through 8 below:

1. The assuming insurer maintains a trust fund in an amount prescribed in (b) below in a qualified United States financial institution for the payment of the valid claims of its United States policyholders and ceding insurers, their assigns and successors in interest.

2. The assuming insurer files with the Commissioner a letter requesting authorization to provide reinsurance. The letter shall specify: that the reinsurer seeks authorization based on the fact that it maintains trust funds for the benefit of its ceding insurers and United States policyholders; the location of the trust funds; and a list of documents and information submitted therewith and upon which the assuming insurer shall rely in connection with its request for authorization. The reinsurer shall submit to the Commissioner the following:

- i. A nonrefundable filing fee made payable to Treasurer, State of New Jersey of \$1,000 for an initial filing and \$1,000 for a renewal filing;
- ii. A properly executed form AR-1;
- iii. A description of which categories of insurance are effected by the cessions;
- iv. A certification executed by an authorized officer of the reinsurer which certifies that the reinsurer's condition and method of operations are financially sound and will not render its operations hazardous to the public or its policyholders as determined in accordance with the factors set forth at N.J.A.C. 11:2-27.3. The officer shall certify:

(1) For a life and health assuming insurer, that:

- (A) Its policy reserves are adequate;
- (B) It satisfies all minimum capital and surplus requirements in all states in which it is licensed to transact business; and

(C) Its capital and surplus levels are adequate relative to its distribution by type and level of risk of its invested assets and the business being written, together with any and all documents in support thereof;

(2) For a property and casualty assuming insurer, that net premium written to surplus as to policyholders does not exceed a 3:1 premium to surplus ratio and loss and loss adjustment expense reserve liability to surplus does not exceed a 4:1 ratio as of the date of the certified balance sheet from its most recent annual statement; and

(3) To the accuracy of the information required by (b) below;

v. A certified balance sheet from the reinsurer's most recent annual statement; and

vi. A list of the assets of the trust certified by the trustee.

3. The information in (a)1 and 2 above shall be filed with the Commissioner at:

Office of Financial Examinations
 Attention: Reinsurance Trust Fund
 New Jersey Department of Banking and Insurance
 20 West State Street
 PO Box 325
 Trenton, New Jersey 08625-0325

4. A reinsurer shall reapply for authorization annually at the address set forth in (a)3 above no later than June 1 of each year.

5. Within 30 days from receipt of the information in (a)1 and 2 above the Commissioner shall notify the filer of any deficiencies in its submission and the filer shall have 30 days to cure such deficiencies.

6. Within 90 days from the date of receipt of the completed filing, the filing shall either be deemed approved or the Commissioner shall transmit a letter to the filer which identifies the reasons upon which he or she has relied to determine that the filer has not met the requirements of this section and that insurers shall be prohibited from reporting credits for reinsurance for insurance ceded to the filer.

7. A reinsurer authorized pursuant to this section shall notify the Commissioner within 30 days of the occurrence of any of the following actions taken against it by any state or jurisdiction:

- i. Any limitation on its new or renewal business;
- ii. Any delinquency proceedings;
- iii. Its certificate of authority is suspended, revoked or nonrenewed in any state or jurisdiction;