

9. Copies of each insurance or reinsurance policy purchased by the fund;

10. A description of any producer arrangement plan by which producers, who shall be licensed pursuant to N.J.S.A. 17:22A-1 et seq., represent members in their dealings with the fund. The description shall include, but not be limited to, copies of all producer contracts, which shall include a description of the producer's obligations, responsibilities and compensation; the duration of such contracts; and an indication whether the contracts are subject to renewal. Copies of renewal contracts or a notice of renewal shall also be provided consistent with the requirements set forth in (c)2 above.

i. The compensation paid to producers shall be reasonable. The Commissioner may disapprove any arrangement if he or she determines that the terms of the arrangement are unreasonable;

11. A cash management plan, which shall include the designation of depository institution(s) for the holding of fund monies and the fund's investment policy; and

12. A copy of the application form to be utilized by the fund for prospective new members applying for membership in the fund.

(d) Each joint insurance fund shall, concurrently with the filing of its bylaws as provided at N.J.A.C. 11:15-2.5(a), file its plan of risk management and any amendment thereto with the Department as provided in N.J.S.A. 40A:10-41 containing the information as specified in (e) below.

(e) The commissioners shall prepare, or cause to be prepared a plan of risk management for the joint insurance fund. The plan description shall include, but not be limited to:

1. The perils or liability to be insured against;
2. The limits of coverage, whether self-insurance, direct insurance purchased from a commercial carrier, or reinsurance;
3. The amount of risk to be retained by the fund;
4. The amount of unpaid claims to be established;
5. The proposed method of assessing contributions to be paid by each member of the fund;
6. Procedures governing loss adjustment and legal fees;
7. Coverage to be purchased from a commercial insurer, if any;
8. Reinsurance to be purchased, if any, and the amount of premium therefor.
9. Procedures for the closure of fund years including the maintenance of all relevant accounting records;

10. The assumptions and methodology used for the calculation of appropriate reserves required to be established, maintained and administered in accordance with sound actuarial principles pursuant to (a)3 above;

11. The maximum amount a certifying and approving officer may approve for payment pursuant to N.J.A.C. 11:15-2.22; and

12. For environmental impairment liability funds, a full description of all coverages to be provided, including, but not limited to, defense services, environmental management or risk management services, above-ground/underground storage tank and/or off-site storage/spills involving sudden and accidental claims, and third-party liability claims.

(f) The Commissioner may, at the time of filing of the bylaws and plan of risk management and whenever thereafter he or she deems it expedient, make or cause to be made, an examination of the assets and liabilities, financial condition, method of conducting business and all other affairs of any fund. For the purpose of the examination, the Commissioner may retain attorneys, appraisers, independent actuaries, independent certified public accountants or other professionals or specialists as examiners, or may request the fund commissioners or the executive committee, if any, to authorize and employ such person or persons to conduct the same or to assist therein as he or she deems advisable. The reasonable expenses of the examination shall be fixed and determined by the Commissioner, and such expenses shall be paid by the fund examined to the appropriate entity or person upon presentation of a detailed account.

1. For purposes of completing an examination of any fund pursuant to N.J.S.A. 40A:10-47 and this subchapter, the Commissioner may examine or investigate any person, or the business of any person, insofar as such examination or investigation is, in the sole discretion of the Commissioner, necessary or material to the examination of the fund.

2. Every fund or person from whom information is sought, including its officers, directors and agents, shall provide the Commissioner or other person appointed as an examiner pursuant to this subsection, timely, convenient, and free access at all reasonable hours at its offices to all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the fund being examined.

3. The administrator and servicing organization(s), and their officers, directors, employees and agents, or other person, shall facilitate the examination and aid in the examination so far as it is in their power to do so. The Commissioner may, in accordance with the procedures set forth in N.J.A.C. 11:15-2.8, suspend or terminate the authority of any fund, if the fund, by its administrator, servicing organizations, or officers, directors, employees, or agents thereof, refuses to submit to an examination or to comply with any reasonable request of the examiners.

Amended by R.1991 d.16, effective January 7, 1991.

See: 22 N.J.R. 16(a), 23 N.J.R. 112(a).

Added new (c)8 and 9; made more specific various provisions throughout.

Amended by R.1995 d.408, effective August 7, 1995.

See: 26 N.J.R. 2725(a), 26 N.J.R. 3592(a), 27 N.J.R. 2938(a).

Combined (a)8 and (a)9 as (a)8; redesignated (a)10 as (a)9; added a new (a)10; added (b)10.i through (b)10.vi, (b)13, (b)14, (c)2.i, (c)8.i, (c)10, (c)11, (e)9 through (e)12 and (f)1 through (f)3 and made other minor amendments.

Amended by R.1996 d.534, effective November 18, 1996.

See: 28 N.J.R. 4027(a), 28 N.J.R. 4877(a).

Amended by R.1999 d.350, effective October 18, 1999.

See: 31 N.J.R. 2125(b), 31 N.J.R. 3091(a).

In (b)9, deleted references to ordinances throughout.

Amended by R.2003 d.366, effective September 15, 2003.

See: 35 N.J.R. 1487(a), 35 N.J.R. 4285(b).

In (f), deleted "but at minimum not less frequently than once every five years," and neutralized gender references throughout the introductory paragraph.

11:15-2.7 Disapproval of bylaws and plan of risk management

If the Commissioner determines that the bylaws or plan of risk management of the fund or any subsequent amendments thereto do not contain all of the information set forth in N.J.A.C. 11:15-2.6, are not submitted in the proper format set forth in N.J.A.C. 11:15-2.5, or otherwise do not meet the requirements of N.J.S.A. 40A:10-36 et seq. or this subchapter, the Commissioner shall disapprove the bylaws or plan of risk management and notify the fund in writing, which notice shall contain the specific reasons for disapproval, and the requirements to be met before approval may be granted. If not disapproved by the Commissioner within 30 working days of receipt of the bylaws and plan of risk management or any amendments or changes thereto, which contain all of the information and documentation set forth in N.J.A.C. 11:15-2.6, in the format set forth in N.J.A.C. 11:15-2.5, and which meet the requirements of N.J.S.A. 40A:10-36 et seq. and this subchapter, the bylaws and plan shall be deemed approved.

Amended by R.1995 d.408, effective August 7, 1995.

See: 26 N.J.R. 2725(a), 26 N.J.R. 3592(a), 27 N.J.R. 2938(a).

Provided citations to appropriate N.J.S.A. sections and made minor changes.

Amended by R.1996 d.534, effective November 18, 1996.

See: 28 N.J.R. 4027(a), 28 N.J.R. 4877(a).

11:15-2.8 Revocation of approval

(a) After notice and opportunity for a hearing, the Commissioner may suspend or terminate the authority of any fund, or direct or take any action deemed necessary for good cause, to enable a fund to meet its obligations, cover its expected losses, or to liquidate, rehabilitate or otherwise modify its affairs if a fund:

1. Is found to be insolvent or has experienced a deterioration in financial condition to the extent that it causes or may cause an adverse affect upon the ability of the fund to pay expected losses;
2. Fails to pay any fee or assessment;
3. Fails to pay any claim within 30 days after a final judgment is rendered against the fund or the fund's obligation for such claim otherwise becomes final;
4. Fails to comply with any of the provisions of N.J.S.A. 40A:10-36 et seq. or this subchapter, or with any

lawful order of the Commissioner with the time prescribed; or

5. Fails to follow its approved bylaws or plan of risk management.

(b) In addition, the Commissioner may suspend or terminate a fund's authority if, after notice and opportunity for hearing, he or she finds that:

1. There was a material misrepresentation in any of the information supplied to the Commissioner or the Commissioner of the Department of Community Affairs;
2. The fund, or any of its commissioners, administrator, servicing organization or agents has otherwise shown itself to be untrustworthy or incompetent; or
3. The fund, its commissioners, administrator, servicing organization or agents has misappropriated, converted, illegally withheld, or refused to pay over upon proper demand any monies that belong to a member, an employee of a member, or a person otherwise entitled thereto.

Amended by R.1995 d.408, effective August 7, 1995.

See: 26 N.J.R. 2725(a), 26 N.J.R. 3592(a), 27 N.J.R. 2938(a).

Expanded Commissioners' powers in (a) and including servicing organizations and their agents in (b).

Amended by R.1996 d.534, effective November 18, 1996.

See: 28 N.J.R. 4027(a), 28 N.J.R. 4877(a).

11:15-2.9 Approval of nonmembers

(a) Prospective new members of the fund shall submit an application for membership to the fund's commissioners, or executive committee, as applicable, on a form acceptable to the Commissioner. Such application shall include a copy of the resolution of participation and executed indemnity trust agreement. The commissioners or executive committee may approve or disapprove the application for additional members, pursuant to the bylaws of the fund.

(b) Any application approved by the fund shall within 15 days of approval by the fund be filed with the Department and the Department of Community Affairs and shall be accompanied by a revised budget with assessment detail, if otherwise required pursuant to N.J.A.C. 11:15-2.4(f)6, an actuarial statement regarding the adequacy of the member's assessment to cover anticipated losses; and any amendments to the fund's bylaws and plan of risk management as may be necessary. The fund shall file only the specific changes to the bylaws or risk management program in effect for the current fund year. Where a fund purchases direct insurance, or where an actuary has determined a "per capita" rate for the member's assessment to cover anticipated losses which has been previously filed with the Department, actuarial certification of the adequacy of these same rates for each new member is not required. The Commissioner may nevertheless require actuarial certification of a per capita rate for the new member's assessment to cover anticipated losses if, in his or her opinion, the new member will impose an extraordinary impact on the exposure of the fund. In addition, the fund shall file the following information in the form of Exhibit D in the Appendix incorporated herein by reference with the Department and Department of Community Affairs within 15 days after approval of a new member:

1. The name and address of the new member;
2. The effective date of coverage;
3. The name of the new member's risk manager;
4. The name of the new member's fund commissioners and alternates in accordance with N.J.A.C. 11:15-2.6(a);
5. The lines of coverage for which the new member participates;