

TITLE 11

DEPARTMENT OF BANKING AND INSURANCE

DIVISION OF INSURANCE

CHAPTER 1

ADMINISTRATION

Authority

N.J.S.A. 17:1-8.1, 17:1-15e, 17:22A-39 and
17:29AA-10 and 29.

Source and Effective Date

R.2001 d.75, effective January 31, 2001.
See: 32 N.J.R. 4184(a), 33 N.J.R. 794(a), 33 N.J.R. 1920(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 1, Administration,
expires on July 30 2006. See: 37 N.J.R. 4156(a).

Chapter Historical Note

Chapter 1, Plan of Organization of the Department of Insurance, was
adopted as R.1971 d.11, effective January 20, 1971, and codified at
N.J.A.C. 11:1 Subchapter 1. Notice was not published in the New Jersey
Register.

Subchapter 3, Cancellation for Nonpayment of Premium Where
Producer of Record Has Advanced Premium, was adopted as R.1972
d.168, effective August 25, 1972. See: 4 N.J.R. 128(b), 4 N.J.R. 221(b).

Subchapter 2, Filings; Property-Liability, was adopted as R.1973
d.120, effective May 1, 1973. See: 5 N.J.R. 113(a), 5 N.J.R. 190(b).

Subchapter 5, Administrative Orders and Declarations, was adopted as
Emergency New Rule, R.1974 d.237, and the Motor Vehicle Liability
Security Fund was declared exhausted, effective August 22, 1974. See:
6 N.J.R. 351(d).

Subchapter 4, Unfair Discrimination, was adopted as R.1975 d.128,
effective September 1, 1975. See: 7 N.J.R. 168(a), 7 N.J.R. 276(b).

Subchapter 6, New Jersey Property-Liability Insurance Guaranty
Association, was adopted as R.1975 d.170, effective July 1, 1975. See:
7 N.J.R. 229(a), 7 N.J.R. 334(b).

Subchapter 10, Insurance Licensing of Financial Institutions, was
adopted as R.1976 d.166, effective May 27, 1976. See: 8 N.J.R. 233(a),
8 N.J.R. 300(c).

Subchapter 11, Conduct Constituting Violations by Brokers and
Agents, was adopted as R.1976 d.235, effective July 22, 1976. See: 8
N.J.R. 287(e), 8 N.J.R. 398(b).

Subchapter 7, Service and Placement Fees, was adopted as R.1976
d.266, effective August 23, 1976. See: 7 N.J.R. 468(a), 8 N.J.R. 422(b).

Subchapter 8, Property-Casualty Agents, was adopted as R.1976
d.267, effective October 1, 1976. See: 7 N.J.R. 469(a), 8 N.J.R. 423(a).

Subchapter 12, Corporate and Partnership Licensee Requirements,
was adopted as R.1976 d.412, effective December 16, 1976, operative
March 1, 1977. See: 8 N.J.R. 421(c), 9 N.J.R. 24(b).

Subchapter 13, Disclosure Agreements for Motor Club Service
Contracts Sold in Connection with Automobile Insurance Policies, was
adopted as R.1982 d.177, effective June 7, 1982, operative August 15,
1982. See: 13 N.J.R. 879(b), 14 N.J.R. 579(a).

Subchapter 14, Insurance Licensees, was adopted as R.1982 d.336,
effective October 4, 1982, operative November 19, 1982. See: 14
N.J.R. 748(a), 14 N.J.R. 1099(b).

Subchapter 9, Agents for Life Insurance, Health Insurance and
Annuity Contracts-Temporary Licensing, was adopted as R.1983 d.603,
effective January 3, 1984. See: 15 N.J.R. 1828(a), 16 N.J.R. 49(c).

The Executive Order No. 66(1978) expiration date of Subchapter 5,
Administrative Orders and Declarations, was extended by gubernatorial
directive from June 6, 1984 to September 6, 1984. See: 16 N.J.R.
1451(a).

Pursuant to Executive Order No. 66(1978), Subchapter 5,
Administrative Orders and Declarations, was readopted as R.1984 d.426,
effective October 1, 1984. See: 16 N.J.R. 1689(a), 16 N.J.R. 2677(a),
17 N.J.R. 2566(a).

Subchapter 15, Petitions for Rules, was adopted as R.1984 d.511,
effective November 5, 1984. See: 16 N.J.R. 2224(b), 16 N.J.R.
3033(b).

Subchapter 10, Insurance Licensing of Financial Institutions, was
repealed by R.1985 d.69, effective February 19, 1985. See: 16 N.J.R.
2919(a), 17 N.J.R. 458(a).

Subchapter 20, Cancellation and Nonrenewal of Property and
Casualty/Liability Insurance Policies, was adopted as Emergency New
Rule, R.1985 d.507, effective September 17, 1985, to expire November
16, 1985. See: 17 N.J.R. 2460(a). The provisions of R.1985 d.507 were
readopted without change as R.1985 d.627 effective November 16,
1985. See: 17 N.J.R. 2978(b). The provisions of R.1985 d.626 were
readopted without change as R.1986 d.27, effective January 14, 1986.
See: 18 N.J.R. 419(b).

Pursuant to Executive Order No. 66(1978), Subchapter 20,
Cancellation and Nonrenewal of Property and Casualty/Liability
Insurance Policies, was readopted as R.1985 d.627, effective November
16, 1985. See: 17 N.J.R. 2978(b).

Subchapter 21, Loss Reserve Opinions, was adopted as R.1985 d.711,
effective January 21, 1986. See: 17 N.J.R. 2596(a), 18 N.J.R. 196(b).

Subchapter 18, Approval of Business Names, was adopted as R.1986
d.10, effective February 3, 1986. See: 17 N.J.R. 41(a), 18 N.J.R.
278(a).

Subchapter 19, Branch Offices, was adopted as R.1986 d.11, effective
February 3, 1986. See: 17 N.J.R. 42(a), 18 N.J.R. 280(a).

Subchapter 20, Cancellation and Nonrenewal of Property and
Casualty/Liability Insurance Policies, was repealed, and Subchapter 20,
Cancellation and Nonrenewal of Commercial and Homeowners'
Insurance Policies, was adopted as new rules, effective July 7, 1986,
with portions operative July 28, 1986, and Subchapter 22, Prohibition of
Certain Cancellation and Nonrenewal Activity, was adopted as R.1986
d.272, effective July 7, 1986. See: 18 N.J.R. 457(b), 18 N.J.R. 1388(a).

Subchapter 16, Requirements for Filing a Downward Deviation in
Currently Approved Rates, was adopted as R.1986 d.478, effective
December 15, 1986. See: 18 N.J.R. 1998(a), 18 N.J.R. 2458(a).

Subchapter 25, Official Department Mailing List: Address
Information, was adopted as R.1988 d.64, effective February 1, 1988.
See: 19 N.J.R. 2236(a), 20 N.J.R. 294(b).

Subchapter 9, Agents for Life Insurance, Health Insurance and
Annuity Contracts-Temporary Licensing, Subchapter 14, Insurance
Licensees, Subchapter 18, Approval of Business Names, and Subchapter
19, Branch Offices, were repealed by R.1988 d.186, effective April 18,
1988. See: 20 N.J.R. 225(c), 20 N.J.R. 904(b).

Pursuant to Executive Order No. 66(1978), Subchapter 20,
Cancellation and Nonrenewal of Commercial and Homeowners'
Insurance Policies, and Subchapter 22, Prohibition of Certain
Cancellation and Nonrenewal Activity, were readopted as R.1988 d.341,
effective June 24, 1988. See: 20 N.J.R. 1061(a), 20 N.J.R. 1720(a).

Subchapter 10, Admission Requirements for Foreign and Alien Property and Casualty Insurers, was adopted as new rules by R.1989 d.329, effective June 19, 1989. See: 21 N.J.R. 426(a), 21 N.J.R. 1702(a).

Subchapter 26, Annual Publication of Insurer Profitability Information, was adopted as R.1989 d.538, effective October 16, 1989. See: 21 N.J.R. 2181(a), 21 N.J.R. 3297(c).

Subchapter 3, Cancellation for Nonpayment of Premium Where Producer of Record Has Advanced Premium, Subchapter 7, Service and Placement Fees, Subchapter 8, Property-Casualty Agents, and Subchapter 13, Disclosure Agreements for Motor Club Service Contracts Sold in Connection with Automobile Insurance Policies, were repealed by R.1990 d.11, effective January 2, 1990. See: 21 N.J.R. 1317(a), 22 N.J.R. 30(b).

Subchapter 28, Formation of a Domestic Property and Casualty Insurance Corporation (Stock or Mutual) or Reciprocal Insurance Exchange, was adopted as R.1990 d.162, effective March 19, 1990. See: 21 N.J.R. 3607(a), 22 N.J.R. 954(b), 22 N.J.R. 1266(a).

Subchapter 29, Temporary Certificate of Authority, was adopted as R.1991 d.15, effective January 7, 1991. See: 22 N.J.R. 2453(a), 23 N.J.R. 100(a).

Pursuant to Executive Order No. 66(1978), Chapter 1, Administration, was readopted as R.1991 d.101, effective January 31, 1991. See: 22 N.J.R. 3686(a), 23 N.J.R. 690(b).

Subchapter 32, Fees was adopted as new rules by R.1991 d.303, effective June 17, 1991, operative July 1, 1991. See: 23 N.J.R. 825(a), 23 N.J.R. 1948(a).

Subchapter 6, New Jersey Property-Liability Insurance Guaranty Association, was repealed, and a new Subchapter 6, New Jersey Property-Liability Insurance Guaranty Association Assessment Premium Surcharge was adopted as new rules by R.1991 d.461, effective September 3, 1991. See: 23 N.J.R. 823(b), 23 N.J.R. 2638(a).

Subchapter 33, Public Advocate Reimbursement Disputes, was adopted as new rules by R.1993 d.179, effective April 19, 1993. See: 24 N.J.R. 2706(a), 25 N.J.R. 1764(c).

Subchapter 35, Insurance Holding Company Systems, was adopted as emergency new rules by R.1993 d.445, effective August 16, 1993, to expire October 15, 1993. See: 25 N.J.R. 4275(a). The provisions of R.1993 d.445 were readopted without change as R.1993 d.554, effective October 15, 1993. See: 25 N.J.R. 4275(a), 25 N.J.R. 5170(b).

Subchapter 36, Examination of Insurers, was adopted as emergency new rules by R.1993 d.446, effective August 16, 1993, to expire October 15, 1993. See: 25 N.J.R. 4284(a). The provisions of R.1993 d.446 were readopted as R.1993 d.555, effective October 15, 1993. See: 25 N.J.R. 4284(a), 25 N.J.R. 5180(a).

Subchapter 3, Disability Discrimination Grievance Procedure, was adopted as new rules by R.1993 d.618, effective December 6, 1993. See: 25 N.J.R. 1327(a), 25 N.J.R. 5666(b). Subchapter 3 is exempt from expiration under 28 C.F.R. Part 35.

Subchapter 34, Surplus Lines: Exportable List, was adopted as new rules by R.1994 d.7, effective January 3, 1994. See: 24 N.J.R. 4331(a), 26 N.J.R. 236(b).

Subchapter 31, Surplus Lines Insurer Eligibility, was adopted as new rules by R.1994 d.102, effective February 22, 1994. See: 25 N.J.R. 1819(a), 26 N.J.R. 1096(a).

Subchapter 37, Licensing of Public Adjusters, was adopted as new rules by R.1994 d.207, effective April 18, 1994. See: 25 N.J.R. 5432(a), 26 N.J.R. 327(a), 26 N.J.R. 1711(a).

Subchapter 7, Medical Malpractice Reporting Requirements, was adopted as new rules by R.1994 d.493, effective September 19, 1994. See: 26 N.J.R. 1433(a), 26 N.J.R. 3864(a).

Subchapter 39, Disclosure of Material Transactions, was adopted as new rules by R.1995 d.234, effective May 1, 1995. See: 27 N.J.R. 816(a), 27 N.J.R. 1802(a).

Subchapter 21A, Actuarial Opinion and Memorandum for Life/Health Insurers, was adopted as new rules by R.1995 d.605, effective November 20, 1995. See: 27 N.J.R. 2998(a), 27 N.J.R. 4720(a).

Subchapter 26, Annual Publication of Insurer Profitability Information, Subchapter 29, Temporary Certificate of Authority, and Subchapter 33, Public Advocate Reimbursement Disputes, were repealed by R.1996 d.116, effective March 4, 1996. See: 27 N.J.R. 4121(a), 28 N.J.R. 1382(a).

Subchapter 38, Oversight of Fireman's Relief Associations, was adopted as new rules by R.1996 d.125, effective March 4, 1996, operative March 4, 1996, except for N.J.A.C. 11:1-38.4 which shall be operative January 1, 1997. See: 27 N.J.R. 634(a), 28 N.J.R. 1384(a).

Pursuant to Executive Order No. 66(1978), Chapter 1, Administration, was readopted as R.1996 d.116, effective January 31, 1996. See: 27 N.J.R. 4121(a), 28 N.J.R. 1382(a).

Petition for Rulemaking. See: 29 N.J.R. 707(c), 29 N.J.R. 948(b).

Subchapter 41, Surety Bonds for Contracts Involving the State, Local Contracting Units, Boards of Education, State Colleges and County Colleges, was adopted as R.1996 d.496, effective October 21, 1996. See: 28 N.J.R. 3505(a), 28 N.J.R. 4582(a).

Subchapter 38, Oversight of Firemen's Relief Associations, was adopted as R.1996 d.125, effective March 4, 1996, operative March 4, 1996, except for N.J.A.C. 11:1-38.4 which became operative July 1, 1997. See: 27 N.J.R. 634(a), 28 N.J.R. 1384(a), 29 N.J.R. 425(a).

Subchapter 43, Unusual Hardship For Covered Claims Under The New Jersey Property-Liability Insurance Guaranty Association and New Jersey Surplus Lines Insurance Guaranty Fund, was adopted as R.1997 d.512, effective December 1, 1997. See: 29 N.J.R. 3765(a), 29 N.J.R. 5065(b).

Subchapter 24, Use of Credit Cards, Charge Cards, Debit Cards Or Direct Account Deduction (Alternative Payment Method) To Pay Insurance Premiums, was adopted as R.1998 d.276, effective June 1, 1998. See: 29 N.J.R. 3588(a), 30 N.J.R. 2003(a).

Pursuant to Executive Order No. 66(1978), Chapter 1, Administration, was readopted as R.2001 d.75, effective January 31, 2001. See: 32 N.J.R. 4184(a), 33 N.J.R. 794(a).

Subchapter 40, Recoupment of Fugitive Recovery Expenses by Surety Companies, was adopted as R.2005 d.247, effective August 1, 2005. See: 37 N.J.R. 198(a), 37 N.J.R. 2882(b).

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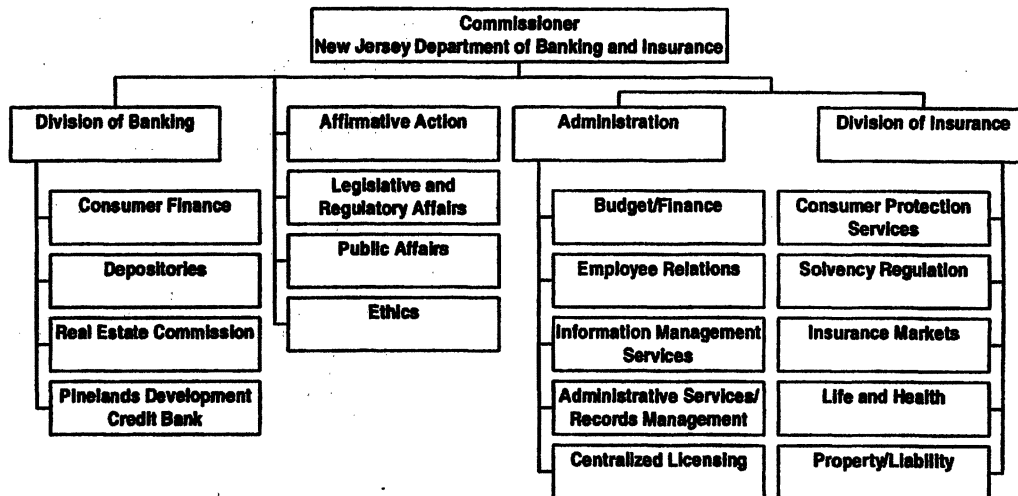
SUBCHAPTER 1. ORGANIZATION

11:1-1.1 Organization

(a) The organization of the Department of Banking and Insurance appears below.

(b) The mission of the Department of Banking and Insurance is to regulate the banking, insurance and real estate industries in a professional and timely manner that protects and educates consumers and promotes the growth, financial stability and efficiency of those industries.

DEPARTMENT OF BANKING AND INSURANCE
December 2004



Amended by R.1973 d.195, effective July 24, 1973.

See: 5 N.J.R. 282(c).

Amended by R.1974 d.89, effective April 9, 1974.

See: 6 N.J.R. 199(a).

Amended by R.1988 d.1, effective December 1, 1987.

See: 20 N.J.R. 99(a).

New organizational chart.

Amended by R.1988 d.454, effective August 26, 1988.

See: 20 N.J.R. 2377(a).

New organizational chart.

Amended by R.1991 d.476, effective August 23, 1991.

See: 23 N.J.R. 2862(c).

New organizational chart.

Amended by R.1994 d.557, effective October 17, 1994.

See: 26 N.J.R. 4405(a).

Amended by R.1996 d.124, effective February 8, 1996.

See: 28 N.J.R. 1382(b).

Amended by R.1996 d.385, effective July 15, 1996.

See: 28 N.J.R. 3797(a).

Amended by R.1997 d.395, effective August 25, 1997.

See: 29 N.J.R. 4137(b).

Replaced existing organizational chart with new chart.

Amended by R.2000 d.54, effective January 11, 2000.

See: 32 N.J.R. 475(a).

Amended by R.2001 d.75, effective March 5, 2001.

See: 32 N.J.R. 4184(a), 33 N.J.R. 794(a).

Replaced existing organizational chart with new chart.

Amended by R.2003 d.139, effective April 7, 2003.

See: 34 N.J.R. 4041(a), 35 N.J.R. 1546(a).

Added (b).

Amended by R.2005 d.30, effective December 14, 2004.

See: 37 N.J.R. 255(a).

Amended organizational chart.

11:1-1.2 Sharing of information with other insurance departments

(a) The Commissioner may share any information regarding the financial condition of insurers, including information that is not subject to public inspection or copying pursuant to the "Right to Know" law, N.J.S.A. 47:1A-1 et seq., with the National Association of Insurance Commissioners or any insurance regulatory of another state or U.S. territory, provided that such agency is authorized and irrevocably agrees to hold such information confidential to the same extent as is provided under the laws of this State.

(b) The Commissioner may enter into an agreement with the National Association of Insurance Commissioners or any insurance regulator of any state or U.S. territory by which the Commissioner shall hold any information received from such agency as confidential and not subject to public inspection or copying pursuant to the "Right to Know" law, N.J.S.A. 47:1A-1 et seq., to the same extent such information is required to be held confidential pursuant to that agency's laws or other requirements.

New Rule, R.1995 d.367, effective July 3, 1995.

See: 27 N.J.R. 1736(a), 27 N.J.R. 2582(a).

Recodified from N.J.A.C. 11:1-1.3 by R.2003 d.139, effective April 7, 2003.

See: 34 N.J.R. 4041(a), 35 N.J.R. 1546(a).

**SUBCHAPTER 7. MEDICAL MALPRACTICE
REPORTING REQUIREMENTS****11:1-7.1 Purpose and scope**

(a) The purpose of these rules is to implement N.J.S.A. 17:30D-17(a), (b), and (h). These statutory provisions require insurers, insurance associations and licensed medical practitioners to notify the Commissioner and the Medical Practitioner Review Panel of any medical malpractice claim settlements, judgments, or arbitration awards involving a licensed practitioner. They also require notification to the Medical Practitioner Review Panel of any termination or denial of malpractice insurance coverage to a practitioner, or any surcharge assessed against a practitioner. These rules establish the form and content of the notices required under these statutory provisions.

(b) These rules apply to all insurers or insurance associations authorized to issue medical malpractice liability insurance in New Jersey, and to all practitioners licensed by the State Board of Medical Examiners.

Amended by R.2005 d.407, effective November 21, 2005.
See: 36 N.J.R. 4870(a), 37 N.J.R. 4455(a).
Rewrote (a).

11:1-7.2 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.

“Medical malpractice liability insurance” means insurance coverage against the legal liability of the insured and against loss, damage or expense incident to a claim arising out of the death or injury of any person as the result of negligence or malpractice in rendering professional services by any licensed medical practitioner or health care facility or a claim arising out of ownership, operation or maintenance of the practitioner’s or facility’s business premises, including primary and excess coverages.

“Medical Practitioner Review Panel” or “Panel” means the panel established pursuant to N.J.S.A. 45:9-19.8.

“Practitioner” means any person licensed to practice medicine and surgery under N.J.S.A. 45:9-1 et seq., podiatry under N.J.S.A. 45:5-1 et seq., or a medical resident or intern.

“State Board of Medical Examiners” means the board established pursuant to N.J.S.A. 45:9-1.

Amended by R.2005 d.407, effective November 21, 2005.
See: 36 N.J.R. 4870(a), 37 N.J.R. 4455(a).

Added “Banking and” preceding “Insurance” to definition “Commissioner.”

11:1-7.3 Medical malpractice reporting requirements

(a) Any insurer or insurance association authorized to issue medical malpractice liability insurance in the State shall notify the Medical Practitioner Review Panel in writing of the following:

1. Any medical malpractice claim settlement, judgment or arbitration award involving any practitioner licensed by the State Board of Medical Examiners and insured by an insurer or insurance association;

1. The amount of capital and surplus of the applicant;
2. The resources available to service the business to be transacted; and
3. The applicant's proposed marketing methods and resources.

(f) In the case of private passenger automobile insurance, any limitation imposed pursuant to (e) above shall be based solely on a determination that exceeding such limitation would result in the insurer being or becoming in an unsafe or unsound financial condition, as determined consistent with the criteria set forth in N.J.S.A. 17:33B-19 and 17:33B-20.

(g) An insurer shall not limit its writings pursuant to any premium volume limitation imposed pursuant to (e) or (f) above until the insurer notifies the Department that it is approaching such limitation and the Department notifies the insurer to so limit its writings.

Amended by R.1995 d.604, effective November 20, 1995.

See: 27 N.J.R. 2854(a), 27 N.J.R. 4717(c).

Administrative Correction.

See: 27 N.J.R. 4894(a).

Amended by R.2003 d.209, effective May 19, 2003.

See: 35 N.J.R. 66(a), 35 N.J.R. 2182(a).

In (b), deleted "and the completion of a consumer suitability study for health insurance", amended NJAC reference.

11:1-10.9 Severability

If any provision of this subchapter or the application thereof to any person or circumstance is held invalid, the remainder of the subchapter and the application of such provision to other persons or circumstances shall not be affected thereby.

Recodified from N.J.A.C. 11:1-10.10 by R.2003 d. 209, effective May 19, 2003.

See: 35 N.J.R. 66(a), 35 N.J.R. 2182(a).

Former N.J.A.C. 11:1-10.9, Repealed.

SUBCHAPTER 11. CONDUCT CONSTITUTING VIOLATIONS BY BROKERS AND AGENTS

11:1-11.1 Scope

This rule does not purport to describe all conduct within the proscription of the statute. Such other conduct found by the commissioner to constitute violation prior to this rule remains as a reason for sanctions under the statute. Nor is it possible to describe herein all forms of conduct which may in future be found to fall under the prohibition of the statutes.

11:1-11.2 Unworthiness and bad faith under N.J.S.A. 17:22-6.16(h) and 17B:22-27(12)

(a) Any licensed agent or broker who is a shareholder or who is serving as an officer of record of a corporate licensee

which declares insolvency, dissolves, ceases to do business or does not renew its insurance licenses primarily to avoid payment of fines or debts to insolvent insurers, other insurance licensees, insureds, guaranty associations or governmental entities is engaging in conduct demonstrating unworthiness and bad faith.

(b) Any licensee engaging in the above conduct shall be subject to the usual penalties and may be prohibited from licensing of or association with any other incorporated licensee.

(c) A showing that the licensee has placed 10 per cent or more of the book of business of the moribund corporate licensee into a new corporation controlled by one or more persons associated with the prior corporation shall raise a presumption of violative conduct.

11:1-11.3 Disciplinary action; restitution

(a) Violation of any of the rules of the Department of Insurance, or of any insurance statute, shall be sufficient cause for any disciplinary action permitted by statute.

(b) In accordance with the provisions of N.J.S.A. 17:22-6 through 6.16a and 17B:22-1 through 28, the commissioner in appropriate circumstances will exercise his authority to impose restitution of moneys owed to others as a condition to the issuance of a license or to the reinstatement of a license after revocation or suspension, including revocation or suspension in states other than New Jersey.

New Rule, R.1978 d.11, effective January 18, 1978.

See: 9 N.J.R. 585(b), 10 N.J.R. 69(b).

SUBCHAPTER 12. CORPORATE AND PARTNERSHIP LICENSEE REQUIREMENTS

11:1-12.1 (Reserved)

11:1-12.2 Responsibility of active officers of corporate licensees

(a) Active officers shall be held individually responsible for all insurance related conduct of the corporate licensee.

(b) Every license application, amended application and renewal must be accompanied by a sworn statement signed by each active officer listed thereon that he consents to being an active officer and that he has read and is fully aware of the meaning of the departmental regulations relevant thereto.

11:1-12.3 through 11:1-12.4 (Reserved)

11:1-12.5 Responsibility of active members of partnership licensee

Active members shall be held individually responsible for all insurance related conduct of the partnership licensee.

11:1-12.6 (Reserved)**SUBCHAPTERS 13 THROUGH 14. (RESERVED)****SUBCHAPTER 15. PETITIONS FOR RULES;
RULEMAKING NOTICE****11:1-15.1 Scope**

N.J.A.C. 11:1-15.2 and 15.3 shall apply to all petitions made by interested persons for the promulgation, amendment or repeal of any rule by the Department of Banking and Insurance, pursuant to N.J.S.A. 52:14B-4(f). N.J.A.C. 11:1-15.5 applies to requirements for extension of a public comment period, or holding a public hearing, on a proposal when sufficient public interest is established.

Amended by R.2001 d.75, effective March 5, 2001.
See: 32 N.J.R. 4184(a), 33 N.J.R. 794(a).
Amended by R.2003 d.139, effective April 7, 2003.
See: 34 N.J.R. 4041(a), 35 N.J.R. 1546(a).
Rewrote the section.

11:1-15.2 Procedure for petitioner

(a) Any person who wishes to petition the Department to promulgate, amend or repeal a rule must submit to the Commissioner, in writing, the following information:

1. Name of the petitioner;
2. The substance or nature of the rulemaking which is requested;
3. The reasons for the request and the petitioner's interest in the request;
4. References to the statutory authority for the Department to take the requested action; and
5. A caption at the top of the document identifying it as a petition for rulemaking pursuant to N.J.S.A. 52:14B-4(f) and this subchapter.

(b) Petitions shall be sent to the following address:

New Jersey Department of Banking and Insurance
Legislative and Regulatory Affairs
Attn: Rulemaking Petitions
PO Box 325
Trenton, NJ 08625-0325

(c) Any document submitted to the Department of Banking and Insurance which is not in substantial compliance with (a) above shall not be deemed to be a petition for a rule requiring further Department action pursuant to N.J.S.A. 51:14B-4(f).

Amended by R.2001 d.75, effective March 5, 2001.

See: 32 N.J.R. 4184(a), 33 N.J.R. 794(a).

Added (a)5.

Amended by R.2003 d.139, effective April 7, 2003.

See: 34 N.J.R. 4041(a), 35 N.J.R. 1546(a).

In (b), inserted "Legislative and" before "Regulatory Affairs".

11:1-15.3 Procedure of the Department

(a) Upon receipt of a petition in compliance with N.J.A.C. 11:1-15.2, the Department will file a notice of petition with the Office of Administrative Law for publication in the New Jersey Register. The notice will include:

1. The name of the petitioner;
2. The substance or nature of the rulemaking action which is requested;
3. The problem or purpose which is the subject of the request; and
4. The date the petition was received.

(b) Within 60 days of receiving a petition, the Department will mail to the petitioner, and file with the Office of Administrative Law for publication in the Register, a notice of action on the petition which will include:

1. The name of the petitioner;
2. The Register citation for the notice of petition, if that notice appeared in a previous Register;
3. Certification by the Commissioner that the petition was duly considered pursuant to law;
4. The nature or substance of the Department's action upon the petition; and
5. A brief statement of reasons for the Department's action.

(c) Department action on a petition shall either:

1. Deny the petition and provide a written statement of the Department's reasons to the petitioner, and include such reasons in its notice of action;
2. Grant the petition and within 90 days file a notice of proposed rule or a notice of preproposal for a rule with the Office of Administrative Law; or
3. Refer the matter for further deliberations, the nature of which shall be specified to the petitioner and in the notice of action and which shall conclude within 90 days of such referral. Upon conclusion of such further deliberations, the Department shall either deny the petition or grant the petition and initiate a rulemaking proceeding within 90 days.

Amended by R.2003 d.139, effective April 7, 2003.

See: 34 N.J.R. 4041(a), 35 N.J.R. 1546(a).

Rewrote the section.

11:1-15.4 Rulemaking activity

(a) The Department shall provide notice of new rules, amendments, repeals or adoptions by posting these rules on its website at <http://www.state.nj.us/dobi/legsregs.htm> and to the news media maintaining a press office in the State House Complex.

(b) The Department shall post its proposals in the Department's Library, which is located on the 1st Floor, 20 West State Street, Trenton, NJ 08625. The Department shall also distribute its proposals to the Department's list of "interested persons" by e-mail or hard copy. Interested persons are those who have informed the Department in writing that they wish to receive notice of its proposed regulations.

New Rule, R.2003 d.139, effective April 7, 2003.
See: 34 N.J.R. 4041(a), 35 N.J.R. 1546(a).

11:1-15.5 Sufficient public interest for the purposes of extending the comment period or granting a public hearing

(a) In determining whether sufficient public interest has been demonstrated for the purposes of extending the comment period pursuant to N.J.A.C. 1:30-5.4, the Commissioner shall consider the following criteria:

1. Whether comments received indicated a previously unrecognized impact on regulated entities or persons; or
2. Whether comments received raise unanticipated issues related to the notice of proposal.

(b) In determining whether sufficient public interest has been demonstrated for purposes of conducting a public hearing pursuant to N.J.A.C. 1:30-5.5, the Commissioner shall consider the application of an interested person that has been submitted on a form prescribed by the Commissioner. Such application shall be submitted within 60 days following the publication of the notice of proposal in the New Jersey Register.

1. A person interested in having a public hearing held on a notice of proposal shall submit an application on a form prescribed by the Commissioner, to Legislative and Regulatory Affairs, Department of Banking and Insurance, 20 West State Street, PO Box 325, Trenton, NJ 08625-0896. The application shall contain the following information:

- i. The person's name, address, telephone number, agency or association (if applicable);
- ii. The citation and title of the proposed rule and the date the notice of proposal was published in the New Jersey Register; and
- iii. The reasons a public hearing regarding the notice of proposal is considered necessary pursuant to (c) below.

(c) Sufficient public interest for the purpose of holding a public hearing, pursuant to N.J.A.C. 1:30-5.5, shall be demonstrated if upon reviewing the application the Commissioner determines that additional data, findings and/or analysis regarding the notice of proposal are necessary for the Department to review prior to adoption of the proposal in order to ensure that the notice of proposal does not violate the intent of the statutory authority.

(d) A public hearing on a notice of proposal shall be conducted in accordance with the provisions of N.J.A.C. 1:30-5.5.

(e) The recommendations of the hearing officer, and the Commissioner's decision to accept, reject or modify any recommendations shall be summarized and published in the New Jersey Register pursuant to N.J.A.C. 1:30-5.5(g).

New Rule, R.2003 d.139, effective April 7, 2003.
See: 34 N.J.R. 4041(a), 35 N.J.R. 1546(a).

**SUBCHAPTER 16. REQUIREMENTS FOR FILING
A DOWNWARD DEVIATION IN
CURRENTLY APPROVED RATES**

11:1-16.1 Purpose and scope

(a) The purpose of this subchapter is to promote competition among insurers for the benefit of the insurance consuming public by permitting insurers subject to N.J.S.A. 17:29A-1 et seq. to effect expeditiously certain decreases in rates currently approved by the Department when, in an insurer's judgment, economic or competitive reasons or conditions warrant such a decrease.

(b) A further purpose is to enable an insurer to return to its previously approved rate level without delay or regulatory review when, in its judgment, the conditions or reasons for the decrease no longer pertain.

(c) This subchapter shall apply to every property and liability insurer which makes its own rates and to every member or subscriber of a rating organization on whose behalf rate filings are made pursuant to the provisions of N.J.S.A. 17:29A-1 et seq. For the purpose of this subchapter, the term "insurer" shall include all such independent insurers and rating organization members or subscribers who are subject to the provisions of N.J.S.A. 17:29A-1 et seq.

11:1-16.2 Filing requirements

(a) Any insurer, subject to the provisions of N.J.S.A. 17:29A-1 et seq., to effect a decrease in rates currently approved by the Commissioner, shall comply with the following filing requirements:

1. The insurer by a rate filing shall notify the Commissioner of Banking and Insurance at least 30 days prior to the date it wants to put into effect a decrease in rates currently approved for it by the Commissioner. In such rate filing, the insurer shall state the basis for the decrease in rates and its agreement that the decrease in rates shall remain in effect for at least six months from the effective date. Within a 15-day period following the filing of such a proposed decrease in rates, the Commissioner will notify the insurer of the unacceptability of the filing for a decrease in rates. The Commissioner will only find unacceptable a decrease rate filing if, in his or her opinion, the decrease in rates may have a tendency or capacity to imperil the financial condition of the filing insurer.

2. The decrease in rates may be up to 20 percent from the rates currently approved for use by the insurers and must apply to all policyholders either by coverage or line of insurance.

3. After a filing has been in effect for six months or more, an insurer may automatically withdraw its decrease or any portion thereof by so notifying the Commissioner of Banking and Insurance at least 30 days prior to the withdrawal date.

Amended by R.2001 d.75, effective March 5, 2001.

See: 32 N.J.R. 4184(a), 33 N.J.R. 794(a).

In (a)1, inserted "or her" preceding "opinion".

(b) This subchapter shall also apply to all policies of homeowners' insurance as defined at N.J.A.C. 11:2-41.2 which are in force, issued or renewed on or after January 17, 1995.

(c) These rules are not exclusive, and the Commissioner may also consider other provisions of statutes and regulations to be applicable to the circumstances or situations addressed herein. Policies may provide terms more favorable to policyholders than are required by these rules. The rights provided by these rules are in addition to and do not prejudice any other rights policyholders may have at common law, or under statutes and regulations.

(d) In addition to these rules, the Commissioner may implement a market assistance plan providing for a voluntary group of insurers in order to aid insureds in obtaining commercial insurance coverages specified therein.

Amended by R.1987 d.114, effective February 17, 1987.

See: 18 N.J.R. 2301(b), 19 N.J.R. 359(a).

Amended by R.1995 d.52, effective January 17, 1995.

See: 26 N.J.R. 4303(a), 27 N.J.R. 363(a).

Amended by R.1996 d.116, effective March 4, 1996.

See: 27 N.J.R. 4121(a), 28 N.J.R. 1382(a).

Case Notes

Cancellation of homeowners' policy was governed by statute and regulation on notice of cancellation and nonrenewal of fire and casualty coverage. *DiGiacomo v. Saladino*, 279 N.J.Super. 96, 652 A.2d 223 (A.D.1995).

Rules upheld as properly adopted on an emergency basis and in compliance with authorizing statutes; constitutional challenges of vagueness, deprivation of private property and impairment of contract denied. In the Matter of N.J.A.C. 11:1-20, 208 N.J.Super. 182, 505 A.2d 177 (App.Div.1986).

SUBCHAPTERS 17 THROUGH 19. (RESERVED)

SUBCHAPTER 20. RENEWAL, CANCELLATION AND NONRENEWAL OF COMMERCIAL AND HOMEOWNERS INSURANCE POLICIES

11:1-20.1 Scope

(a) This subchapter shall apply to all commercial insurance policies which are in force, issued or renewed on or after November 7, 1986 by companies licensed to do business in this state except workers' compensation insurance, employers liability, fidelity, surety, performance and forgery bonds, ocean marine and aviation insurance and accident and health insurance and any policy written by a surplus lines insurer. With the exception of N.J.A.C. 11:1-20.3 and 11:1-20.4(d), this subchapter shall not be applicable to multi-state location risks or policies subject to retrospective rating plans.

11:1-20.2 Renewal, nonrenewal and cancellation notice requirements

(a) No policy shall be nonrenewed upon its expiration date unless a valid notice of nonrenewal has been mailed or delivered to the insured in accordance with the provisions of this subchapter. For the purpose of this subchapter, policies not having a fixed expiration date shall be deemed to expire annually on the anniversary of their inception.

(b) Subject to N.J.A.C. 11:1-20.2(m) for medical malpractice liability insurance policies, no notice of nonrenewal shall be valid unless it is mailed or delivered by the insurer to the insured not more than 120 days nor less than 30 days prior to the expiration of the policy.

(c) Subject to N.J.A.C. 11:1-20.2(m) for medical malpractice liability insurance policies, with respect to payment of the renewal premium, notice of the amount of the renewal premium and any change in contract terms shall be given to the insured in writing not more than 120 days nor less than 30 days prior to the due date of the premium and shall clearly state the effect of nonpayment of the premium by the due date.

(d) No cancellation, other than a cancellation based upon nonpayment of premium or for moral hazard as defined in (f) below, shall be valid unless notice is mailed or delivered by the insurer to the insured, and to any person entitled to notice under the policy, not more than 120 days nor less than 30 days prior to the effective date of such cancellation except, however, that failure to send such notice to any designated mortgagee or loss payee shall invalidate the cancellation only as to the mortgagee's or loss payee's interest.

(e) A policy shall not be cancelled for nonpayment of premium unless the insurer, at least 10 days prior to the effective cancellation date, has mailed or delivered to the insured notice as required in this subchapter of the amount of premium due and the due date. The notice shall clearly state the effect of nonpayment by the due date. No cancellation for nonpayment of premium shall be effective if payment of the amount due is made prior to the effective date set forth in the notice.

(f) A policy shall not be cancelled for moral hazard unless the insurer, at least 10 days prior to the effective termination date, has mailed or delivered to the insured notice as required in this subchapter and the basis for termination conforms to the following definitions of moral hazard:

1. The risk, danger or probability that the insured will destroy, or permit to be destroyed, the insured property for the purpose of collecting the insurance proceeds. Any change in the circumstances of an insured that will increase the probability of such a destruction may be considered a "moral hazard"; and

2. The substantial risk, danger or probability that the character, circumstances or personal habits of the insured may increase the possibility of loss or liability for which an insurer will be held responsible. Any change in the character or circumstances of an individual, corporate, partnership or other insured that will increase the probability of such a loss or liability may be considered a "moral hazard."

(g) No nonrenewal or cancellation shall be valid unless the notice contains the standard or reason upon which the termination is premised and specifies in detail the factual basis upon which the insurer relies.

(h) All notices of nonrenewal and cancellation, except those for nonpayment of premium, must contain a statement which shall be clearly and prominently set out in boldface type or other manner which draws the reader's attention advising the insured that the insured may file a written complaint about the cancellation or nonrenewal with the New Jersey Department of Banking and Insurance, Division of Enforcement and Consumer Protection, PO Box 325, Trenton, New Jersey 08625-0325. The statement also shall advise the insured to contact the Department of Banking and Insurance immediately, in the event he or she wishes to file a complaint.

(i) No nonrenewal or cancellation shall be valid unless notice thereof is sent;

1. By certified mail; or

2. By first class mail, if at the time of mailing the insurer has obtained from the Post Office Department a date stamped proof of mailing showing the name and address of the insured, and the insurer has retained a duplicate copy of the mailed notice.

(j) For the purposes of this subchapter, if an insurer fails to send a notice of nonrenewal as required by this subchapter or fails to issue and deliver a policy replacing at the end of the policy period a policy previously issued and delivered by the insurer, or fails to issue and deliver a certificate or notice extending the term of a policy beyond its policy period or term, or fails to provide notice of renewal as specified at (c) above, the insured shall be entitled to continue the expiring policy at the same terms and premium until such time as the insurer shall send appropriate notice of termination or renewal under this subchapter. Nothing in this subchapter shall prohibit an insurer from replacing its policy with a policy issued by another insurer with which it is under common management and control, provided the insurer obtains its policyholder's consent to do so and maintains records of such actions.

(k) An insurer shall not be required to provide notice of nonrenewal or cancellation as specified in this subchapter if the insured has replaced coverage elsewhere or has otherwise specifically requested termination. The insurer must, however, maintain in its file properly documented proof that termination was made at the request of the insured. Where the termination request is submitted by the insured's authorized representative, the insurer's file must contain documentation that the authorized representative has been specifically authorized by the insured to convey the termination request to the insurer.

(l) An insurer may in writing delegate to its appointed agent or to another person or legal entity the performance of any or all of the notice functions set forth in this section. However, delegation of these functions by the insurer to any person or entity shall not relieve the insurer of its responsibilities hereunder. No notice, whether provided by the insurer directly or through a person or entity authorized to act on the insurer's behalf, shall be deemed effective unless provided in conformance with the requirements of this section.

(m) Each notice of renewal or nonrenewal by an insurer authorized to transact medical malpractice liability insurance in this State for a medical malpractice liability policy shall comply with the requirements applicable to such notices set forth in (a) through (l) above, except that such notices shall be mailed or delivered by the insurer to the insured not less than 60 days prior to the expiration of the policy.

Administrative Correction to (i)2.

See: 21 N.J.R. 3919(a).

Amended by R.1987 d.114, effective February 17, 1987.

See: 18 N.J.R. 2301(b), 19 N.J.R. 359(a).

Amended by R.1996 d.116, effective March 4, 1996.

See: 27 N.J.R. 4121(a), 28 N.J.R. 1382(a).

Administrative correction.

See: 29 N.J.R. 1324(a).

In (j), inserted "or renewal" following "... insurer shall send appropriate notice of termination".

Amended by R.2001 d.75, effective March 5, 2001.

See: 32 N.J.R. 4184(a), 33 N.J.R. 794(a).

Amended by R.2005 d.169, effective June 6, 2005.

See: 37 N.J.R. 4871(a), 37 N.J.R. 2040(a).

Inserted reference to Subject to N.J.A.C. 11:1-20.2(m) for medical malpractice liability insurance policies in (b) and (c); added (m).

Case Notes

Addition of regulatory exclusion to directors and officers liability policy did not constitute constructive nonrenewal of policy and did not trigger association's right to purchase discovery period. *American Cas. Co. of Reading, Pennsylvania v. Continisio*, C.A.3 (N.J.)1994, 17 F.3d 62.

Insurer, through subsequent actions or conduct, could waive right to cancel coverage for non-payment of premiums. *Iafelice ex rel. Wright v. Arpino*, 319 N.J.Super. 581, 726 A.2d 275 (N.J.Super.A.D. 1999).

Insurer could not claim indemnification against broker in failing to notify insured of lapse in coverage. *Meric Trucking & Leasing Co. v. Philip Lehman Co., Ltd.*, 247 N.J.Super. 261, 588 A.2d 1285 (A.D. 1991).

Thirty day notice requirement was satisfied by notice sent 89 days before expiration. *Meric Trucking & Leasing Co. v. Philip Lehman Co., Ltd.*, 247 N.J.Super. 261, 588 A.2d 1285 (A.D.1991).

11:1-20.3 Policy provisions relating to cancellation or nonrenewal

(a) All commercial insurance policy forms issued or renewed on or after January 6, 1987, and all homeowners' insurance policy forms issued on or after March 18, 1995 must contain a provision setting forth the following statement:

Pursuant to New Jersey law, this policy cannot be cancelled or nonrenewed for any underwriting reason or guideline which is arbitrary, capricious or unfairly discriminatory or without adequate prior notice to the insured. The underwriting reasons or guidelines that an insurer can use to cancel or nonrenew this policy are maintained by the insurer in writing and will be furnished to the insured and/or the insured's lawful representative upon written request.

This provision shall not apply to any policy which has been in effect for less than 60 days at the time notice of cancellation is mailed or delivered, unless the policy is a renewal policy.

1. The policy provision language set forth at (a) above is mandatory and, notwithstanding any other law to the contrary, need not be submitted to the Department for approval.

Amended by R.1987 d.114, effective February 17, 1987.

See: 18 N.J.R. 2301(b), 19 N.J.R. 359(a).

Amended by R.1995 d.52, effective January 17, 1995.

See: 26 N.J.R. 4303(a), 27 N.J.R. 363(a).

11:1-20.4 Cancellation and nonrenewal underwriting guidelines

(a) No insurer may cancel or nonrenew a policy based upon underwriting guidelines which are arbitrary, capricious or unfairly discriminatory.

(b) The following guidelines are approved for use by insurers:

1. Nonpayment of premium;

2. Moral hazard, as defined at N.J.A.C. 11:1-20.2(f);

3. Material misrepresentation or nondisclosure to the company of a material fact at the time of acceptance of the risk;

4. Increased hazard or material change in the risk assumed which could not have been reasonably contemplated by the parties at the time of assumption of the risk;

5. Substantial breaches of contractual duties, conditions or warranties that materially affect the nature and/or insurability of the risk;

6. Lack of cooperation from the insured on loss control matters materially affecting insurability of the risk;

7. Fraudulent acts against the company by the insured or its representatives that materially affect the nature of the risk insured;

8. Loss of or reduction in available insurance capacity. For the purposes of this paragraph, loss of or reduction in available insurance capacity shall exist if:

- i. An insurance department or court of competent jurisdiction has declared the insurer to be financially impaired or unsound, which shall include such actions as suspension, conservatorship, rehabilitation or liquidation; or

- ii. Based upon information set forth in the insurer's annual statements, the insurer has experienced a significant deterioration in its financial condition during the most recent annual statement period resulting in its designation by the National Association of Insurance Commissioners as being in need of "immediate attention", and the insurer's:

- (1) Ratio of net premium to surplus to policyholders has gone above four to one and its surplus to policyholders has fallen below 25 percent of net loss and loss expense reserves; or

- (2) Ratio of net premium to surplus to policyholders has increased to at least six to one; or

- (3) Ratio of net losses and loss reserves to surplus to policyholders has increased to at least six to one.

11:1-20.5 Cancellation or nonrenewal based on loss of or reduction in available insurance capacity

(a) Every cancellation or nonrenewal based upon loss of or reduction in available insurance capacity shall be supported by the following documentation:

1. A narrative description of the specific facts underlying the insurer's loss of or reduction in capacity.
2. Identification of the individual risk(s) or line, class or subclass of insurance, as applicable, proposed for termination and an explanation of the basis for the selection, which shall demonstrate that the insurer's selection is not arbitrary, capricious or unfairly discriminatory. An unsupported statement, such as "underwriting judgment", shall not constitute a valid explanation.
3. With respect to terminations subject to N.J.A.C. 11:1-22, an explanation of how the loss of or reduction in capacity affects the insurer's risks throughout the line, class or category of insurance proposed for cancellation and/or nonrenewal.
4. An explanation of why cancellation or nonrenewal is necessary to cure the capacity problem and why other measures, including but not limited to cessation of new business writings, do not present a viable alternative to termination of existing business; and
5. With respect to terminations subject to N.J.A.C. 11:1-22, an explanation of how the cancellation or nonrenewals will be implemented with respect to individual risks and the steps that will be taken to ensure that the cancellation/nonrenewal decisions will not be applied in an arbitrary, capricious or unfairly discriminatory manner.

(b) Whenever an insurer proposes to cancel or nonrenew, on an individual basis, a policy which is subject to the provisions of this subchapter due to loss of or reduction in insurance capacity, the insurer shall furnish the Department with written notice of the termination. The notice shall include the information set forth at (a)1, 2 and 4 above and shall be mailed to the Department at the same time notice of termination is mailed or delivered to the insured.

New Rule, R.1987 d.114, effective February 17, 1987.
See: 18 N.J.R. 2301(b), 19 N.J.R. 359(a).

11:1-20.6 Cancellation and nonrenewal based on changes in statutory or case law

(a) Every cancellation or nonrenewal based on material increase in exposure resulting from changes in statutory or case law subsequent to issuance of the insurance contract shall be supported by the following documentation:

1. Copies of or appropriate references to the applicable statute or case;
2. A narrative description of the changes resulting from the statute or case and how the changes affect the coverages provided under the contract to increase the insurer's exposure in a material fashion. The narrative

should also document that the modification to policy coverages arising from the change in statutory or case law was such that it could not have been reasonably foreseen by the insurer;

3. Identification of the individual risk(s), line(s), class(es) or subclass(es) of insurance affected by the change in statutory or case law;

4. If all risks within the lines, classes or subclasses identified in item 3 above are not to be cancelled or nonrenewed, an explanation of the basis for selection of individual risk(s) or lines, classes or subclasses, as applicable, which shall demonstrate that such selection is not arbitrary, capricious or unfairly discriminatory;

5. Explanation of why cancellation and/or nonrenewal is necessary to cure the insurer's increased exposure and why other measures, including but not limited to, premium modification or revision of coverage limits or terms, do not present a viable alternative to termination.

(b) Whenever an insurer proposes to cancel or nonrenew, on an individual basis, a policy which is subject to the provisions of this subchapter due to material increase in exposure arising out of changes in statutory or case law, the insurer shall furnish the Department with written notice of the termination. The notice shall include the information set forth at (a)1, 2, 3 and 5 above and shall be mailed to the Department at the same time notice of termination is mailed or delivered to the insured.

New Rule, R.1987 d.114, effective February 17, 1987.
See: 18 N.J.R. 2301(b), 19 N.J.R. 359(a).

11:1-20.7 Cancellation or nonrenewal based on loss of or substantial changes in applicable reinsurance

(a) Every cancellation or nonrenewal based on loss of or substantial changes in applicable reinsurance shall be supported by the following documentation:

1. All information set forth at N.J.A.C. 11:1-22.2(b)1 through 8;
2. Copy of termination notice or other notice reflecting substantial changes in applicable reinsurance;
3. Copy of order issued by insurance department or court of competent jurisdiction, where applicable; and
4. Name, address and telephone number of each reinsurer contacted by the insurer in its effort to obtain replacement coverage, name and title of each company representative contacted and the outcome.

(b) Whenever an insurer proposes to cancel or nonrenew, on an individual basis, a policy which is subject to the provisions of this subchapter due to loss of or substantial changes in applicable reinsurance, the insurer shall furnish the Department with written notice of the termination. The notice shall include the information set forth at N.J.A.C. 11:1-22.2(b)2, 3, 4 and 7 and (a)2, 3 and 4 above.

(c) In lieu of cancellation or nonrenewal, insurers shall offer to continue the policyholder's coverage at limits which reflect at least the insurer's net retention as identified pursuant to (a) above. In no event shall the insurer's offer to continue coverage at reduced limits relieve it from requirements that are otherwise applicable to cancellations and nonrenewals under N.J.A.C. 11:1-22 or this subchapter.

New Rule, R.1987 d.114, effective February 17, 1987.
See: 18 N.J.R. 2301(b), 19 N.J.R. 359(a).

11:1-20.8 Cancellation and nonrenewal based on agency termination

(a) Every cancellation or nonrenewal based on agency termination shall be supported by the following documentation:

1. Explanation of the basis for the insurer's termination of the agency contract;
2. Explanation of why the individual risk(s) or line, class or subclass, as applicable, of insurance must be cancelled or nonrenewed as a result of the agency termination and why coverage cannot or should not be continued through referral to another active agent of the insurer or written by the insurer on a direct basis;
3. Evidence of the provision of replacement coverage to the insured, where applicable;
4. Copy of the insured's statement consenting to the termination of coverage, where applicable; and
5. Copy of the written notice issued by the insurer advising the insured of his or her right to continue coverage with the insurer.

New Rule, R.1987 d.114, effective February 17, 1987.
See: 18 N.J.R. 2301(b), 19 N.J.R. 359(a).

11:1-20.9 Policy provisions

No policy shall contain provisions which are inconsistent with the requirements of this subchapter.

Recodified from 11:1-20.5 by R.1987 d.114, effective February 17, 1987.
See: 18 N.J.R. 2301(b), 19 N.J.R. 359(a).

11:1-20.10 Separability

If any provision of this subchapter or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the subchapter and the application of such provision to other persons or circumstances shall not be affected thereby.

Recodified from 11:1-20.6 by R.1987 d.114, effective February 17, 1987.
See: 18 N.J.R. 2301(b), 19 N.J.R. 359(a).

11:1-20.11 Penalties

(a) In addition to any other penalty authorized by law, the Commissioner may, after notice and a hearing, impose penalties as prescribed by N.J.S.A. 17:29A-1 et seq., 17:29AA-1 et seq., 17:29B-7 and 11, 17:30C-1 et seq., 17:32-1 et seq. and 17:33-2.

(b) As an alternative or in addition to the penalties set forth in (a) above, the Commissioner, where he deems such action will further the purposes of this subchapter, may require immediate reinstatement without lapse of any policy which has been cancelled or nonrenewed in violation of the provisions of this subchapter.

1. The Commissioner shall not order any reinstatement more than one year after the effective date of the nonrenewal or cancellation, provided, however, that the one year period shall be tolled during the course of any administrative proceedings initiated by the Department and any subsequent judicial review of those proceedings.

2. Nothing herein shall be deemed to create any right or cause of action on behalf of any insured to enforce the penalties set forth in this subsection.

Amended and recodified from 11:1-20.7 by R.1987 d.114, effective February 17, 1987.
See: 18 N.J.R. 2301(b), 19 N.J.R. 359(a).

11:1-20.12 (Reserved)

SUBCHAPTER 21. LOSS RESERVE OPINIONS

11:1-21.1 General requirements

(a) Every licensed company writing property and casualty insurance in New Jersey must submit, as an addendum to the Annual Statement, a statement of opinion relating to loss and loss adjustment expense reserves for all lines of business written by the company. Loss reserve opinions shall adhere to the requirements of the Annual Statement instructions pursuant to N.J.S.A. 17:23-1, except to the extent that the requirements of this subchapter are different. All statements of opinion shall adhere to the following requirements:

1. The statement of opinion shall be in the form of a letter and must be submitted by March 1; and
2. The statement of opinion shall be prepared and signed by a qualified actuary. A "qualified actuary" shall mean:
 - i. A fellow in good standing of the Casualty Actuarial Society with three years recent experience in loss reserving;

2. Any plan for cancellation or nonrenewal due to loss of or substantial changes in applicable reinsurance may be submitted to the Department as provided at (b) above only if the guideline meets the standards set forth at N.J.A.C. 11:1-20.4(b)10. A plan for termination based on any other guideline for loss of or substantial changes in available reinsurance must be submitted to the Department for approval as specified at N.J.A.C. 11:1-22.2(a)2 or 3, as applicable.

(c) Notwithstanding (a)2 and (a)3 above, an insurer may cancel or nonrenew a line or class of insurance based upon a material increase in exposure arising out of changes in statutory or case law subsequent to the issuance of the insurance contract or loss of or reduction in available insurance capacity by filing a plan with the Commissioner pursuant to the requirements of this subsection. The insurer's plan must be filed with the Commissioner at least 10 days prior to the issuance of any notice of cancellation or nonrenewal.

1. Any plan for cancellation or nonrenewal due to loss of or reduction in available insurance capacity may be submitted to the Department as provided at (c) above, only if the guideline meets the standards set forth at N.J.A.C. 11:1-20.4(b)8. A plan for termination based on any other guideline for loss of or reduction in available insurance capacity must be submitted to the Department for approval as specified at N.J.A.C. 11:1-22.2(a)2 or 3, as applicable.

(d) Notwithstanding (a)2 and (a)3 above, an insurer may nonrenew a line or class of insurance based upon agency termination by filing a plan with the Commissioner pursuant to the requirements of this subsection. The insurer's plan must be filed with the Commissioner at least 10 days prior to the issuance of any notice of nonrenewal.

1. Any plan for nonrenewal due to agency termination may be submitted to the Department as provided at (d) above only if the guideline meets the standards at N.J.A.C. 11:1-20.4(b)13. A plan for nonrenewal based on any other guideline for agency termination must be submitted to the Department for approval as specified at N.J.A.C. 11:1-22.2(a)2.

Amended by R.1987 d.114, effective February 17, 1987.
See: 18 N.J.R. 2301(b), 19 N.J.R. 359(a).

Case Notes

Rule proposal cited in action contesting validity of rules governing policy cancellation and nonrenewal. In the Matter of N.J.A.C. 11:1-22, 208 N.J.Super. 182, 505 A.2d 177 (App.Div.1986).

11:1-22.3 Penalties

(a) In addition to any other penalty authorized by law, the Commissioner may, after notice and a hearing, impose penalties as prescribed by N.J.S.A. 17:29A-1 et seq., 17:29AA-1 et seq., 17:29B-7 and 11, 17:30C-1 et seq., 17:32-1 et seq. and 17:33-2.

(b) As an alternative or in addition to the penalties set forth in (a) above, the Commissioner, where he deems such action will further the purposes of this subchapter, may require immediate reinstatement without lapse of any policy which has been nonrenewed or cancelled in violation of the provisions of this subchapter.

1. The Commissioner shall not order any reinstatement more than one year after the effective date of the nonrenewal or cancellation, provided, however, that the one year period shall be tolled during the course of any administrative proceedings initiated by the Department and any subsequent judicial review of those proceedings.

2. Nothing herein shall be deemed to create any right or cause of action on behalf of any insured to enforce the penalties set forth in this subsection.

Amended by R.1987 d.113, effective February 17, 1987.
See: 18 N.J.R. 2301(b), 19 N.J.R. 359(a).

11:1-22.4 (Reserved)

SUBCHAPTER 23. (RESERVED)

SUBCHAPTER 24. USE OF CREDIT CARDS, CHARGE CARDS, DEBIT CARDS OR DIRECT ACCOUNT DEDUCTION (ALTERNATIVE PAYMENT METHOD) TO PAY INSURANCE PREMIUMS

11:1-24.1 Purpose and scope

(a) The purpose of this subchapter is to regulate the use of credit cards, charge cards, debit cards or direct account deduction by insurers, insurance producers and limited insurance representatives and to provide standards concerning the use of such means to pay for insurance premiums when an insurer, insurance producer or limited insurance representative has entered into a contract with a bank, credit card company, or financial institution to accept credit cards, charge cards, debit cards or direct account deduction to facilitate the payment of insurance premiums. This subchapter implements the provisions of N.J.S.A. 17:29B-1 et seq. and 17B:30-1 et seq. to prevent unfair and deceptive practices in the use of these means to pay insurance premiums.

(b) This subchapter shall apply to any insurer, insurance producer or limited insurance representative that enters into a contract with a bank, credit card company, or other financial institution to accept credit cards, charge cards, debit cards, or direct account deduction as a method of

payment of an insurance premium. This subchapter shall apply to all kinds of insurance.

(c) The provisions of this subchapter are in addition to any other applicable requirements of Federal and State law and apply to the extent that they are not inconsistent therewith.

11:1-24.2 Definitions

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

"Alternative payment method" means the payment of insurance premiums by credit card, charge card, debit card or direct account deduction.

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

"Credit card" or "charge card" means those cards issued by or through banks, other financial entities or nonfinancial entities, that enable holders of the card to purchase goods or services on credit from entities that agree with the issuer to honor that card.

"Credit card company" means such entities that enter into contractual arrangements with vendors, including providers of services, whereby the vendor agrees to accept as a method for payment of goods purchased or services rendered a credit card issued by the entity to the purchaser of such goods or services.

"Debit card" means those cards issued by or through banks, other financial entities, or nonfinancial entities, that enable holders of the card to purchase goods or services by automatic deductions from a holder's account from entities that agree with the issuer to honor that card.

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

"Direct account deduction" means an arrangement whereby the insurer, insurance producer or limited insurance representative has entered into an agreement for processing services involving a bank or financial institution for the automatic deduction of insurance premiums from an account of the insured designated by the insured for that purpose.

"Insurance producer" means any person engaged in the business of an insurance agent, insurance broker or insurance consultant as these terms are defined in N.J.S.A. 17:22A-2.

"Insurer" means a corporation, association, partnership, company, fraternal benefit society, eligible surplus lines insurer, reciprocal exchange, interinsurer, Lloyd's insurer, risk retention group, purchasing group, any corporation or organization authorized pursuant to Part 9 of Subtitle 3 of Title 17 of the New Jersey Statutes, and any other person or legal entity engaged in business pursuant to Title 17 or 17B of the New Jersey Statutes.

"Limited insurance representative" is as defined at N.J.S.A. 17:22A-2m.

11:1-24.3 Use of credit cards, charge cards, debit cards, and direct account deduction (alternative payment method) for payment of premiums

(a) The use of an alternative payment method by an insurer, insurance producer or limited insurance representative shall be optional and shall be permitted as long as the insurance laws of this State and other applicable provisions of law are not violated.

(b) Any insurer, insurance producer or limited insurance representative that agrees to allow the use of any one alternative payment method, or a combination of them, in the payment of insurance premiums for a particular product or products of insurance shall make that service available to all existing and prospective insureds who are invited to purchase the product being offered, and shall not limit the use of such payment option only to certain entities or persons among those being offered the same product.

(c) Insurers, insurance producers and limited insurance representatives that offer the use of an alternative payment method as an option for payment of premium for a product or products shall make this option available for the payment of all subsequent installments of the premium; provided, however, that an insurer, insurance producer or limited insurance representative may discontinue the use of payment by that alternative method generally as a means of the payment of premiums, or for a particular credit card, charge card or debit card, if the insurer, insurance producer or limited insurance representative notifies the insured of the discontinuation at least 60 days prior thereto, or in individual cases in accordance with the insurer's rating system established pursuant to applicable law.

(d) An insurer, insurance producer or limited insurance representative shall not be permitted to require payment of insurance premiums by an alternative payment method only, except where such payment is part of the insurance marketing plan for that line or program (for example, offering life or health insurance to cardholders of a particular credit card or charge card with payments charged to that card).

11:1-24.4 Ratemaking

No premium shall differentiate in rates on the basis of payment by one of the alternative methods set forth in this subchapter or payment by means other than one of these methods, except in accordance with the insurer's rating system, or as otherwise authorized pursuant to N.J.S.A. 17B:30-14d and e.

11:1-24.5 Cancellation of policy

The insurance policy that is the subject of an alternative payment method transaction shall not be cancelled or non-renewed by any person other than the named insured, the policyholder (including the owner of the policy where the policyholder is not the named insured) or the insurer, in accordance with the provisions of Title 17 and 17B of the New Jersey Statutes, any implementing administrative rules, and the insurance policy or contract.

11:1-24.6 Payment of premiums

Premium payments shall be considered collected by and paid to the insurer, insurance producer or limited insurance representative, as applicable, when the charge is authorized or debited, as applicable.

11:1-24.7 Disclosure of optional methods of payment

An insurer, insurance producer or limited insurance representative allowing alternative payment methods of insurance premiums shall fully disclose to the insured or prospective insured, upon request, the availability of all optional methods of payment offered by that insurer, insurance producer or limited insurance representative, and the differences, including cost, between these methods and the alternative payment methods.

11:1-24.8 Penalties

Failure to comply with the provisions of this subchapter shall result in the imposition of penalties as provided by law.

SUBCHAPTER 25. OFFICIAL DEPARTMENT MAILING AND ELECTRONIC MAILING LISTS: ADDRESS INFORMATION

11:1-25.1 Purpose

The purpose of this subchapter is to ensure that the Department's records of the official mailing address and the electronic mailing ("e-mail") address of insurers and regulated entities remain accurate and updated at all times and thereby maximize the efficient use of Department resources and the effectiveness of Department mailings.

Amended by R.2004 d.264, effective July 6, 2004.
See: 36 N.J.R. 1169(a), 36 N.J.R. 3291(a).
Rewrote the section.

11:1-25.2 Scope

This subchapter shall apply to any person, partnership, corporation or any other legal entity that is required to submit an annual financial statement or report to the Commissioner pursuant to any of the following: N.J.S.A.

17:16A-13, 17:22-6.45, 17:23-1, 17:35-8, 17:35-19, 17:44A-34, 17:45-12, 17:46A-7, 17:46B-55, 17:46C-9, 17:48-11, 17:48A-15, 17:48C-26, 17:48D-13, 17:48E-36, 17:50-8, 17B:21-1 or any other statute requiring such a submission.

Amended by R.2004 d.264, effective July 6, 2004.

See: 36 N.J.R. 1169(a), 36 N.J.R. 3291(a).

Inserted "or any other statute requiring such a submission" following "17B:21-1".

**11:1-25.3 Official mailing and electronic mailing lists;
change in address information**

(a) For the purpose of disseminating Department information, including, but not limited to, certificates of authority, orders to show cause, and company-specific administrative orders, the Department's official mailing address list shall be based upon the mailing address information as provided in the insurer's or other regulated entity's most recent annual financial statement or report filed pursuant to the respective insurance laws requiring such, as set forth above at N.J.A.C. 11:1-25.2. The mailing address provided in the annual financial statement or report shall be deemed the official mailing address of the person, partnership, corporation or other legal entity which filed such statement or report, unless the Department has been specifically notified otherwise of a change in the mailing address. In such cases, the mailing address the Department has been notified of shall be deemed the official mailing address.

1. In cases where no mailing address is designated, the home address as provided in the annual financial statement or report filed shall be deemed the official mailing address, unless the Department has been specifically notified otherwise of a change in the home address. In such cases, the home address the Department has been notified of shall be deemed the official mailing address.

2. If an insurer's or other regulated entity's mailing address, or home address if applicable, is different on the annual financial statement then the insurer or other regulated entity shall notify the Department in writing within 10 days of the address change, by sending the notification to the Department at the address set forth in (b) below.

(b) Upon any change in the mailing address, or home address if applicable, the insurer or other regulated entity shall notify the Department in writing of such change no later than 10 days from the date the new address became effective. All address change notifications shall be sent to:

Supervisor of Insurance Reports
Office of Financial Solvency
New Jersey Department of Banking and Insurance
PO Box 325
Trenton, New Jersey 08625-0325

(c) Department information, as defined in subsection (a) above, shall be addressed to the secretary of the company and mailed to the official mailing address.

(d) Unless the Department is notified otherwise in accordance with the above provisions, the mailing address last provided to the Department pursuant to this rule shall be deemed the insurer or regulated entity's correct official mailing address and any communications mailed to such address shall be deemed properly mailed and received.

(e) Each insurer or other regulated entity shall submit an e-mail address to the Department on an e-mail address designation form as prescribed by the Department. The form shall be submitted no later than September 4, 2004, or the date the insurer or other regulated entity is granted a Certificate of Authority or other notice of authorization to do business in New Jersey, whichever is later. Subsequent to its receipt of the e-mail address, the Department shall transmit all general orders, bulletins, and public notices to the insurer or other regulated entity via e-mail to that e-mail address or through regular mail to the insurer or other regulated entity at its official mailing address. Upon any change in an e-mail address previously filed with the Department, the insurer or other regulated entity shall, within 10 days, notify the Department in writing of such a change by submitting a new e-mail address designation form. The initial and every subsequent submission of the e-mail address designation form shall be made under cover of a letter, on original company letterhead and signed by an officer of the company, stating that the contents of the form are accurate. The form and accompanying letter shall be sent to:

New Jersey Department of Banking and Insurance
Office of Legislative and Regulatory Affairs
PO Box 325
Trenton, NJ 08625-0325

The form can be obtained from the Department's website at: www.njdobi.org.

The form shall contain a space for an insurer or other regulated entity to indicate that it does not have e-mail capability.

Amended by R.1996 d.116, effective March 4, 1996.

See: 27 N.J.R. 4121(a), 28 N.J.R. 1382(a).

Amended by R.2001 d.75, effective March 5, 2001.

See: 32 N.J.R. 4184(a), 33 N.J.R. 794(a).

Amended by R.2004 d.264, effective July 6, 2004.

See: 36 N.J.R. 1169(a), 36 N.J.R. 3291(a).

In (a), rewrote the first sentence of the introductory paragraph and deleted "or report" in the first sentence of 1; in (b), substituted "Office

of Financial Solvency" for "Division of Financial Examinations"; rewrote (d); added (e).

11:1-25.4 Foreign insurers—designation of individual for service of process through Commissioner

(a) A foreign insurer may specify an individual to receive papers that have been served on the Commissioner as its agent pursuant to N.J.S.A. 17:32-2 (property and casualty insurers) and N.J.S.A. 17B:23-2c (life and health insurers).

(b) To designate an individual to receive papers served on the foreign insurer through the Commissioner, the foreign insurer must complete a designation form and return this form to the Department. The designation form can be obtained from the Department's website at: <http://www.state.nj.us/dobi/index.shtml>, or a hard copy can be obtained from the Department upon request.

(c) If a foreign insurer has specified an individual to receive papers served on the Commissioner pursuant to (a) above, the Department shall, upon being served, mail all papers to the specified individual by certified mail, return receipt requested. If the mailing to the specified individual is returned to the Department without service upon the designated individual, then the Department shall mail all papers to the Company Secretary by regular mail, as provided in N.J.A.C. 11:1-25.3(c).

(d) If a foreign insurer does not specify an individual to receive papers served on the Commissioner, then the Department shall mail all papers to the Company Secretary by certified mail, return receipt requested, as provided in N.J.A.C. 11:1-25.3(c).

(e) Each foreign insurer shall immediately notify the Department upon any change in the individual designated for mailing of papers served upon the Commissioner as its agent.

New Rule, R.2003 d.142, effective April 7, 2003.

See: 34 N.J.R. 3915(a), 35 N.J.R. 1547(a).

Former N.J.A.C. 11:1-25.4, Penalties, recodified to N.J.A.C. 11:1-25.5.

11:1-25.5 Penalties

Failure to comply with the provisions of this subchapter shall constitute a violation of the insurance laws of this State and may result in the imposition of any penalties authorized by law.

Recodified from N.J.A.C. 11:1-25.4 by R.2003 d.142, effective April 7, 2003.

See: 34 N.J.R. 3915(a), 35 N.J.R. 1547(a).

SUBCHAPTERS 29 THROUGH 30. (RESERVED)

SUBCHAPTER 31. SURPLUS LINES INSURER
ELIGIBILITY

11:1-31.1 Purpose and scope

(a) This subchapter sets forth the filing requirements and procedures for unauthorized insurers which seek to become eligible surplus lines insurers in this State in accordance with the Surplus Lines Law, N.J.S.A. 17:22-6.40 et seq.

(b) This subchapter applies to unauthorized insurers which seek to become eligible surplus lines insurers in this State and currently eligible surplus lines insurers.

11:1-31.2 Definitions

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

“Alien applicant” means an applicant which is an unauthorized insurer formed under the laws of any country other than the United States, its states, districts, territories, commonwealths, possessions or the Panama Canal Zone.

“Applicant” means an unauthorized foreign or alien insurer applying for a certificate of eligibility in this State.

“Certificate of eligibility” means a certificate issued to an unauthorized insurer by the Commissioner pursuant to N.J.S.A. 17:22-6.45 evidencing that it is an eligible surplus lines insurer 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.

“Eligible surplus lines insurer” or “surplus lines insurer” means an unauthorized foreign or alien insurer in which an insurance coverage is placed or may be placed pursuant to N.J.S.A. 17:22-6.40 et seq.

“Foreign applicant” means an applicant which is an unauthorized insurer formed under the laws of a jurisdiction of the United States other than this State.

“NAIC” means the National Association of Insurance Commissioners.

“Surplus lines agent” means a person licensed pursuant to N.J.S.A. 17:22A-1 et seq. and N.J.A.C. 11:17 with the authority to place insurance coverages on behalf of unauthorized insurers.

“Unauthorized insurer” means a foreign or alien insurer that is not duly authorized to transact business in this State by a current certificate of authority issued pursuant to the laws of this State.

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

11:1-31.3 General requirements

(a) No surplus lines agent shall place any coverage in this State with any unauthorized insurer which is not an eligible surplus lines insurer in this State, except for the placement of an insurance risk pursuant to N.J.S.A. 17:22-6.45(h), where insurance on a risk eligible for export is not procurable from eligible surplus lines insurers. No unauthorized insurer shall become an eligible surplus lines insurer unless made eligible by the Commissioner in accordance with N.J.S.A. 17:22-6.45 and this subchapter.

(b) No certificate of eligibility shall be issued to an applicant unless it demonstrates the following:

1. That it is either:

i. Currently authorized in its state or country of domicile as to the kind or kinds of insurance proposed to be so placed for not less than one year preceding the application for eligibility; or

ii. The subsidiary of an admitted insurer or eligible surplus lines insurer that has been admitted or eligible for not less than one year preceding the application for eligibility;

2. Satisfactory evidence of financial integrity. Satisfactory evidence of financial integrity may be demonstrated if the applicant satisfies all of the requirements for the issuance of a certificate of eligibility pursuant to N.J.S.A. 17:22-6.40 et seq. and this subchapter, and after review of the information required to be submitted pursuant to this subchapter or from any other available source (for example, the NAIC, A.M. Best and Standard and Poor's), the Commissioner does not find:

i. That any factors exist from which he or she may determine that the applicant is in a hazardous financial condition as set forth in N.J.A.C. 11:2-27; or

ii. That the applicant's condition or methods of operation are such as would render its operation hazardous to the public or policyholders in this State;

3. That it has capital and surplus, or its equivalent under the laws of its domiciliary jurisdiction, of not less than twice the amount of the minimum capital and surplus required by this State for like admitted insurers;

i. An alien applicant shall also maintain in the United States an irrevocable trust fund in a state or federally chartered bank in an amount not less than \$2,500,000 for the protection of all of its policyholders

in the United States. The trust fund shall conform to the requirements set forth in N.J.S.A. 17:22-6.45(d)(1);

4. In lieu of the capital and surplus requirements and trust fund requirements set forth in (b)3 and (b)3i above, any Lloyd's or other similar group of alien insurers, which group includes unincorporated individual insurers shall maintain a trust fund of not less than \$50,000,000 as security to the full amount thereof for all policyholders and creditors in the United States of each member of the group. The trust fund shall conform to the requirements set forth in N.J.S.A. 17:22-6.45(d)(1);

5. An insurance exchange created by laws of another state may be approved by the Commissioner as an eligible surplus lines insurer. Such an insurance exchange shall comply with the applicable financial requirements set forth in N.J.S.A. 17:22-6.45(d)(1) in addition to the requirements set forth in this subchapter;

6. That it has complied with all of the requirements of N.J.S.A. 17:22-6.45 and this subchapter to entitle it to transact business as an eligible surplus lines insurer in this State;

7. That its condition or methods of operations are not such as would render its operation hazardous to the public or policyholders in this State;

8. That it is of good reputation as to providing service to the policyholders and the payment of losses and claims; and

9. That its management is not incompetent or untrustworthy, or so lacking in insurance company managerial experience as to make the proposed operation hazardous to the insurance buying public; and that it is not affiliated directly or indirectly through ownership, control, reinsurance transactions or other insurance or business relations, with any person or persons whose business operations are or have been detrimental to policyholders, stockholders, investors, creditors or to the public.

(c) All information submitted pursuant to this subchapter shall be sent to:

New Jersey Department of Banking and Insurance
Financial Exams Division
Attention: Surplus Lines Insurer Eligibility
PO Box 325
Trenton, New Jersey 08625-0325

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

11:1-31.4 Certificate of eligibility; filing requirements

(a) All applicants shall submit the following to the Commissioner:

1. A copy of the applicant's charter as currently in force, certified by the lawful custodian of the original document;

2. A copy of the applicant's bylaws as currently in force, certified by a senior officer of the applicant;

3. A certified copy of the applicant's current certificate of authority from the applicant's state or country of domicile;

4. A certified copy of a report of the most recent examination of the applicant's affairs by the department of insurance, or its equivalent, of the applicant's state or country of domicile;

5. An annual audited financial report conforming to the requirements of N.J.A.C. 11:2-26 or a certified copy of the applicant's most recent audited financial report required by the applicant's state or country of domicile which is substantially similar to the report required by N.J.A.C. 11:2-26. Additionally, the applicant shall ensure that its Management Discussion and Analysis is included, along with the Annual Statement. The Audited Financial Statement shall also be provided for the applicant's parent company, the ultimate controlling entity, and all other intermediate holding companies, if available.

6. Directors' and officers' biographical affidavits on a form provided by the Commissioner;

7. A statement of opinion by qualified actuary, relating to the applicant's loss and loss adjustment expense reserves for all lines of business written by the applicant, containing the information required by N.J.A.C. 11:1-21;

8. A summary of the applicant's assumed and ceded reinsurance business, indicating the treaty parties, retentions, maximum risks, types of contract (that is, prorata, facultative, etc.) and any other information which may be relevant to the applicant's reinsurance portfolio, including, but not limited to, such information necessary to demonstrate that any credit for reinsurance shown in the applicant's financial statements as either an asset or deduction from liability is allowed pursuant to N.J.S.A. 17:51B-1 et seq. and N.J.A.C. 11:2-28;

i. The Department may require that the applicant file a copy of any specific reinsurance treaty or contract to address questions or concerns based upon the Department's review of the summary of assumed and ceded reinsurance business;

9. If the applicant is a member of a holding company system, a certified copy of the information filed pursuant to the holding company act of the state, district, territory, commonwealth, possessions or country of domicile, supplemented as necessary to meet the requirements of N.J.S.A. 17:27A-3 and applicable Securities and Exchange Commission requirements pursuant to 15 U.S.C. 77a et seq. and 15 U.S.C. 78a et seq., including the names of all shareholders of record who control, either directly or indirectly, five percent or more of the applicant's outstanding shares;

11:1-32.9 Special purpose apportionment; de minimis amounts

For purposes of collecting the special purpose apportionment pursuant to N.J.S.A. 17:1C-19 et seq., the Commissioner shall not collect de minimis amounts less than \$20.00. Amounts not so collected pursuant to this section shall be reallocated among the remaining companies in accordance with N.J.S.A. 17:1C-20.

Repeal and New Rule, R.1996 d.484, effective October 7, 1996.
See: 28 N.J.R. 3223(a), 28 N.J.R. 4482(a).

Former section, "Miscellaneous fees", repealed.

11:1-32.10 Penalties

(a) Failure to pay an applicable filing or application fee at the time of filing or application may result in the filing or application being rejected as incomplete.

(b) Failure to pay the applicable fee at the time of making a request for service may result in the Department's refusal to provide such service.

(c) Failure to pay a special purpose apportionment when due pursuant to N.J.S.A. 17:1C-19 et seq., shall result in the imposition of penalties as authorized by law.

Recodified from 11:1-32.11 and amended by R.1996 d.484, effective October 7, 1996.

See: 28 N.J.R. 3223(a), 28 N.J.R. 4482(a).

Former section, "Applicability of fees imposed by insurance laws of this State", recodified as 11:1-32.8.

11:1-32.11 (Reserved)

Recodified to 11:1-32.10 by R.1996 d.484, effective October 7, 1996.

See: 28 N.J.R. 3223(a), 28 N.J.R. 4482(a).

Section was "Penalties".

SUBCHAPTER 33. SURPLUS LINES INSURANCE: PROCUREMENT PROCEDURE

Authority

N.J.S.A. 17:1-8.1, 17:22-6.43, 17:22-6.45 and 17:22-6.41.

Source and Effective Date

R.2003 d.37, effective February 3, 2003.

See: 34 N.J.R. 641(a), 35 N.J.R. 612(a).

11:1-33.1 Purpose and scope

(a) These rules set forth procedures for the procurement of insurance from surplus lines insurers, and from ineligible unauthorized insurers in accordance with N.J.S.A. 17:22-6.43, 6.45 and 6.47.

(b) These rules apply to all New Jersey licensed insurance producers, including those with surplus lines authority who file policy forms pursuant to N.J.S.A. 17:22-6.43(c), on behalf of surplus lines insurers.

(c) These rules apply to surplus lines insurers and ineligible unauthorized insurers in accordance with N.J.S.A. 17:22-6.45(i).

Amended by R.2005 d.104, effective April 4, 2005.

See: 36 N.J.R. 2144(a), 37 N.J.R. 1065(a).

Rewrote the section.

11:1-33.2 Definitions

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

"Authorized insurer" means a domestic, foreign or alien insurer duly authorized by a Certificate of Authority issued by the Commissioner of the Department of Banking and Insurance of the State of New Jersey to transact the business of insurance in this State.

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

"Diligent effort" means a process by which a licensed New Jersey insurance producer places coverage on behalf of a New Jersey insured with a surplus lines insurer after the risk has been declined by three authorized insurers, each of which is authorized in New Jersey to write insurance of the kind requested and is an insurer that the producer has a good faith reason to believe might consider writing the type of coverage or class of insurance involved.

"Export" or "exported" means to place with a surplus lines insurer pursuant to the New Jersey Surplus Lines Law, N.J.S.A. 17:22-6.40 et seq., insurance covering all or part of a subject of insurance resident, located, or to be performed in New Jersey.

"Exportable list" means a list of any class or classes of insurance coverages or risks declared and promulgated by the Commissioner pursuant to N.J.A.C. 11:1-34 for which there is no reasonable or adequate market among authorized insurers in this State.

"Ineligible unauthorized insurer" means a foreign or alien insurer that is not duly authorized to transact business in this State by a current certificate of authority issued pursuant to the laws of this State and is not a surplus lines insurer.

"Policy," "policy forms," "insurance policy" or "contract" includes all forms, endorsements, exclusions and limitations.

"Producer" means a person engaged in the business of an insurance agent, insurance broker or insurance consultant pursuant to N.J.S.A. 17:22A-1 et seq., who is licensed pursuant to N.J.S.A. 17:22A-1 et seq., and who has property casualty authority.

"SLEO" means the Surplus Lines Examining Office.

"Surplus lines agent" means a person licensed pursuant to N.J.S.A. 17:22A-1 et seq. and N.J.A.C. 11:17 with the authority to place insurance coverages on behalf of surplus lines insurers.

"Surplus lines insurer" means a foreign or alien insurer that is eligible to transact surplus lines business in this State, pursuant to N.J.S.A. 17:22-6.40 and N.J.A.C. 11:1-31.

11:1-33.3 Surplus lines insurance coverage procurement requirements

(a) Except for coverages on the Exportable List, any licensed New Jersey insurance producer who may be placing coverage on behalf of a New Jersey insured shall first make a diligent effort to place the coverage with an authorized insurer. As evidence of having made such an effort, the producer shall complete form SLPS-6 CERT1, incorporated herein by reference as subchapter Appendix Exhibit B. Only that coverage not so procurable from an authorized insurer may be placed with a surplus lines insurer, provided, however, that if the unprocurable coverage appears on the Exportable List, the associated commercial general liability and commercial property coverages may be exported along with the unprocurable coverage.

1. If a licensed producer has a bona fide written renewal quote or coverage exists from an authorized insurer for any class or risk that is on the exportable list and that coverage is placed in the surplus lines market, the surplus lines agent shall stamp the policy as "Exportable."

2. The surplus lines agent shall maintain the records of each surplus lines contract and shall make these records available for inspection by the Commissioner for a period of at least five years.

3. At the time of quotation, the originating producer shall provide to the applicant a copy of the form incorporated herein by reference as Exhibit A-1 in the Appendix to this chapter and retain a signed copy.

4. At the time of issuing or delivering a surplus lines policy, evidence of coverage, or a renewal policy, the surplus lines producer shall place upon the policy, or provide as a stand alone notice, the statement incorporated herein by reference as Exhibit A-2 in the Appendix for this subchapter.

(b) When coverage on behalf of a New Jersey insured cannot be placed with an authorized insurer or a surplus lines insurer as set forth in (a) above, a New Jersey licensed surplus lines agent may place the coverage with an ineligible unauthorized insurer. Procurement of insurance from an ineligible unauthorized insurer may be made only when it is not otherwise procurable from admitted insurers or a surplus lines insurer and only if the express conditions in (b)1 through 5 below are fully satisfied at least five working days prior to the binding of insurance coverage.

1. The producer shall complete form SLPS-6 CERT1, incorporated herein by reference as Exhibit B in the Appendix to this subchapter, file it with the surplus lines agent and retain a copy.

2. The surplus lines agent shall complete form SLPS-8 AFF3 Supplemental Certification, incorporated herein by reference as Exhibit C in the Appendix to this subchapter, and attach form SLPS-6 CERT1 from the producer pursuant to (b)1 above.

3. The ineligible unauthorized insurer shall have made a deposit or deposits with the Commissioner as follows:

i. The amount of the deposit must be 125 percent of expected losses, but not less than \$100,000, in United States Government Bonds pursuant to the instructions set forth in N.J.A.C. 11:2-32, including all supporting documents and calculations used to determine the amount of the deposit; and

ii. The deposit set forth in (b)3i above shall be separately made for each individual policy; in the case of a group or plan of insurance, a deposit shall be separately made for each individual New Jersey citizen or resident who is insured through such policy or plan or who has received a certificate or other evidence of coverage under such policy or plan; and

iii. Upon good cause shown, the amount of the deposit provided in (b)3i above shall be reduced or waived, in the Commissioner's discretion. A showing of good cause requires:

(1) A rating in one of the four highest rating categories from a company listed in N.J.A.C. 11:1-41.3; except that a Weiss Rating must be in its highest category;

(2) Domicile in a National Association of Insurance Commissioners (NAIC) accredited jurisdiction; and

(3) No more than five new or renewal placements per year.

4. The surplus lines agent shall file a certified copy of the ineligible unauthorized insurer's annual statement of financial condition, current as of the date of filing, which evidences net assets of at least \$5,000,000, consisting of at least \$1,500,000 liquid assets with:

Surplus Lines Examining Office (SLEO)
New Jersey Department of Insurance
20 West State Street
PO Box 325
Trenton, New Jersey 08625-0325

5. The surplus lines agent shall maintain the records of each placement with an ineligible unauthorized insurer and shall make these records available for inspection by the Commissioner for a period of at least five years.

11:1-35.3 Forms; general requirements

(a) All statements required to be filed pursuant to N.J.S.A. 17:27A-2, 17:27A-3, 17:27A-4 and 17:27A-4.1 shall be submitted in accordance with the forms set forth at Exhibits A, B, C, D and E, in the Appendix, incorporated herein by reference, as applicable. The forms shall be considered blank forms which are to be filled in. The statements filed shall contain the numbers and captions of all items, but the text of the items may be omitted provided the answers thereto are prepared in such a manner as to indicate clearly the scope and coverage of the items. All instructions, whether appearing under the items of the form or elsewhere therein, are to be omitted. Unless expressly provided otherwise, if any item is inapplicable or the answer thereto is in the negative, an appropriate statement to that effect shall be made.

(b) Seven complete copies of each Exhibit A statement, and one copy of each Exhibit B, C, D and E, including exhibits and all other papers and documents filed as a part thereof, shall be filed with the Commissioner by personal delivery or mail addressed to:

Holding Company Submissions
Division of Financial Examinations
New Jersey Department of Banking and Insurance
20 West State Street
PO Box 325
Trenton, NJ 08625-0325

1. A copy of Exhibit C shall be filed in each state in which an insurer is authorized to do business, if the commissioner or other regulatory official of that state has notified the insurer of its request in writing, in which case the insurer shall file such forms within 30 days of receipt of the notice.

2. At least one of the copies shall be manually signed in the manner prescribed on the form. Unsigned copies shall be conformed. If the signature of any person is affixed pursuant to a power of attorney or other similar authority, a copy of the power of attorney or other authority shall also be filed with the statement.

(c) Statements and information required pursuant to Exhibit A shall be in loose-leaf form inserted into standard two-ring or three-ring binders. The loose-leaf sheets used shall be eight and one-half inches wide and 11 inches long and punched for two-ring and three-ring binders as appropriate. In the case of information required pursuant to Exhibits A, B, C, D or E, exhibits and financial statements, unless specifically prepared for the filing, may be submitted in their original size. All copies of any statement, financial statements, or exhibits shall be clear, easily readable and suitable for photocopying. Debits in credit categories and credits in debit categories shall be designated so as to be clearly distinguishable as such on photocopies. Statements shall be in the English language and monetary values shall be stated in United States currency. If any exhibit or other paper or

document filed with the statement is in a foreign language, it shall be accompanied by a translation into the English language and any monetary value shown in a foreign currency shall be converted into United States currency.

Amended by R.1993 d.554, effective November 15, 1993.

See: 25 N.J.R. 4275(a), 25 N.J.R. 5170(b).

Amended by R.1997 d.12, effective January 6, 1997.

See: 28 N.J.R. 4700(a), 29 N.J.R. 129(b).

Amended N.J.S.A. and Exhibit references.

11:1-35.4 Forms; incorporation by reference, summaries and omissions

(a) Information required pursuant to any item set forth in Exhibits A, B, D or E may be incorporated by reference in an answer or partial answer to any other item. Information contained in any financial statement, annual report, proxy statement, statement filed with a governmental authority, or any other document may be incorporated by reference in the answer or partial answer to any item of Exhibits A, B, D or E provided such document or paper is filed as an appendix or exhibit to the appropriate Exhibit A, B, D or E. Matter shall not be incorporated by reference in any case where such incorporation would render the statement incomplete, unclear or confusing.

(b) Where an item requires a summary or outline of the provisions of any document, only a brief statement shall be made as to the pertinent provisions of the document. In addition to such statement, the summary or outline may incorporate by reference particular parts of any exhibit or document currently on file with the Commissioner which was filed within three years and may be qualified in its entirety by such reference.

Amended by R.1997 d.12, effective January 6, 1997.

See: 28 N.J.R. 4700(a), 29 N.J.R. 129(b).

Amended Exhibit references.

11:1-35.5 Forms, additional information and exhibits

(a) In addition to the information expressly required to be included in Exhibits A, B, C, D and E, the person making the filing shall include such further material information, if any, as may be necessary to make the information contained therein not misleading, as well as any additional information the Commissioner may specifically request from a particular filer.

(b) The person making the filing may also file such exhibits as it may desire in addition to those expressly required by the statement. Such exhibits shall be so marked as to indicate clearly the subject matters to which they refer. Changes to Exhibits A, B, C, D and E shall include on the top of the cover page the phrase: "Change No. (insert number) to" and shall indicate the date of the change rather than the date of the original filing.

Amended by R.1997 d.12, effective January 6, 1997.

See: 28 N.J.R. 4700(a), 28 N.J.R. 129(b).

Amended Exhibit references.

11:1-35.6 Acquisition of control: statement filing; procedures

(a) A person required to file a statement pursuant to N.J.S.A. 17:27A-2 shall furnish the required information set forth in Exhibit A.

(b) The applicant shall advise the Commissioner within two business days of any changes in the facts or information submitted pursuant to (a) above arising subsequent to the date such information was furnished.

(c) If the person being acquired is deemed to be a "domestic insurer" solely because of the provisions of N.J.S.A. 17:27A-2a, the name of the domestic insurer on the cover page shall be indicated as follows:

1. "ABC Insurance Company, a subsidiary of XYZ Holding Company."

(d) Where a domestic insurer, as defined in N.J.S.A. 17:27A-2a, is being acquired, references to "the insurer" contained in Exhibit A shall refer to both the domestic subsidiary insurer and the person being acquired.

(e) The time frames for the scheduling of the public hearing on the proposed acquisition as set forth in N.J.S.A. 17:27A-2d(2) shall not commence until all of the information required to be contained in an acquisition statement as set forth in N.J.S.A. 17:27A-2 and this subchapter has been received by the Commissioner.

(f) Upon the scheduling of the hearing, the acquiring party shall cause notice of the hearing to be published in not less than two newspapers of general circulation in this State. Such notice shall include, but not be limited to, the name of the acquiring party, the name of the insurer proposed to be acquired, and the time and place for the hearing. Such notice shall be published not later than seven days, nor earlier than 14 days, prior to the scheduled date of the hearing.

(g) A verbatim transcript of a hearing held pursuant to N.J.S.A. 17:27A-2d shall be made, and the costs thereof shall be borne by the acquiring party. Copies of the transcript may be obtained directly from the stenographic service that created the transcript. In the alternative, a copy will be available for inspection at the Department's offices. Copies of the transcript shall not be made by the Department.

(h) Until the date notice of the hearing is published pursuant to (f) above, any information received pursuant to N.J.S.A. 17:27A-2b or this subchapter as part of an acquisition of control statement filing shall be confidential and shall not be subject to public inspection or copying pursuant to the "Right to Know" law, N.J.S.A. 47:1A-1 et seq.

(i) A person whose interest may be affected by the acquisition of control of the domestic insurer may apply to the Commissioner for leave to seek discovery and to examine and cross-examine witnesses at the hearing. For the purposes of this subsection, a person whose interest may be affected by the acquisition of control means a shareholder, policyholder, claimant or creditor who has an interest that is unique, that is, not already subsumed within the Department's statutory oversight role as contemplated by N.J.S.A. 17:27A-1 et seq. If the Commissioner finds the person has an interest as set forth in this subsection, the Commissioner shall notify the person and provide a copy of the "Form A" statement filing when it becomes public pursuant to (h) above.

1. All discovery shall be limited to a copy of the "Form A" statement filing, and any documents submitted as part of the filing prior to or during the hearing.

Amended by R.2001 d.75, effective March 5, 2001.

See: 32 N.J.R. 4184(a), 33 N.J.R. 794(a).

In (g), added the last two sentences; in (h), substituted "date notice" for "day" and inserted "is published pursuant to (f) above" following "the hearing"; and inserted (i).

11:1-35.7 Annual registration of insurers

(a) An insurer required to file an annual registration statement pursuant to N.J.S.A. 17:27A-3 shall furnish the information set forth in Exhibit B within the time frames set forth in N.J.S.A. 17:27A-3a.

(b) An insurer required to file an annual registration statement pursuant to N.J.S.A. 17:27A-3 also shall furnish information set forth on Exhibit C. The insurer shall file a copy of Exhibit C in each state in which the insurer is authorized to do business, if requested by the Commissioner or other regulatory official of that state.

(c) The insurer shall file an amendment to Exhibit B within 15 days after the end of any month in which there is a material change to the information provided in the annual registration statement. Amendments shall be filed in the format of Exhibit B. Only items which are being amended shall be reported. Each such amendment shall include at the top of the cover page "Amendment No. (insert number) to Form B for (insert year)" and shall indicate the date of the change rather than the date of the original filing.

11:1-35.8 Alternative and consolidated registrations

(a) Any authorized insurer may file a registration statement on behalf of any affiliated insurer or insurers which are required to register pursuant to N.J.S.A. 17:27A-3. The registration statement may include information not required by N.J.S.A. 17:27A-1 et seq. regarding any insurer in the insurance holding company system even if such insurer is not authorized to do business in this State. In lieu of filing a registration statement in the format of Exhibit B, the authorized insurer may file a copy of the registration or similar report which it is required to file in its state of domicile, provided that:

SUBCHAPTER 39. DISCLOSURE OF MATERIAL TRANSACTIONS**11:1-39.1 Purpose and scope**

(a) This subchapter requires that information be filed with the Commissioner by domestic insurers, fraternal benefit societies, dental plan organizations, hospital service corporations, medical service corporations, dental service corporations, and health service corporations regarding certain acquisitions and dispositions of assets, and nonrenewals, cancellations or revisions of ceded reinsurance agreements, and sets forth the specific information to be filed.

(b) This subchapter shall apply to all of the entities set forth in (a) above domiciled in this State.

11:1-39.2 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 New Jersey Department of Banking and Insurance.

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

“Insurer” means: any corporation, association, partnership, reciprocal exchange, interinsurer, Lloyd’s insurer, fraternal benefit society, or other person engaged in the business of insurance pursuant to subtitle 3 of Title 17 of the Revised Statutes or subtitle 3 of Title 17B of the Revised Statutes; any hospital service corporation operating pursuant to N.J.S.A. 17:48-1 et seq.; any medical service corporation operating pursuant to N.J.S.A. 17:48A-1 et seq.; any dental service corporation operating pursuant to N.J.S.A. 17:48C-1 et seq.; any dental plan organization operating pursuant to N.J.S.A. 17:48D-1 et seq.; and any health service corporation operating pursuant to N.J.S.A. 17:48E-1 et seq.

“NAIC” means the National Association of Insurance Commissioners.

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

11:1-39.3 Disclosure of transactions

(a) Every insurer domiciled in this State shall file a report with the Commissioner disclosing material acquisitions and dispositions of assets, or material nonrenewals, cancellations or revisions of ceded reinsurance agreements, unless such acquisitions and dispositions of assets or material nonrenewals, cancellations or revisions of ceded reinsurance agreements have been submitted to the Commissioner for review, approval or information purposes pursuant to other provisions of the Title 17 or Title 17B of the Revised Statutes,

Title 11 of the New Jersey Administrative Code, or other requirements.

(b) The report required in (a) above shall be filed within 15 days after the end of the calendar month in which any of the transactions set forth in (a) above occur.

(c) One complete copy of the report, including any exhibits or other attachments filed as part thereof, shall be separately filed with the Department and the NAIC.

1. Filings with the Department shall be mailed to the following address:

New Jersey Department of Banking and Insurance
Division of Financial Examinations
20 West State Street
PO Box 325
Trenton, NJ 08625-0325

2. Filings with the NAIC shall be made in the same manner as filings of financial statements with the NAIC.

(d) All reports obtained by or disclosed to the Commissioner pursuant to this subchapter shall be given confidential treatment and shall not be subject to subpoena and shall not be made public by the Commissioner, the NAIC, or any other person, except to insurance departments of other states, without the prior written consent of the insurer to which it pertains unless the Commissioner, after giving the insurer who would be affected thereby, notice and an opportunity to be heard, determines that the interest of policyholders, shareholders or the public will be served by the publication thereof, in which event the Commissioner may publish all or any part thereof in such manner as he or she may deem appropriate.

(e) This subchapter shall not be construed as limiting the Commissioner’s authority to require any insurer to file any specific information or documents pursuant to law, including, but not limited to, copies of any reinsurance agreements.

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

11:1-39.4 Acquisitions and dispositions of assets; reporting requirements

(a) Acquisitions or dispositions of assets are not required to be reported, as otherwise required pursuant to N.J.A.C. 11:1-39.3, if the acquisitions or dispositions are not material.

1. For purposes of this subchapter, a material acquisition (or the aggregate of any series of related acquisitions during any 30 day period) or disposition (or the aggregate of any series of related dispositions during any 30 day period) is one that is non-recurring and not in the ordinary course of business and involves more than five percent of the reporting insurer’s total admitted assets as

reported in its most recent statutory annual statement filed with the Department.

(b) Asset acquisitions subject to this subchapter include every purchase, lease, exchange, merger, consolidation, succession, or other acquisition other than the construction or development of real property by or for the reporting insurer or the acquisition of materials for such purpose.

(c) Asset dispositions subject to this subchapter include every sale, lease, exchange, merger, consolidation, mortgage, hypothecation, assignment (whether for the benefit of creditors or otherwise), abandonment, destruction, or other disposition.

(d) The following shall be disclosed and provided in any report of a material acquisition or disposition of assets required to be filed pursuant to this subchapter:

1. The date of transaction;
2. The manner of acquisition or disposition;
3. A description of the assets involved;
4. The nature and amount of the consideration given or received;
5. The purpose of, or reason for, the transaction;
6. The manner by which the amount of consideration was determined;
7. The gain or loss recognized or realized as a result of the transaction;
8. The name(s) of the person(s) from whom the assets were acquired or to whom they were disposed; and
9. A copy of all documents related to the acquisition or disposition (for example, purchase agreement, lease agreement, etc.).

(e) Insurers shall report material acquisitions and dispositions on a non-consolidated basis unless the insurer is part of a consolidated group of insurers which utilizes a pooling arrangement or 100 percent reinsurance agreement that affects the solvency and integrity of the insurer's reserves and such insurer ceded substantially all of its direct and assumed business to the pool. An insurer is deemed to have ceded substantially all of its direct and assumed business to a pool if the insurer has less than \$1,000,000 total direct plus assumed written premiums during a calendar year that are not subject to a pooling arrangement and the net income of the business not subject to the pooling arrangement represents less than five percent of the insurer's capital and surplus.

11:1-39.5 Nonrenewals, cancellations or revisions of ceded reinsurance agreements; reporting requirements

(a) Nonrenewals, cancellations or revisions of ceded reinsurance agreements are not required to be reported, as otherwise required pursuant to N.J.A.C. 11:1-39.3, if the nonrenewals, cancellations or revisions are not material.

1. For purposes of this subchapter, a material nonrenewal, cancellation or revision is one that affects:

i. As respects property and casualty business, including accident and health business written by a property and casualty insurer:

(1) More than 50 percent of the insurer's total ceded written premiums; or

(2) More than 50 percent of the insurer's total ceded indemnity and loss adjustment reserves;

ii. As respects life, annuity and accident and health business, more than 50 percent of the total reserve credit taken for business ceded, on an annualized basis, as indicated in the insurer's most recent annual statement; and

iii. As respects both property and casualty, and life, annuity, and accident and health business, either of the following events:

(1) An authorized reinsurer representing more than 10 percent of a total cession is replaced by one or more unauthorized reinsurers; or

(2) Previously established collateral requirements have been reduced or waived as respects one or more unauthorized reinsurers representing collectively more than 10 percent of a total cession.

(b) No filing pursuant to (a) above shall be required if:

1. As respects property and casualty business, including accident and health business written by a property and casualty insurer, the insurer's total ceded written premium represents, on an annualized basis, less than 10 percent of its total written premium for direct and assumed business; or

2. As respects life, annuity, and accident and health business, the total reserve credit taken for business ceded represents, on an annualized basis, less than 10 percent of the statutory reserve requirement prior to any cession.

(c) The following shall be disclosed and provided in any report of a material nonrenewal, cancellation or revision of ceded reinsurance agreements required to be filed pursuant to this subchapter:

1. The effective date of the nonrenewal, cancellation or revision;

2. A description of the transaction with an identification of the initiator thereof;

3. The purpose of, or reason for, the transactions;

4. If applicable, the identity of the replacement reinsurers; and

5. A copy of the revised provisions of the reinsurance agreement.

5. The surety shall not have failed four or more Insurance Regulatory Information System (IRIS) tests, unless the applicant demonstrates to the Commissioner and its domiciliary jurisdiction that these IRIS test results are not indicative of the applicant being in a hazardous financial condition.

(c) The Department shall publish in the New Jersey Register a list of surety companies that satisfy the requirements set forth in (a) and (b) above in or about September of each year.

(d) A surety seeking to continue to be listed by the Department as having satisfied the requirements set forth in (b) above shall file with the Department a certification in the format of Appendix B to this subchapter no later than August 1 of each year.

(e) Applications and renewal applications to be listed by the Department shall be sent to:

New Jersey Department of Banking and Insurance
Division of Insurance
Office of Financial Exams
Attention: Surety Company List
20 West State Street
PO Box 325
Trenton, NJ 08625-0325

Public Notice: List of surety companies acceptable to provide payment or performance bonds.

See: 29 N.J.R. 4199(a) 29 N.J.R. 4574(a).

Public Notice: List of surety companies acceptable to provide payment or performance bonds.

See: 30 N.J.R. 3554(a).

Public Notice: List of surety companies acceptable to provide payment or performance bonds.

See: 32 N.J.R. 121(a).

Public Notice: List of surety companies acceptable to provide payment or performance bonds.

See: 32 N.J.R. 3343(a).

Amended by R.2001 d.75, effective March 5, 2001.

See: 32 N.J.R. 4184(a), 33 N.J.R. 794(a).

Amended by R.2001 d.99, effective March 19, 2001.

See: 32 N.J.R. 4194(a), 33 N.J.R. 1004(a).

Deleted former (b)5 and (b)6 and recodified (b)7 as (b)5.

Public Notice: List of surety companies acceptable to provide payment or performance bonds.

See: 33 N.J.R. 3376(b).

Public Notice: List of surety companies acceptable to provide payment or performance bonds.

See: 34 N.J.R. 3653(a).

Public Notice: List of surety companies acceptable to provide payment or performance bonds.

See: 35 N.J.R. 4142(a).

Public Notice: List of surety companies acceptable to provide payment or performance bonds.

See: 36 N.J.R. 4331(a).

Public Notice: List of surety companies acceptable to provide payment or performance bonds.

See: 38 N.J.R. 345(a).

11:1-41.5 Penalties

Failure to comply with the provisions of the subchapter shall result in the imposition of penalties as provided by law.

APPENDIX A

Rating Company	Three Highest Rating Categories	Ratings Within Three Highest Categories
A.M. Best Company	Best's Ratings: 1. Superior 2. Excellent 3. Very Good —OR—	A++, A+ A, A- B++, B+
	Financial Performance Rating: 1. Strong 2. Above average 3. Average	9, 8 7, 6 5
Standard & Poor's	1. Superior 2. Excellent Financial Security 3. Good Financial Security	AAA AA+, AA, AA- A+, A, A-
Moody's	1. Exceptional 2. Excellent 3. Good	Aaa Aa1, Aa2, Aa3 A1, A2, A3
Duff and Phelps Credit Rating Company	1. Highest claims paying ability 2. Very high claims paying ability 3. High claims paying ability	AAA AA+, AA, AA- A+, A, A-
Weiss	1. Excellent 2. Good 3. Fair	A+, A, A- B+, B, B- C+, C, C- (also includes the above rat- ings with "s" prefix)
Fitch	1. Extremely strong 2. Very strong 3. Strong	AAA AA A

APPENDIX B

REQUEST FOR LISTING BY NEW JERSEY DEPARTMENT OF INSURANCE AS ACCEPTABLE SURETY FOR PROVISION OF BONDS ON PUBLIC CONTRACTS PURSUANT TO P.L. 1995, C.384

COMPANY NAME _____
ADDRESS _____

TELEPHONE NO. _____
COMPANY NAIC NUMBER _____

GROUP NAME _____

GROUP NAIC NUMBER _____

I, _____, hereby file this certification on
 (Name and Title)
 behalf of _____ in connection with this
 (Name of Surety)
 company's application to be listed by New Jersey Department
 of Banking and Insurance for purposes of providing payment
 and performance bonds pursuant to P.L. 1995, c.384. I further
 certify that I am authorized to execute this certified statement
 on behalf of _____

 (Name of Surety)

PART I

1. The above-referenced surety is listed in the most recent
 United States Treasury Circular 570 issued July 1 of each
 year. Yes ___ No ___

If yes, go to Part III; if no, complete Part II.

PART II

1. The above-referenced surety is currently listed to
 transact business in the following jurisdictions for the
 following lines:

<u>Jurisdiction</u>	<u>Line</u>
_____	_____
_____	_____
_____	_____

(Attach additional sheets if necessary)

2. The above-referenced surety's capital and surplus or
 net cash assets, as of December 31 immediately preceding is
 \$ __, as reported in the statutory annual statement for that
 year. This amount satisfies the statutorily prescribed
 minimum capital and surplus or net cash asset requirements
 for all lines of insurance that the surety is authorized to write
 pursuant to the certificate of authority issued by its
 domiciliary jurisdiction and all states in which it is licensed to
 transact business. Yes ___ No ___

3. The above-referenced surety has been found to be in a
 hazardous financial condition by the Commissioner, its
 domiciliary jurisdiction, or any jurisdiction in which it is
 licensed, as determined pursuant to N.J.A.C. 11:2-27 or such
 other equivalent requirements in other jurisdictions in which
 the surety is licensed. Yes ___ No ___

If yes, indicate jurisdiction(s) and details regarding such
 finding below.

4. The above-referenced surety's premium to surplus ratio
 as of December 31 immediately preceding is _____ and loss
 and loss adjustment expense reserve liability to surplus ratio
 for that period is _____, as reported in the statutory annual
 statement for that period.

5. The above-referenced surety has failed four or more
 IRIS tests. Yes ___ No ___

If yes, provide an explanation that demonstrates that such
 results are not indicative that the surety is in a hazardous
 financial condition.

PART III

Dated and signed this ___ day of _____. I hereby certify
 that the foregoing statements are true and correct to the best

of my knowledge and belief. I further certify that I am aware
 that the New Jersey Department of Banking and Insurance
 will rely on this certification in connection with its
 determination whether the surety satisfies the requirements
 set forth in N.J.A.C. 11:1-41 for purposes of providing
 payment and performance bonds pursuant to P.L. 1995,
 c.384.

I am aware that if any of the foregoing statements made by
 me are willfully false, I am subject to punishment.

 (Signature of Affiant)

Amended by R.2001 d.99, effective March 19, 2001.
 See: 32 N.J.R. 4194(a), 33 N.J.R. 1004(a).

SUBCHAPTER 42. (RESERVED)

SUBCHAPTER 43. UNUSUAL HARDSHIP FOR COVERED CLAIMS UNDER THE NEW JERSEY PROPERTY-LIABILITY INSURANCE GUARANTY ASSOCIATION AND NEW JERSEY SURPLUS LINES INSURANCE GUARANTY FUND

11:1-43.1 Purpose and scope

(a) The purpose of this subchapter is to set forth the
 circumstances that shall constitute an "unusual hardship" for
 the purpose of filing a claim by a claimant with the
 Association or Fund pursuant to N.J.S.A. 17:30A-1 et seq. or
 N.J.S.A. 17:22-6.70 et seq., as applicable.

(b) This subchapter shall apply with respect to all claims
 filed with the Association or Fund after the final date set by
 the court for filing of claims against the liquidator or receiver
 of an insolvent insurer.

11:1-43.2 Definitions

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

"Association" means the New Jersey Property-Liability
 Insurance Guaranty Association established pursuant to
 N.J.S.A. 17:30A-1 et seq.

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

"Covered claim" is as defined in N.J.S.A. 17:30A-5 or
 17:22-6.72, as applicable.

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

“Due date” means the final date set by the court for the filing of claims against the liquidator or receiver of an insolvent insurer.”

“Fund” means the New Jersey Surplus Lines Insurance Guaranty Fund established pursuant to N.J.S.A. 17:22-6.70 et seq.

“Insolvent insurer” is as defined at N.J.S.A. 17:30A-5 or 17:22-6.72, as applicable.

11:1-43.3 Unusual hardship

(a) Pursuant to N.J.S.A. 17:30A-5 and 17:22-6.72, as applicable, a covered claim by the Association or Fund shall not include a claim filed with the Association or Fund, as applicable, after the final date set by the court for the filing of claims against the liquidator or receiver of an insolvent insurer, unless the claimant demonstrates unusual hardship, as determined pursuant to this subchapter, and the Commissioner approves of the treatment of the claim as a covered claim.

(b) For purposes of (a) above, a claimant may show unusual hardship by filing information that demonstrates any of the following:

1. The claimant never received notice of the due date for filing claims;

i. The claimant shall be presumed to have received notice if the notice was timely mailed to the claimant’s address currently on file with insurer;

2. The mailing address of the claimant in the insurer’s records is erroneous, and the claimant demonstrates that he or she notified the insurer or its agent of a change in address;

3. The claimant was incapable of responding to the notice due to an emergent and extreme medical event or similar emergent and extreme circumstance; or

4. The claimant is deceased, and the claimant’s estate demonstrates that the death occurred within such a time period that the representative of the claimant’s estate did not have sufficient time to advise the insurer or its agent of such circumstance.

(c) Requests for treatment of a claim on the basis of unusual hardship shall contain the following information:

1. The name, address, social security number, telephone number, and date of birth of the claimant making the application;

2. The policy number;

3. The name of the insured, if different than the claimant;

4. A description of the particular reason(s) that constitute unusual hardship as set forth in (b) above; and

5. Copies of all documents required to support the request, including, but not limited to, as applicable:

i. Notice to the insurer or agent of change of address;

ii. Death certificate;

iii. Report from a physician that specifies the type of medical condition or injury that prevented the claimant from filing a timely claim, the date such condition or injury first occurred, the date treatment was initiated, and any other relevant information; and

iv. Any additional information or documentation the Association or Fund, as applicable, or the Commissioner may specifically request from a particular claimant.

(d) Completed requests shall be sent to the Association or Fund at:

New Jersey Property-Liability Insurance Guaranty Association
(or New Jersey Surplus Lines Insurance Guaranty Fund)
Unusual Hardship Request
PO Box 868
466 Southern Blvd.
Chatham, NJ 07928-0868

(e) The Association or Fund, as applicable, shall notify the claimant, or his or her legal representative, by certified mail, return receipt requested, whether it has approved the request for a finding of unusual hardship. The Association or Fund shall concurrently file a copy of its determination with the Department. No determination by the Association or Fund, as applicable, to approve a request for a finding of unusual hardship shall be deemed to constitute acceptance of the claim otherwise as a covered claim or approval of any payment of the claim.

11:1-43.4 Request for review by the Commissioner

(a) A claimant may request a review by the Commissioner of a determination of the Association or Fund, as applicable, denying a request for a finding of unusual hardship within 20 days of receipt of the Association's or Fund's written decision by submitting to the Commissioner a request for review addressed to:

Office of Financial Solvency
New Jersey Department of Banking and Insurance
20 West State Street
PO Box 325
Trenton, NJ 08625-0325

(b) A request for review shall include those items presented in the initial request, a written statement explaining why the determination of the Association or Fund denying the initial request was incorrect, and any additional documentation in support of the request for review.

1. A copy of the request for review shall be simultaneously filed by the claimant with the Association or Fund, as applicable.

2. The Association or Fund, upon receipt of the request for review, shall forward the claimant's file to the Commissioner for his or her review.

(c) The Commissioner's final decision shall be provided to the Association or Fund, as applicable, and shall be mailed to the claimant or his or her legal representative by certified mail, return receipt requested and by regular mail. The Commissioner's decision shall constitute a final agency decision.

11:1-43.5 Confidentiality

All documents provided by a claimant pursuant to N.J.A.C. 11:1-43.3 shall be confidential and shall not be subject to public inspection or copying pursuant to the "Right-to-Know" law, N.J.S.A. 47:1A-1 et seq.

SUBCHAPTER 44. STANDARDS FOR SAFEGUARDING CUSTOMER INFORMATION

Authority

N.J.S.A. 17:1-8.1, 17:1-15e and 15 U.S.C. §§ 6801, 6805(b) and 6807.

Source and Effective Date

R.2004 d.148, effective April 19, 2004.
See: 35 N.J.R. 5210(a), 36 N.J.R. 1926(a).

11:1-44.1 Purpose and scope

(a) This subchapter establishes standards for developing and implementing administrative, technical and physical

safeguards to protect the security, confidentiality and integrity of customer information, pursuant to Sections 501, 505(b) and 507 of the Gramm-Leach-Bliley Act, 15 U.S.C. §§ 6801, 6805(b) and 6807.

(b) This subchapter shall apply to all licensees as defined herein.

(c) This subchapter shall not be deemed to limit or affect the duty of a licensee to maintain the confidentiality of information required to be kept confidential pursuant to law, including, but not limited to, N.J.S.A. 17:23A-1 et seq.

11:1-44.2 Definitions

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

"Consumer" means an individual who seeks to obtain, obtains or has obtained an insurance product or service from a licensee that is to be used primarily for personal, family or household purposes, and about whom the licensee has nonpublic personal information, or that individual's legal representative.

"Customer" means a consumer who has a customer relationship with a licensee.

"Customer information" means nonpublic personal information as defined in this section about a customer, whether in paper, electronic or other form, that is maintained by or on behalf of the licensee.

"Customer information systems" means the electronic or physical methods used to access, collect, store, use, transmit, protect or dispose of customer information.

"Customer relationship" means a continuing relationship between a consumer and a licensee under which the licensee provides one or more insurance products or services to the consumer that are to be used primarily for personal, family or household purposes.

1. A consumer has a continuing relationship with a licensee if:

- i. The consumer is a current policyholder of an insurance product issued by or through the licensee; or
- ii. The consumer obtains financial, investment or economic advisory services relating to an insurance product or service from the licensee for a fee.

2. A consumer does not have a continuing relationship with a licensee if:

- i. The consumer applies for insurance but does not purchase the insurance;
- ii. The licensee sells the consumer airline travel insurance in an isolated transaction;

iii. The individual is no longer a current policyholder of an insurance product or no longer obtains insurance services with or through the licensee;

iv. The consumer is a beneficiary or claimant under a policy and has submitted a claim under a policy choosing a settlement option involving an ongoing relationship with the licensee;

v. The consumer is a beneficiary or a claimant under a policy and has submitted a claim under that policy choosing a lump sum settlement option;

vi. The customer's policy lapsed, expired or otherwise became inactive or dormant under the licensee's business practices, and the licensee has not communicated with the customer about the relationship for a period of 12 consecutive months, except through annual privacy notices, material distributions or mass mailings required by law or regulation, communication at the direction of a State or Federal authority, or promotional materials;

vii. The individual is an insured or an annuitant under an insurance policy or annuity, respectively, but is not the policyholder or owner of the insurance policy or annuity; or

viii. The individual's last known address of record is deemed invalid for the purposes of this subchapter. An address of record is deemed invalid if mail sent to that address by the licensee has been returned by the postal authorities as undeliverable and if subsequent attempts by the licensee to obtain a current valid address for the individual have been unsuccessful.

"Licensee" means all licensed insurers, producers and other persons licensed or required to be licensed, or authorized or required to be authorized, or registered or required to be registered pursuant to Titles 17 and 17B of the New Jersey Statutes, health maintenance organizations holding a certificate of authority pursuant to N.J.S.A. 26:2J-1 et seq., and any other person or entity subject to the statute governing information practices at N.J.S.A. 17:23A-1 et seq. "Licensee" shall not include: a purchasing group; or an unauthorized insurer in regard to the surplus lines business conducted pursuant to N.J.S.A. 17:22-6.40 et seq.

"Nonpublic personal information" means "personal information" and "privileged information" as defined in N.J.S.A. 17:23A-2t and w, respectively.

"Service provider" means a person that maintains, processes or otherwise is permitted access to customer information through its provision of services directly to the licensee.

11:1-44.3 Information security program

(a) Each licensee shall implement a comprehensive written information security program that includes administrative, technical and physical safeguards for the protection of customer information. The administrative, technical and physical safeguards included in the information security program shall be appropriate to the size and complexity of the licensee and the nature and scope of its activities.

(b) A licensee shall maintain and make available appropriate records to enable the Department to determine compliance with the requirements of this subchapter.

11:1-44.4 Objectives of information security program

(a) A licensee's information security program shall be designed to:

1. Ensure the security and confidentiality of customer information;
2. Protect against any anticipated threats or hazards to the security or integrity of customer information; and
3. Protect against unauthorized access to or use of customer information that could result in substantial harm or inconvenience to any customer.

11:1-44.5 Examples of methods of development and implementation

The actions and procedures described in N.J.A.C. 11:1-44.6 through 44.9 are examples of methods of implementation of the requirements of N.J.A.C. 11:1-44.3 and 44.4. These examples are non-exclusive illustrations of actions and procedures that licensees may follow to implement N.J.A.C. 11:1-44.3 and 44.4.

11:1-44.6 Assessment of risk

The licensee identifies reasonably foreseeable internal or external threats that could result in unauthorized disclosure, misuse, alteration or destruction of customer information or customer information systems; assesses the likelihood and potential damage of these threats, taking into consideration the sensitivity of customer information; and assesses the sufficiency of policies, procedures, customer information systems and other safeguards in place to control risks.

11:1-44.7 Management and control of risk

The licensee designs its information security program to control the identified risks, commensurate with the sensitivity of the information, as well as the complexity and scope of the licensee's activities; trains staff, as appropriate, to implement the licensee's information security program; and regularly tests or otherwise regularly monitors the key controls, systems and procedures of the information security program. The frequency and nature of these tests or other monitoring practices are determined by the licensee's risk assessment.

11:1-44.8 Service provider agreements

The licensee exercises appropriate due diligence in selecting its service providers; and requires its service providers to implement appropriate measures designed to meet the objectives of this subchapter, and, where indicated by the licensee's risk assessment, takes appropriate steps to confirm that its service providers have satisfied these obligations.

11:1-44.9 Adjustment of the program

The licensee monitors, evaluates and adjusts, as appropriate, the information security program in light of any relevant changes in technology, the sensitivity of its customer information, internal or external threats to information, and the licensee's own changing business arrangements, such as mergers and acquisitions, alliances and joint ventures, outsourcing arrangements and changes to customer information systems.

11:1-44.10 Violations

Failure to comply with the provisions of this subchapter shall be deemed to constitute a violation of the statutes governing trade practices at N.J.S.A. 17:29B-1 et seq. and 17B:30-1 et seq., as applicable, and shall result in the imposition of penalties as provided in those statutes, N.J.S.A. 17:22A-26 et seq., 17:23A-1 et seq., 17:33-2, and any other provision of law.

11:1-44.11 Effective date

A licensee shall establish and implement an information security program, including appropriate policies and systems pursuant to this subchapter, by October 19, 2004.

SUBCHAPTER 45. NOTICE TO POLICYHOLDERS OF CONSUMER INSURANCE RATE INCREASES

Authority

N.J.S.A. 17:1-8.1, 17:1-15e and 17:29A-53.

Source and Effective Date

R.2003 d.496, effective December 15, 2003.
See: 35 N.J.R. 3517(a), 35 N.J.R. 5595(a).

11:1-45.1 Purpose and scope

(a) This subchapter sets forth the form and manner of notice to be provided to policyholders and the public when an insurer or rating organization files for a consumer insurance rate increase, in accordance with N.J.S.A. 17:29A-53b.

(b) This subchapter shall apply to all insurers and rating organizations that file for a consumer insurance rate increase, as required pursuant to N.J.S.A. 17:29A-53b. This subchapter shall not apply if the proposed rate change pertains to:

1. A prior approval rate filing made pursuant to N.J.S.A. 17:29A-46.6 or 17:36-5.35;
2. Rating system changes made pursuant to N.J.S.A. 17:29A-46.1 et seq.;

3. A rate filing made pursuant to any statutory change in coverage provided under a policy of private passenger automobile insurance; or

4. A rate filing by the New Jersey Personal Automobile Insurance Plan.

11:1-45.2 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.

"Consumer insurance rate increase" means a prior approval rate filing that:

1. For private passenger automobile insurance, would result in an increase in rates for any group of coverages, as defined in N.J.A.C. 11:3-16.2;
2. For homeowners' insurance, would result in an increase in rates for any policy form, that is, owners, tenants, or condominiums;
3. For personal lines property/casualty coverages, other than as set forth in 1 and 2 above, would result in a positive base rate change; and
4. For Medicare Supplemental coverages, would result in an increase for any of the standard coverage plans A through J or for any non-standard policy or certificate form used by the filer.

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

"Insurer" means an entity authorized or admitted to transact insurance in this State pursuant to Titles 17 or 17B of the New Jersey Statutes.

"Medicare supplemental coverage" means coverage under a Medicare supplement policy, as defined in N.J.S.A. 17B:26A-1e.

"Personal lines property/casualty coverages" means insurance issued for personal, family or household purposes, as set forth at N.J.A.C. 11:13-1.2(a)2.

"Private passenger automobile insurance" means direct insurance on an "automobile," as defined in N.J.S.A. 39:6A-2.

"Rating organization" means every person or persons, corporation, partnership, company, society, or association engaged in the business of ratemaking for two or more insurers, and licensed as such pursuant to N.J.S.A. 17:29A-2.

11:1-45.3 Form of notice required

(a) Subject to N.J.A.C. 11:1-45.1(b), insurers shall provide notice, in the form set forth in Exhibit A in the Appendix to this subchapter, incorporated herein by reference, of any filing for a consumer insurance rate increase, as defined in N.J.S.A. 17:29A-53b, filed directly by the insurer or on its behalf by a rating organization. The notice shall be communicated through either regular or electronic mail to the named policyholders who use the products and services subject to the consumer insurance rate increase, and shall be provided within 10 business days of the filing with the Department. In the case of regular mail, the notice shall be sent to the last known address of the named policyholder. The insurer may request policyholders to supply their electronic mail address, if they have one. If the policyholder does not have an electronic mailing address, then the insurer shall use regular mail. Insurers shall, as part of any filing for a consumer insurance rate increase, affirm that they are aware of and will comply with this notice requirement.

(b) Insurers shall not be responsible to assure receipt of the notice by all policyholders, provided the insurer has complied with N.J.A.C. 11:1-45.3. The failure of any policyholders to receive the notice shall not impact the effectiveness of any rate change that may subsequently be approved.

(c) Rating organizations shall publish notice, in the form set forth in Exhibit A in the Appendix to this subchapter, of any filing for a consumer insurance rate increase, in three newspapers of general circulation in this State, and on the rating organization's website, within 10 business days of the filing with the Department.

(d) Nothing in this rule prevents the insurer from supplementing its notice with any other explanatory information that it may wish to supply to its policyholders with respect to the rate increase.

11:1-45.4 Penalties

Failure to comply with this subchapter shall result in the imposition of penalties as authorized by law, including, but not limited to, penalties authorized pursuant to N.J.S.A. 17:33-2.

APPENDIX

Dear Policyholder:

(Salutation may be omitted by rating organizations.)

This is to provide notice as required pursuant to N.J.S.A. 17:29A-53b that (COMPANY NAME) filed on (DATE) with the New Jersey Department of Banking and Insurance a request for a rate increase in the amount ____% for (TYPE OF COVERAGE(S)).

[For PPA only] Under the proposed filing, the average liability-only policy would see a rate change of ____%. The average Full Coverage policy (includes comprehensive and collision coverage) will see a rate change of ____%. The impact of the filing on your rates may vary substantially, depending on the terms of your policy and your individual circumstances.

[For homeowners' only] Under the proposed filing, the average Owners policy (or equivalent term used by the filer) will see a rate change of ____%. The average Tenants policy (or equivalent term used by the filer) will see a rate change of ____%. The average Condominiums policy (or equivalent term used by the filer) will see a rate change of ____%. The impact of the filing on your rates may vary substantially, depending on the terms of your policy and your individual circumstances.

[For Medicare Supplemental coverages only, list the increase for each of the standard plans A through J, and the increase for each non-standard coverage policy or certificate form used by the filer to which a requested rate increase applies]. The impact of the filing on your rates may vary substantially, depending on the terms of your policy and your individual circumstances.

[For all other personal lines property/casualty coverages] Under the proposed filing, the average policy will see a rate change of ____%. The impact of the filing on your rates may vary substantially, depending on the terms of your policy and your individual circumstances.

The request for a rate increase is subject to review and approval by the Department of Banking and Insurance pursuant to law, and the request ultimately may not be approved or may not be approved for the full amount requested. If approved in whole or in part, the rate change will not affect existing policies until they come up for renewal.

**SUBCHAPTER 46. STOCK WORKERS'
COMPENSATION SECURITY FUND**

Authority

N.J.S.A. 17:1-8.1, 17:1-15e and 34:15-103 et seq.

Source and Effective Date

R.2004 d.426, effective November 15, 2004.
See: 36 N.J.R. 3476(a), 36 N.J.R. 5129(b).

11:1-46.1 Purpose and scope

(a) This subchapter sets forth procedures for the assessment of stock carriers for purposes of making contributions to the Stock Workers' Compensation Security Fund pursuant to N.J.S.A. 34:15-108.

(b) This subchapter shall apply to all stock insurers authorized or admitted to transact workers' compensation insurance in this State pursuant to Title 17 of the Revised Statutes.

11:1-46.2 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 New Jersey Department of Banking and Insurance.

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

"Insolvent stock carrier" means a stock carrier which has been determined to be insolvent, or for which, or for the assets of which, a receiver has been appointed by a court or public officer of competent jurisdiction and authority.

"Stock carrier" means any stock corporation authorized or admitted to transact workers' compensation insurance in this State, except an insolvent stock carrier.

"Stock fund" means the Stock Workers' Compensation Security Fund established pursuant to N.J.S.A. 34:15-103 et seq.

11:1-46.3 Contributions to stock fund

(a) The Department shall periodically evaluate the amount of funds in the stock fund. When the aggregate amount of all payments into the stock fund, together with accumulated interest thereon, less all its expenditures and known liabilities of all stock carriers for the payment of benefits, shall be reduced below three percent of the loss reserves of all stock carriers for the payment of benefits under N.J.S.A. 34:15-1 et seq. or 33 U.S.C. §§ 901 et seq. by reason of payments from and known liabilities of the fund, then the Commissioner shall by Order require that contributions to the fund be made based on the net premiums of each stock carrier, as shown on the insurer's most recently filed annual statement and that such contributions continue until the stock fund, over and above its known liabilities, shall be equal to not less than three percent nor more than five percent of such reserves.

(b) All payments shall be made in the amount specified in and pursuant to the Order of the Commissioner.

11:1-46.4 Penalties

Failure to comply with the provisions of this subchapter may result in the imposition of penalties as authorized by law, including, but not limited to, penalties authorized pursuant to N.J.S.A. 34:15-109.

SUBCHAPTER 47. ELECTRONIC TRANSACTIONS

Authority

N.J.S.A. 17:1-8.1, 17:1-15e, and 12A:12-1 et seq.

Source and Effective Date

R.2005 d.83, effective March 7, 2005.
See: 36 N.J.R. 4207(a), 37 N.J.R. 775(a).

11:1-47.1 Purpose and scope

(a) This subchapter recognizes and permits electronic transactions between carriers or producers, and applicants, insureds, or other parties.

(b) This subchapter applies to all transactions between carriers or producers, and an applicant, insured or other party for all kinds of insurance pursuant to Titles 17 and 17B of the New Jersey Statutes. This subchapter shall also apply to transactions involving the PAIP and CAIP. This subchapter shall not apply to cancellation, nonrenewal or termination of any insurance coverage. This subchapter shall not apply to filings required to be made with the Department.

11:1-47.2 Definitions

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

"CAIP" means the Commercial Automobile Insurance Plan established pursuant to N.J.S.A. 17:29D-1 and N.J.A.C. 11:3-1.

"Carrier" means an insurance company, health service corporation, hospital service corporation, medical service corporation, dental service corporation, dental plan organization or health maintenance organization approved, authorized, admitted, or eligible to transact business in this State pursuant to Titles 17, 17B or 26 of the New Jersey Statutes, as applicable.

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

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

"Electronic record" is as defined in N.J.S.A. 12A:12-2.

"Electronic signature" is as defined in N.J.S.A. 12A:12-2.

"PAIP" means the Personal Automobile Insurance Plan established pursuant to N.J.S.A. 17:29D-1 and N.J.A.C. 11:3-2.

"Producer" means a person required to be licensed pursuant to N.J.S.A. 17:22A-26 et seq. to sell, solicit or negotiate insurance in this State.

"Record" is as defined in N.J.S.A. 12A:12-2.

11:1-47.3 Electronic transactions

(a) To the extent any statute or rule requires that a transaction or record related thereto between a carrier or a producer and an applicant, insured or other party be in writing, with or without a signature, such transaction or record may be made electronically, provided the requirements of N.J.S.A. 12A:12-1 et seq. with respect to the use of electronic transactions, are satisfied.

(b) All parties shall agree to the use of electronic records in order for such transactions to be given effect.

(c) Carriers and producers shall develop appropriate procedures for the use of electronic transactions in their dealings with applicants, insureds or any other party. The procedures shall provide for the use of electronic records and transactions consistent with all requirements of law.

(d) All procedures shall be part of a carrier's underwriting rules, to the extent underwriting rules are subject to review and approval by the Commissioner. If underwriting rules are not subject to review and approval, such procedures shall be included in the carrier's or producer's business plan.

11:1-47.4 Penalties

Failure to comply with the provisions of this subchapter may result in the imposition of penalties as authorized by law, including, but not limited to, penalties authorized pursuant to N.J.S.A. 17:33-2 and 17B:21-2.