

(h) In any instance in which an insurer may, pursuant to the provisions of this subchapter, nonrenew an automobile policy, it may, in lieu of the nonrenewal and in compliance with such provisions, condition the renewal of the policy upon a change of limits or elimination of any coverage not required by law.

(i) A notice of nonrenewal shall not be valid unless it is issued in accordance with N.J.A.C. 11:3-8.3 and authorized by the Commissioner of Banking and Insurance pursuant to N.J.A.C. 11:3-8.4 and 8.5.

Amended by R.1973 d.30, effective January 25, 1973.

See: 4 N.J.R. 305(b), 5 N.J.R. 48(a).

Amended by R.1976 d.328, effective October 18, 1976.

See: 8 N.J.R. 421(a), 8 N.J.R. 516(e).

Amended by R.1977 d.100, effective March 23, 1977.

See: 9 N.J.R. 178(b).

Amended by R.1977 d.437, effective January 1, 1978.

See: 9 N.J.R. 435(d), 9 N.J.R. 586(b).

Amended by R.1983 d.190, effective June 6, 1983.

See: 15 N.J.R. 231(a), 15 N.J.R. 927(a).

Recodified from 11:3-8.1. Replaced (d).

Amended by R.1986 d.418, effective October 6, 1986.

See: 18 N.J.R. 1079(a), 18 N.J.R. 2039(a).

Emergency Amendment, R.1990 d.626, effective November 26, 1990, operative April 1, 1991 (expired January 25, 1991).

See: 22 N.J.R. 3766(b).

Recodified from 11:3-8.2. In (f)1i, added notice of eligibility points and added ii-iv.

Adopted Concurrent Proposal, R.1991 d.89, effective January 25, 1991, operative April 1, 1991.

See: 22 N.J.R. 3766(b), 23 N.J.R. 507(a).

Provisions of emergency amendment R.1990 d.626 readopted without change.

Amended by R.1991 d.45, effective February 4, 1991.

See: 22 N.J.R. 1678(a), 23 N.J.R. 306(b).

In (f): revised address in (f)2i and deleted NJAFIUA reference in (f)3, adding text "... a residual market mechanism created by statute."

Amended by R.1998 d.43, effective January 20, 1998.

See: 29 N.J.R. 3107(a), 30 N.J.R. 366(b).

In (f), added 3 and 4.

Amended by R.1999 d.270, effective August 16, 1999.

See: 30 N.J.R. 2564(a), 31 N.J.R. 2383(b).

In (b), rewrote the last sentence; rewrote (c); in (f), changed N.J.A.C. references throughout, rewrote the introductory paragraph in 1, deleted "applicable to the nonstandard rate level of an approved standard/nonstandard rating plan" following "rules" in the first sentence of 1ii, and deleted a former 4; and rewrote (i).

Case Notes

Notices of nonrenewal must be sent in strict compliance with statutory provisions. *Lopez v. New Jersey Auto. Full Ins. Underwriting Ass'n*, 239 N.J.Super. 13, 570 A.2d 994 (A.D.1990), certification denied 122 N.J. 131, 584 A.2d 206.

Renewal policy need not be issued until premium is paid. *Lopez v. New Jersey Auto. Full Ins. Underwriting Ass'n*, 239 N.J.Super. 13, 570 A.2d 994 (A.D.1990), certification denied 122 N.J. 131, 584 A.2d 206.

Insurance agent who continued to service insurer's policyholders subsequent to termination with insurance company, established prima facie case of quasi-contract. *Cohen v. Home Ins. Co.*, 230 N.J.Super. 72, 552 A.2d 654 (A.D.1989).

Policy binder in effect for more than 60 days held to provide coverage in absence of formal notice of cancellation, despite lack of any premium payment and knowledge that insurer would not issue policy. *Miney v. Baum*, 170 N.J.Super. 282, 406 A.2d 234 (Law Div.1979).

Provision that no insurer shall refuse to renew coverage without consent of the Commissioner upheld against constitutional challenges. *Sheeran v. Nationwide Mutual Insurance Co., Inc.*, 80 N.J. 548, 404 A.2d 625 (1979).

Under assigned risk automobile insurance plan, 45 day notice sufficed for non-renewal expiration; broker held to have breached duty to insured in failing to advise him of ramifications of expiration. *Commercial Union Assurance Companies v. State Farm Mutual Automobile Insurance Co.*, 158 N.J.Super. 326, 385 A.2d 1286 (Law Div.1978).

Proof of mailing of notice of cancellation held to be conclusive proof of provision of such notice to insured. *Weathers v. Hartford Insurance Group*, 77 N.J. 228, 390 A.2d 548 (1978).

Insured's latest accident justifies insurer declining coverage. *Hakim v. State Farm Insurance Company*, 97 N.J.A.R.2d (INS) 20.

11:3-8.4 Standards of nonrenewal—ineligible persons

(a) An insurer may issue a notice of nonrenewal to any person who is not an eligible person as defined in N.J.A.C. 11:3-34.

1. For the purpose of determining whether a person is an eligible person who must be renewed, an insurer shall consider those eligibility points accrued only in the 36-month period ending 90 days prior to the expiration of the current policy.

2. An insurer shall not issue a notice of nonrenewal for the reason that a member of the insurer's household is not an eligible person unless the member of the insured's household usually accounts for 10 percent or more of the use of the vehicle insured for the purpose of this section:

i. Any driver who is the principal driver of an automobile shall be presumed not to account for 10 percent or more of the use of any other automobile in the household.

ii. Except when there are more automobiles than drivers in the household, a person shall be presumed not to be the principal driver of more than one automobile.

3. No insurer shall issue a notice of nonrenewal to any person qualified to be renewed in accordance with the insurer's filed and approved underwriting rules.

(b) An insurer which has filed a tier rating plan pursuant to N.J.A.C. 11:3-19A may issue notices of intention not to renew any insured who is not an eligible person and who no longer qualifies for any rate level in accordance with its approved underwriting rules.

Amended by R.1983 d.190, effective June 6, 1983.

See: 15 N.J.R. 231(a), 15 N.J.R. 927(a).

Recodified from 11:3-8.1(e)-(g).

Amended by R.1986 d.418, effective October 6, 1986.

See: 18 N.J.R. 1079(a), 18 N.J.R. 2039(a).

Emergency Repeal and New Rule, R.1990 d.626, effective November 26, 1990, operative April 1, 1991 (expired January 25, 1991).

See: 22 N.J.R. 3766(b).

Recodified from 11:3-8.3.

Adopted Concurrent Proposal, R.1991 d.89, effective January 25, 1991, operative April 1, 1991.

See: 22 N.J.R. 3766(b), 23 N.J.R. 507(a).

Provisions of emergency repeal and new rule R.1990 d.626 readopted with changes.

Amended by R.1999 d.270, effective August 16, 1999.

See: 30 N.J.R. 2564(a), 31 N.J.R. 2383(b).

In (a)3, substituted "filed and approved underwriting rules" for "underwriting rules filed and approved pursuant to N.J.A.C. 11:3-35" at the end; and in (b), substituted a reference to tier rating plans for a reference to standard/nonstandard rating plans, and changed N.J.A.C. reference.

Case Notes

Nonmailing or mailing of renewal offer for New Jersey Automobile Full Insurance Underwriting Association policy by mail less than 30 days before expiration date results in coverage beyond expiration date for reasonable period. *Gatto v. New Jersey Auto. Full Ins. Underwriting Ass'n*, 284 N.J.Super. 665, 666 A.2d 204 (A.D.1995).

Charge to which insured pleaded guilty in New York, operating a motor vehicle while under the influence, was substantially similar in nature to an offense in New Jersey and justified nonrenewal of automobile policy. *Chillemi v. Selective Insurance*, 95 N.J.A.R.2d (INS) 89.

At fault accident in which insured was involved was an event under automobile policy giving insurer right to decline renewal. *Wenzler v. ITT Hartford*, 95 N.J.A.R.2d (INS) 47.

Police report established five-point at fault accident which, when combined with six-point speeding violations, justified insurer in declining to renew automobile policy. *Fichera v. Liberty Mutual*, 95 N.J.A.R.2d (INS) 41.

Renewal of automobile policy for one period despite accumulation of points did not preclude nonrenewal in next period for same points. *Liberty Mutual v. Lee*, 95 N.J.A.R.2d (INS) 38.

Accumulation of nine or more points by member of insured's household justified nonrenewal of auto policy, *Pandola v. State Farm*, 95 N.J.A.R.2d (INS) 32.

Insured at-fault for automobile accident; insured could decline to renew insurance. *AMICA Mutual Insurance Co. v. Farley*, 93 N.J.A.R.2d (INS) 51.

11:3-8.5 Other nonrenewals—standards

(a) Subject to the limitation set forth in N.J.A.C. 11:3-8.6, an insurer may issue a notice of nonrenewal to an insured, in the following instances:

1. In accordance with N.J.S.A. 17:29C-7.1f, when the policyholder or other person insured under the policy either has:

i. Provided false or misleading information in connection with an application or renewal of coverage, or as part of a claim for benefits; or

ii. Failed to provide the minimum information necessary to accurately rate the policy or renewal.

2. In accordance with N.J.S.A. 17:29C-7.1b, an insurer may nonrenew the policies of two percent of the insurer's in force voluntary market policies in each rating territory.

3. In accordance with N.J.S.A. 17:29C-7.1c, an insurer may nonrenew one automobile for each two automobiles written by the insurer during the same calendar year and in the same rating territory.

Repeal and New Rule, R.1999 d.270, effective August 16, 1999.

See: 30 N.J.R. 2564(a), 31 N.J.R. 2383(b).

Section was "Additional nonrenewals".

11:3-8.6 Limitations on nonrenewal

(a) No insurer shall nonrenew a policy based on N.J.A.C. 11:3-8.5(a)1i without having first conducted an investigation and reported the matter in accordance with the insurer's Fraud Detection and Prevention Plan.

(b) No insurer shall nonrenew a policy for failure to complete and return a renewal questionnaire without having first given written notice to the policyholder one full policy cycle prior to the issuance of the notice of nonrenewal that:

1. At the next renewal, the insurer shall send the policyholder a renewal questionnaire, which must be completed and returned; and

2. Failure to complete and return that renewal questionnaire may result in the nonrenewal of the policy

(c) No insurer shall nonrenew a policy pursuant to N.J.A.C. 11:3-8.5(a)2 and 3:

1. In an amount in excess of 20 percent of the entire private passenger automobile insurance book of business of any one producer in force with the insurer at the end of the previous calendar year; and

2. Unless the insured or any other operator insured under the policy has individually, within five years prior to the expiration of the policy, two or more of the following events:

i. An at-fault accident as defined by N.J.A.C. 11:3-34.3;

ii. A motor vehicle violation for which four or more automobile insurance eligibility points accumulate under N.J.A.C. 11:3-34.5; or

iii. Has failed to maintain insurance coverage without lapse as required by P.L. 1998, c.21 and 22, sec. 4 and 6.

(d) No insurer shall nonrenew a policy pursuant to N.J.A.C. 11:3-8.5(a)3 in any rating territory containing a municipality designated as an automobile urban enterprise zone (UEZ) unless the insurer's aggregate voluntary market share in the UEZs is at least 95 percent of the insurer's Statewide market share excluding UEZs as of the most recent UEZ in force report filed in accordance with N.J.A.C. 11:3-46.13 for the quarter ending September 30.

(e) Except as prohibited by (d) above, an insurer may nonrenew a policy pursuant to N.J.A.C. 11:3-8.5(a)3 in a rating territory where the number of its in-force exposures has declined in the previous year as indicated by the two most recent in-force exposure reports for the quarter ending December 31.

(f) Nothing in these rules or their application shall be construed to authorize insurers to act in contravention of any applicable State or Federal law prohibiting discrimination on impermissible bases.

New Rule, R.1999 d.270, effective August 16, 1999.

See: 30 N.J.R. 2564(a), 31 N.J.R. 2383(b).

Former N.J.A.C. 11:3-8.6, Suspension of nonrenewals, recodified to N.J.A.C. 11:3-8.7.

11:3-8.7 Suspension of nonrenewals

Notwithstanding the provisions of this subchapter, if the plan for automobile insurance established pursuant to N.J.S.A. 17:29D-1 is not accepting new applications for coverage pursuant to N.J.S.A. 17:29D-1(d), no insurer transacting automobile insurance in this State shall refuse to renew any private passenger automobile insurance policy in this State.

Emergency New Rule, R.1990 d.626, effective November 26, 1990, operative April 1, 1991 (expired January 25, 1991).

See: 22 N.J.R. 3766(b).

Adopted Concurrent Proposal, R.1991 d.89, effective January 25, 1991, operative April 1, 1991.

See: 22 N.J.R. 3766(a), 23 N.J.R. 507(a).

Provisions of emergency new rule readopted without change.

Recodified from N.J.A.C. 11:3-8.6 by R.1999 d.270, effective August 16, 1999.

See: 30 N.J.R. 2564(a), 31 N.J.R. 2383(b).

Former N.J.A.C. 11:3-8.7, Reporting requirements, recodified to N.J.A.C. 11:3-8.8.

11:3-8.8 Reporting requirements

(a) Insurance companies shall maintain records of nonrenewals for not less than five years which shall include a copy of the notice of nonrenewal, data concerning the allowable number of nonrenewals in each territory computed in accordance with N.J.A.C. 11:3-8.5(a)2, and data concerning the actual number of newly insured automobiles and nonrenewals in each territory for each category, computed in accordance with N.J.A.C. 11:3-8.5(a)3. Such records and data shall be made available to the Department upon request.

(b) Each automobile insurer shall report on June 30 and December 31 the number of exposures represented by policies nonrenewed during the preceding 180 days in accordance with N.J.A.C. 11:3-8.5(a)2 (two percent) and 11:3-8.5(a)3 (two for one). Reports shall be due 20 days after the end of the reporting period and shall be on a form acceptable to the Commissioner.

New Rule, R.1986 d.418, effective October 6, 1986.

See: 18 N.J.R. 1079(a), 18 N.J.R. 2039(a).

Emergency Repeal and New Rule, R.1990 d.626, effective November 26, 1990, operative April 1, 1991 (expired January 25, 1991).

See: 22 N.J.R. 3766(b).

Recodified from 11:3-8.5.

Adopted Concurrent Proposal, R.1991 d.89, effective January 25, 1991, operative April 1, 1991.

See: 22 N.J.R. 3766(a), 23 N.J.R. 507(a).

Provisions of emergency repeal and new rule, R.1990 d.626 readopted without change.

Recodified from N.J.A.C. 11:3-8.7 and amended by R.1999 d.270, effective August 16, 1999.

See: 30 N.J.R. 2564(a), 31 N.J.R. 2383(b).

Rewrote the section. Former N.J.A.C. 11:3-8.8, Separability, recodified to N.J.A.C. 11:3-8.9.

11:3-8.9 Separability

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

New Rule, R.1986 d.418, effective October 6, 1986.

See: 18 N.J.R. 1079(a), 18 N.J.R. 2039(a).

Recodified from 11:3-8.6 as part of Emergency Amendments filed as R.1990 d.626, effective November 26, 1990, operative April 1, 1991.

See: 22 N.J.R. 3766(b).

Adopted Concurrent Proposal, R.1991 d.89, effective January 25, 1991, operative April 1, 1991.

See: 22 N.J.R. 3766(a), 23 N.J.R. 507(a).

Recodified from N.J.A.C. 11:3-8.8 by R.1999 d.270, effective August 16, 1999.

See: 30 N.J.R. 2564(a), 31 N.J.R. 2383(b).

Former N.J.A.C. 11:3-8.9, Penalties, recodified to N.J.A.C. 11:3-8.10.

11:3-8.10 Penalties

(a) Any person violating the provisions of this subchapter shall be subject to such penalties as may be authorized by law.

(b) In addition to any such penalties, the Commissioner may, after notice and hearing, suspend or revoke the rights of any insurer or group of insurers under N.J.A.C. 11:3-8.4.

New Rule, R.1986 d.418, effective October 6, 1986.

See: 18 N.J.R. 1079(a), 18 N.J.R. 2039(a).

Recodified from 11:3-8.7 as part of Emergency Amendments filed as R.1990 d.626, effective November 26, 1990, operative April 1, 1991.

See: 22 N.J.R. 3766(b).

Adopted Concurrent Proposal, R.1991 d.89, effective January 25, 1991, operative April 1, 1991.

See: 22 N.J.R. 3766(a), 23 N.J.R. 507(a).

Recodified from N.J.A.C. 11:3-8.9 by R.1999 d.270, effective August 16, 1999.

See: 30 N.J.R. 2564(a), 31 N.J.R. 2383(b).

APPENDIX

EXHIBIT A

New Jersey Auto Consumers' Rights Q&A

New Jersey Department of Banking and Insurance

PO Box 325

Trenton, NJ 08625-0325

1-800-446-7467

*Shopping for Auto Insurance? Start
now and know your rights.*

Below are some of the most commonly asked questions about auto insurance and the answers every consumer should have before shopping for a new policy. But remember, it is difficult to take advantage of your rights if you wait until the last minute.

● *Can a company refuse to sell auto insurance to me?*

No, not as long as you are an "eligible" driver under the law, based primarily on motor vehicle violations, at-fault accidents and lapses in coverage. More than 97 percent of New Jersey drivers are eligible for coverage by all but a very few companies. If your application is declined, the company must tell you the reason, in writing.

● *There are no insurance agents in my neighborhood? Where can I get insurance?*

Call the Department of Banking and Insurance for an annual premium comparison survey and a list of all companies that sell insurance in New Jersey. Many are "direct writers," who sell insurance over the telephone or by mail.

● *Can I be denied insurance because of where I live or my race, sex, or age?*

No. Insurance companies are barred by law from refusing to sell auto insurance coverage based on any of those factors.

● *An insurance agent refused to tell me about rates. Is this right?*

No. Insurance companies and agents must provide general pricing information for your area upon request. If you meet with an agent to get a "quote," or specific pricing for your policy, any agent who sells for multiple companies must give you quotes for each one.

● *Will I have to wait several weeks to get an appointment to buy auto insurance coverage?*

No. If a company uses appointments, you should be scheduled so that you can get coverage before your current policy expires. Tell the agent your current expiration date, and get an appointment well in advance so your coverage will not lapse. Give yourself time to shop around—you might get a better price. Remember that processing the application will take some time, so don't wait until the last minute.

● *What documents do I have to provide to get insurance?*

That can vary, so be sure to ask and make a list of what is needed. You will be asked to provide a copy of your driver's license and registration certificate and you may be asked to supply other information or documents. Companies cannot require you to provide a copy of your driver's "abstract," or Division of Motor Vehicle record. You may wish to bring one if you do not have time to wait for the company to obtain one. It's up to you.

● *How much time does an insurance company have to approve or reject my application once it is completed?*

The company has 5 business days from the time it receives a completed application to approve or decline it, and the clock starts running *when the company receives the application*, not when you put it in the mail. If you buy through an agent, ask how long it will take for the company to receive your application and you will know when to expect an answer.

● *Can I do anything to reduce the cost of my insurance?*

Yes. Give yourself enough time to shop around. Prices vary from company to company. When you apply for insurance coverage, you will be asked to complete a "coverage selection form." Read the form carefully. You can pay less by taking advantage of cost-saving options available. Buy *only* the insurance you need. You can help lower the cost of insurance by reporting insurance fraud and spotting aggressive drivers who cause accidents.

● *Who should I call?*

To obtain shopping information,

Insurance Consumer Hotline

1-800-446-7467

To report suspected fraud

Insurance Fraud Prevention

1-800-373-8568

To report aggressive drivers

New Jersey State Police

1-888-723-7623

New Rule, R.1998 d.43, effective January 20, 1998.
See: 29 N.J.R. 3107(a), 30 N.J.R. 366(b).

Recodified from N.J.A.C. 11:3-8 Appendix Exhibit C by R.1999 d.270,
effective August 16, 1999.

See: 30 N.J.R. 2564(a), 31 N.J.R. 2383(b).

Former N.J.A.C. 11:3-8 Appendix Exhibit A, Nonrenewal report—A,
repealed.

EXHIBIT B (RESERVED)

Repealed by R.1999 d.270, effective August 16, 1999.

See: 30 N.J.R. 2564(a), 31 N.J.R. 2383(b).
Exhibit was "Nonrenewal report—B".

EXHIBIT C (RESERVED)

Recodified to N.J.A.C. 11:3-8 Appendix Exhibit A by R.1999 d.270,
effective August 16, 1999.

See: 30 N.J.R. 2564(a), 31 N.J.R. 2383(b).

SUBCHAPTER 9. RATING INFORMATION; AUTOMOBILE INSURANCE ON PRIVATE PASSENGER CARS

11:3-9.1 Rating information; private passenger cars; automobile insurance

(a) Every automobile insurance policy subject to New Jersey rates and providing coverage for an individually owned (or jointly owned by husband and wife; or two or more relatives resident of the household) private passenger automobile and/or any motor vehicle rates as a private passenger automobile shall be accompanied by rating information applicable to the premium determination. Such information must include the criteria pertaining to any individual driver classification plan used by the company and shall recite any rules that apply to the chargeability of accidents and convictions.

(b) If the declaration page or extension certificate or similar documents to the insured identifies the insured's car by a code, or other abbreviation, the rating information may be supplied by a rating information form that interprets the code number or abbreviation.

(c) Every company shall develop a rating information format adapted to the classification system approved for and used by the company in this State. Such format shall be submitted to the Commissioner of Insurance for approval initially within 30 days of the effective date of this regulation, and subsequently within 15 days of any revision of the classification system approved for the company. Filings of the rating information format by a rating organization shall be applicable to members and subscribers of such organization unless such companies deviate from the rating organization's classification system.

(d) This regulation shall be effective August 31, 1973. Use of approved forms will be required on all new and renewal business with effective dates January 1, 1974 and thereafter.

R.1973 d.206, effective August 31, 1973.

See: 5 N.J.R. 150(b), 5 N.J.R. 282(b).

Amended by R.1991 d.45, effective February 4, 1991.

See: 22 N.J.R. 1678(a), 23 N.J.R. 306(b).

Deleted subsection (b) regarding New Jersey Automobile Insurance Plan and recodified existing (c)-(e) as (b)-(d) with no change in text.

11:3-9.2 (Reserved)

R.1975 d.130, eff. July 1, 1975.

See: 7 N.J.R. 113(a), 7 N.J.R. 276(d).

Repealed by R.1996 d.246, effective June 3, 1996.

See: 27 N.J.R. 2048(a), 28 N.J.R. 3002(b).

Section was "Private passenger automobile rating class; revoked or suspended operator".

SUBCHAPTER 10. AUTO PHYSICAL DAMAGE CLAIMS

11:3-10.1 Scope

This subchapter applies to claims arising under motor vehicle collision and comprehensive coverages.

Amended by R.1985 d.629, effective December 16, 1985.

See: 16 N.J.R. 3170(a), 17 N.J.R. 2988(a).

Section heading was Application.

Case Notes

Insurers' activities in estimating repair costs held not an Antitrust Act violation. *Chick's Auto Body v. State Farm Mutual Automobile Insurance Co.*, 168 N.J.Super 68, 401 A.2d 722 (Law Div.1979), affirmed per curiam 176 N.J.Super. 320, 423 A.2d 311 (App.Div.1980).

11:3-10.2 Definitions

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

"Actual cash value", unless otherwise specifically defined by law or policy, means the lesser of the amounts for which the insured or the designated representative can reasonably be expected to:

1. Repair the motor vehicle to its condition immediately prior to the loss; or
2. Replace the motor vehicle with a substantially similar vehicle. The amount shall include all moneys paid or payable as sales taxes on the motor vehicle repaired or replaced. This paragraph shall not be construed to prevent an insurer from issuing a policy where the amount of damages to be paid in the event of a total loss is a specified dollar amount.

"Agreed price" or "figure" means the amount agreed to by the insurer and the insured, or their representatives, as the reasonable cost to replace the motor vehicle or to repair damages to the motor vehicle resulting from the loss, without considering any deductible or deductions.

"Designated representative" means a person designated by the insured to represent the insured in negotiations with the insurer in an attempt to settle the claim. The designated representative may be any person authorized by the insured who may act legally in his or her behalf.

"Motor vehicle" shall have the meaning ascribed in N.J.S.A. 39:1-1.