

**CHAPTER 13**  
**COMMERCIAL LINES INSURANCE**

**Authority**

N.J.S.A. 17:1-8.1, 17:1-15e and 17:29AA-1 et seq.

**Source and Effective Date**

R.1997 d.521, effective November 10, 1997.  
See: 29 N.J.R. 4248(a), 29 N.J.R. 5310(a).

**Executive Order No. 66(1978) Expiration Date**

Chapter 13, Commercial Lines Insurance, expires on November 10, 2002.

**Chapter Historical Note**

Chapter 13, Commercial Lines Insurance, was adopted as R.1982 d.423, effective December 6, 1982. See: 14 N.J.R. 1045(a), 14 N.J.R. 1398(c).

Pursuant to Executive Order No. 66(1978), Chapter 13 was readopted as R.1987 d.512, effective November 12, 1987. See: 19 N.J.R. 1783(a), 19 N.J.R. 2302(b). Subchapter 6, Commercial Insurance Rating Plans, was adopted as R.1990 d.594, effective December 3, 1990. See: 21 N.J.R. 3430(a), 22 N.J.R. 3625(b). Subchapter 7, Commercial Lines Insurance: Policy Form Standards, was adopted as R.1991 d.411, effective August 5, 1991. See: 23 N.J.R. 159(a), 23 N.J.R. 2340(a).

Pursuant to Executive Order No. 66(1978), Chapter 13 was readopted as R.1992 d.492, effective November 10, 1992. See: 24 N.J.R. 2830(a), 24 N.J.R. 4408(a). Subchapter 8, Commercial Lines Insurance: Prospective Loss Costs Filing Procedures, was adopted as R.1993 d.411, effective August 16, 1993. See: 25 N.J.R. 1047(a), 25 N.J.R. 3829(b).

Pursuant to Executive Order No. 66(1978), Chapter 13 was readopted as R.1997 d.521, effective November 10, 1997. See: Source and Effective Date. See, also, section annotations.

**CHAPTER TABLE OF CONTENTS**

**SUBCHAPTER 1. GENERAL PROVISIONS**

- 11:13-1.1 Purpose
- 11:13-1.2 Scope
- 11:13-1.3 Definitions
- 11:13-1.4 Rate and policy form requirements
- 11:13-1.5 Separability

**SUBCHAPTER 2. COMMERCIAL LINES FILINGS**

- 11:13-2.1 Filing of rates, supplementary rate information, and policies
- 11:13-2.2 Filing of changes
- 11:13-2.3 Adoption of rates, supplementary rate information or policies of other filers
- 11:13-2.4 New filings
- 11:13-2.5 Filing questionnaires

**SUBCHAPTER 3. EXPENSE EXPERIENCE**

- 11:13-3.1 Expense experience

**SUBCHAPTER 4. SPECIAL RISKS**

- 11:13-4.1 Special risks
- 11:13-4.2 Reporting requirements
- 11:13-4.3 Examination

**SUBCHAPTER 5. PROCEDURE FOR THE REGULATION OF CONSENT TO HIGHER RATE FILINGS**

- 11:13-5.1 Higher rate filings

**SUBCHAPTER 6. COMMERCIAL INSURANCE RATING PLANS**

- 11:13-6.1 Purpose and scope
- 11:13-6.2 Definitions
- 11:13-6.3 Commercial insurance rating plans
- 11:13-6.4 Elements of plan
- 11:13-6.5 Standards for commercial insurance rating plans
- 11:13-6.6 Application or use of commercial insurance rating plans

**SUBCHAPTER 7. COMMERCIAL LINES INSURANCE: POLICY FORM STANDARDS**

- 11:13-7.1 Purpose and scope
- 11:13-7.2 Definitions
- 11:13-7.3 Defense costs within policy limits
- 11:13-7.4 Exclusions from coverage
- 11:13-7.5 Refiling policy forms

**SUBCHAPTER 8. COMMERCIAL LINES INSURANCE: PROSPECTIVE LOSS COSTS FILING PROCEDURES**

- 11:13-8.1 Purpose and scope
- 11:13-8.2 Definitions
- 11:13-8.3 Prospective loss cost filing requirements for rating organizations
- 11:13-8.4 Prospective loss costs filing requirements for insurers
- 11:13-8.5 Penalties

**APPENDIX A**

**APPENDIX B**

**SUBCHAPTER 1. GENERAL PROVISIONS**

**11:13-1.1 Purpose**

The Commercial Insurance Deregulation Act of 1982 (N.J.S.A. 17:29AA-1 et seq.) establishes a separate rating law for commercial lines insurance and exempts such lines from the provisions of N.J.S.A. 17:29AA-1 et seq. except as provided by the Act. This chapter provides rules for the implementation of the Act.

**11:13-1.2 Scope**

(a) This chapter applies to all policies or contracts of insurance issued by a licensed insurer pursuant to Title 17 of the Revised Statutes except:

1. Ocean marine, title, mortgage guaranty, workers' compensation and employers' liability, and policy or contract of reinsurance, other than joint reinsurance, as provided for in section 22 of the Commercial Insurance Deregulation Act of 1982, insurance written through the New Jersey Medical Malpractice Reinsurance Association, insurance written through the New Jersey Insurance

Underwriting Association, and the insurance issued by hospital service or medical service corporations;

2. Insurance issued for personal, family or household purposes;

i. Examples of policies of insurance issued for personal family or household purposes are:

(1) Policies used solely to provide homeowners insurance, dwelling fire insurance on one to four family units, or individual fire insurance on dwelling contents;

(2) Policies principally used to provide primary insurance on private passenger automobiles which are individually owned and used for personal or family needs;

(3) Policies of personal inland marine, personal theft, residence glass, personal liability insurance and personal excess;

(4) Policies of farmowners insurance; and

(5) Policies of self-storage personal property insurance as defined at N.J.A.C. 11:17-1.2.

ii. Insurance issued for personal, family or household purposes does not include insurance used to cover business, professional or other commercial risks, such as businessowners and commercial multi-peril policies.

Amended by R.1989 d.621, effective December 18, 1989.

See: 21 N.J.R. 1641(b), 21 N.J.R. 3926(a).

"Farmowners insurance" added as example of policies issued for personal, family or household purposes.

Amended by R.1997 d.278, effective July 7, 1997.

See: 28 N.J.R. 4707(a), 29 N.J.R. 2853(a).

Added (a)2i(5).

### 11:13-1.3 Definitions

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

"Commissioner" means the Commissioner of Banking and Insurance.

"Department" means Department of Banking and Insurance.

"Farmowners insurance" means a policy of insurance issued to the owner(s) of property used for agricultural purposes, which may include property coverages on dwellings, farm buildings and personal property including household property, farm equipment, livestock, farm produce and supplies; and farmers comprehensive personal liability coverages against liabilities as the owner of the farm property and operator of the farming enterprise. As defined herein, farmowners insurance is reported on the statutory Annual Statement as "Farmowners Multi Peril".

"Insurer" means any person, corporation, company, association, joint underwriting association, partnership, or any other legal entity licensed under the laws of this State to transact the business of insurance in this State.

"Policy" means any contract of insurance subject to this chapter and includes, but is not limited to, all policies, contracts, certificates and endorsements.

"Rating Organization" means every person or persons, corporation, partnership, company, society or association engaged in the business of rate-making for two or more insurers.

"Special Risks" means:

1. Commercial lines insurance risks as specified on a list promulgated by the Commissioner, which are of an unusual nature or high loss hazard or are difficult to place or rate or which are excess or umbrella or which are eligible for export;

2. Inland marine insurance, other than personal lines (The 1976 Revision of the Nation-wide Marine Definition, adopted by the National Association of Insurance Commissioners, has been adopted by the State of New Jersey. This instrument describes, although not exclusively, the kinds of risks which may be classified or identified as inland marine insurance.);

3. Fidelity, surety or forgery bonds; or

4. Commercial lines insurance risks which produce minimum annual premium in excess of \$10,000 as specified in N.J.A.C. 11:13-4.

"Supplementary rate information" includes any manual or plan of rates, statistical plan, classification, rating schedule, rating rule and any other rule used by an insurer in making rates.

Amended by R.1989 d.621, effective December 18, 1989.

See: 21 N.J.R. 1641(b), 21 N.J.R. 3926(a).

Added definition for "farmowners insurance".

Amended by R.1997 d.521, effective December 15, 1997.

See: 29 N.J.R. 4248(a), 29 N.J.R. 5310(a).

Amended "Commissioner", "Department", and "Special Risks".

### 11:13-1.4 Rate and policy form requirements

(a) Pursuant to N.J.S.A. 17:29AA-10, rates shall not be made or used which are excessive, inadequate or unfairly discriminatory.

(b) Pursuant to N.J.S.A. 17:29AA-11 policy forms shall not be unfair, inequitable, misleading or contrary to law, nor shall they produce rates, which are excessive, inadequate or unfairly discriminatory.

**11:13-1.5 Separability**

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

**SUBCHAPTER 2. COMMERCIAL LINES FILINGS****11:13-2.1 Filing of rates, supplementary rate information, and policies**

(a) This subchapter sets forth procedures and requirements for the filing of commercial lines rates, supplementary rate information and policies. The requirements of this subchapter shall not be applicable to:

1. Policy forms exempted by order of the Commissioner; or

2. Rates, supplementary rate information or policy forms used in connection with any special risk provided, however, that policy forms which are used in connection with commercial lines risks producing a minimum annual premium in excess of \$10,000 as described under N.J.A.C. 11:13-4.1(a)4 and which are not otherwise described as special risks shall be subject to the requirements and filing procedures found in this subchapter.

(b) Pursuant to N.J.S.A. 17:29AA-5, every insurer and rating organization shall file with the Commissioner all rates and supplementary rate information and all changes and amendments thereof not later than 30 days after becoming effective.

(c) Pursuant to N.J.S.A. 17:29AA-6 insurers shall file copies of all policy forms for approval with the Commissioner at least 30 days prior to becoming effective.

(d) Filings submitted to the Commissioner must be explicit and self-contained, must be supported by statistics, where applicable, and must set forth the information upon which the filer relied in making the filing.

**11:13-2.2 Filing of changes**

(a) Filings containing changes in rates, supplementary rate information, including any manual rules or plans, or in policy forms or endorsement required to be filed with the Department shall be presented in the following fashion:

1. A copy of the page or pages containing the passage for which a change is proposed shall be filed in such form that the text is self-contained without need to refer to material not included in the filing. Matter to be changed or omitted by the filing shall be identified, preferably by marking the passages to be changed with a marking pencil; where matter is to be added, a mark ( ) shall so indicate.

2. A memorandum shall be filed reciting the rule or section of form to be changed, properly referenced as to the manual or form, with newly added matter underlined and matter to be eliminated in brackets [ ].

(b) An explanatory note shall state the reason or purpose for the proposed change including any statistical support, and a calculation or estimate of the effect of the change on premiums and/or losses shall be submitted:

1. Filings of proposed rate changes must contain all information upon which the rate filer relied. Due consideration must be given to: past and prospective loss experience, including where pertinent, the conflagration and catastrophe hazards, if any, both within and without the State; all factors reasonably related to the kind of insurance involved; a reasonable profit for the insurer; and, in the case of participating insurer, policyholder's dividends.

**11:13-2.3 Adoption of rates, supplementary rate information or policies of other filers**

(a) If a filer adopts rates or supplementary rate information used by other filers or proposes to adopt policy forms or endorsements previously approved (or deemed approved) for other filers in New Jersey, the filing shall clearly identify such reference including the name of the filer and, if applicable, the date such filings were approved in this State, including any amendments thereof. The Department staff will give reasonable assistance to a filer in obtaining such information to the extent that it is a public record:

1. If the proponent wishes to adopt exactly and without any change filings of rate or supplementary rate information used by or policies and endorsements approved for rating organizations or accepted for reference purposes on behalf of advisory organizations in New Jersey, the filing shall clearly identify such reference but shall not include a copy of the material referred to.

i. If the proponent wishes to adopt such filing material with some exceptions, he shall clearly identify such reference and shall submit copies of only those pages containing such exceptions.

2. If the proponent wishes to adopt filings approved in New Jersey for other filers acting independently of rating organizations, the material made reference to must be filed, with any modifications identified as outlined under N.J.A.C. 11:13-2.2.

**11:13-2.4 New filings**

Policy forms and supplementary rate information such as manual rules or rating plans are rarely entirely new. Most such filings are built upon something previously or currently in use. Any required action with respect to such filings will be expedited if they are identified as to their foundation. Filings shall not be identified as new filings if they properly fall under the categories discussed under N.J.A.C. 11:13-2.2 and 2.3.

**11:13-2.5 Filing questionnaires**

(a) The filing questionnaires described in this section and shown as Exhibits A, B and C of this chapter shall be used in conjunction with the procedures and requirements set forth in sections 1 through 4 above by all insurers and rating organizations in submitting filings required pursuant to the Commercial Insurance Deregulation Act of 1982 and this chapter.

(b) Every insurer and every rating organization submitting filings of rates or supplementary rate information shall complete and submit with the filing the Commercial Lines Insurance—General Questionnaire and Affidavit of Compliance shown in Exhibit A and the Commercial Lines Insurance—Rate and Supplementary Rate Information Questionnaire shown in Exhibit B.

(c) Every insurer submitting policy forms for approval shall complete and submit with the filing the Commercial Lines Insurance General Questionnaire and Affidavit of Compliance shown in Exhibit A and the Commercial Lines Insurance—Policy Approval Questionnaire shown in Exhibit C.

1. Pursuant to N.J.S.A. 17:29AA-6, only a policy form filing which is accompanied by a properly completed General Questionnaire, Affidavit of Compliance and Policy Approval Questionnaire, shall be deemed approved by the Commissioner as of its effective date unless disapproved by the Commissioner prior to that date.

**SUBCHAPTER 3. EXPENSE EXPERIENCE****11:13-3.1 Expense experience**

(a) N.J.A.C. 11:4-10.1 and 10.2 including all subsequent amendments and supplements are hereby adopted as rules with the modifications indicated in (b) below.

1. This document is available for review at or may be purchased from the New Jersey Department of Banking and Insurance, 201 East State Street, Trenton, New Jersey.

(b) The following are modifications to the rule referenced in (a) above:

1. Reference to N.J.S.A. 17:29A-5 contained in N.J.A.C. 11:4-10.1(a) is deleted and replaced with N.J.S.A. 17:29AA-16.

Amended by R.1997 d.521, effective December 15, 1997.  
See: 29 N.J.R. 4248(a), 29 N.J.R. 5310(a).

**SUBCHAPTER 4. SPECIAL RISKS****11:13-4.1 Special risks**

(a) This subchapter sets forth procedures and requirements which are applicable to various categories of commercial lines risks herein designated as special risks pursuant to section 3.k of Commercial Insurance Deregulation Act of 1982. Such special risks are:

1. Commercial lines insurance risks as specified on a list promulgated by the Commissioner which are of an unusual nature or high loss hazard or are difficult to place or rate or which are excess or umbrella, or which are eligible for export;
2. Inland marine insurance, other than personal inland marine;
3. Fidelity, surety or forgery bonds; or
4. Commercial lines insurance risks which produce minimum annual premium in excess of \$10,000. Only premiums generated by coverages subject to the Commercial Insurance Deregulation Act of 1982 shall be used in determining whether a risk generates a premium sufficient to qualify under this paragraph. Risks producing a minimum annual premium in excess of \$10,000 shall be:
  - i. A single risk which generates annual premium in excess of \$10,000 written under a single policy.
  - ii. A single risk which generates annual premium in excess of \$10,000 written under more than one policy if all are written by the same insurer or group.
  - iii. A risk written under a single policy covering more than one risk which policy generates an annual premium in excess of \$10,000.

(b) Except as otherwise required by the provisions of this chapter or as may be ordered by the Commissioner, the requirements and procedures found in subchapters 2 and 3 above shall not apply to special risks.

**11:13-4.2 Reporting requirements**

(a) Expense experience statistics with respect to special risks written by an insurer shall be maintained in accord with subchapter 3 of this chapter and shall be reported promptly to the Department upon request.

(b) The Commissioner may require the filing of such additional reports as he deems necessary to implement the provisions of the Commercial Insurance Deregulation Act of 1982 and this chapter.

**11:13-4.3 Examination**

The underwriting files, premium, loss and expense statistics, financial and other records with respect to special risks written by an insurer shall be maintained in such detail as may be required by the Commissioner and shall be subject to examination by the Commissioner or his designee in the State as often as deemed necessary by the Commissioner.

SUBCHAPTER 5. PROCEDURE FOR THE REGULATION OF CONSENT TO HIGHER RATE FILINGS

11:13-5.1 Higher rate filings

(a) N.J.A.C. 11:4-7 including all subsequent amendments and supplements is hereby adopted as a rule with the modifications indicated in (b) below.

1. This document is available for review at or may be purchased from the New Jersey Department of Banking and Insurance, 201 East State Street, PO Box 325, Trenton, New Jersey.

(b) The following are modifications to the rule referenced in (a) above:

1. Reference to N.J.S.A. 17:29AA-22 contained in N.J.A.C. 11:4-7.1(b)11 is deleted and replaced with N.J.S.A. 17:29AA-26.

The following Exhibits are part of this subchapter.

EXHIBIT A

NEW JERSEY DEPARTMENT OF BANKING AND INSURANCE COMMERCIAL LINES INSURANCE GENERAL QUESTIONNAIRE

COMPLETE FOR ALL FILINGS, USE ADDITIONAL SHEETS AS REQUIRED.

- 1. Date of Submittal
2. Name all filing companies (and group, if applicable). Company
3. Indicate type of filing: place "x" for all applicable items. Rate, Supplementary Rate, Policy or Information, Endorsement
4. Indicate the category of the filing: place "x" for all applicable items. New, Revisions, Reference, Withdraw
5. Indicate the lines and, if applicable, sublines of insurance affected by this filing. Line, Subline
6. Does this filing have any impact on rates to be charged or losses to be paid? Yes, No
a. Please describe in detail the anticipated impact and, if possible, state the estimated overall percentage. % Indeterminable

AFFIDAVIT OF COMPLIANCE

The attached filing, to the best of my knowledge and belief, fully conforms to all pertinent State of New Jersey Laws, and New Jersey Banking and Insurance Department rules and requirements. The attached filing, to the best of my knowledge and belief, contains no provisions previously disapproved by the New Jersey Banking and Insurance Department, except specifically noted within the attached letter.

Date Name and Title of Insurer's Officer Signature

EXHIBIT B

NEW JERSEY DEPARTMENT OF BANKING AND INSURANCE COMMERCIAL LINES INSURANCE RATE AND SUPPLEMENTARY RATE INFORMATION QUESTIONNAIRE

COMPLETE FOR FILINGS AFFECTING EXISTING OR NEW RATES OR SUPPLEMENTARY RATE INFORMATION—USE ADDITIONAL SHEETS AS REQUIRED. IF THE INFORMATION IS DESCRIBED IN FILING, IDENTIFY EXHIBIT AND SPECIFIC PAGES.

- 1. On what date did you begin or plan to begin using the provisions or changes outlined in this filing?
2. Does this filing change rates or supplementary rate information which you have previously filed with the Department? Yes, No (Explain "No" Answer)
a. If the answer to 2, above, is yes, please identify the previous filing as specifically as possible. Please include the following information, if available.
DEPARTMENT FILING NUMBER
EFFECTIVE DATE OF USE
DATE OF SUBMITTAL
3. Does this filing represent an adoption or an adoption with modifications of rates or supplementary rate information used by another filer? Adoption, Adoption w/Modification, Inapplicable (Explain)
a. Identify filing as specifically as possible. Please include the following information if available.

FILER DEPARTMENT FILING NUMBER EFFECTIVE DATE OF USE

EXHIBIT C

NEW JERSEY DEPARTMENT OF BANKING AND INSURANCE COMMERCIAL LINES INSURANCE POLICY APPROVAL QUESTIONNAIRE

COMPLETE FOR FORMS OR ENDORSEMENTS AFFECTING EXISTING OR NEW COVERAGES—

USE ADDITIONAL SHEETS AS REQUIRED. IF INFORMATION IS DESCRIBED IN FILING IDENTIFY EXHIBIT AND SPECIFIC PAGES.

- 1. On what date do you propose to make the provisions or changes described in this filing effective?
2. Please indicate whether the policy forms or endorsements included in this filing are identical, similar, or not similar or identical to any previously approved filing.

Identical Similar Not Similar or Identical (Explain)

A. If similar or identical, please identify the previous filing as specifically as possible. Include the following information, if available.

FILER FORM NUMBER DEPARTMENT FILING NUMBER DATE OF APPROVAL

- 3. Please identify and describe below any changes being made on a previously approved form, including but not limited to those changes which affect coverages provided by the policy or endorsement.

Table with 4 columns: Form No., Added, Changed, Deleted. Rows 1-5.

- 4. Provide a specific explanation of the reasons for any changes described in item 3 above. If applicable, describe how the changes affect coverages provided by the policy and the impact on premiums and/or losses.

- 1. Form No.
2. Form No.
3. Form No.
4. Form No.
5. Form No.

Amended by R.1997 d.521, effective December 15, 1997. See: 29 N.J.R. 4248(a), 29 N.J.R. 5310(a).

SUBCHAPTER 6. COMMERCIAL INSURANCE RATING PLANS

11:13-6.1 Purpose and scope

(a) This subchapter establishes standards for commercial insurance rating plans to modify rates in the development of premiums for specific risks.

(b) These standards are intended to:

- 1. Recognize expected loss differentials based on factors applied using sound underwriting principles;

- 2. Promote competition among insurers in the rating of individual commercial risks;
3. Promote fair and equitable treatment of insureds; and
4. Encourage loss control and safety measures.

(c) This subchapter applies to all insurers and rating organizations that file rates for commercial lines insurance.

11:13-6.2 Definitions

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

“Base rate” means the unit charge by which the measure of exposure or the amount of insurance specified in a policy of insurance or covered thereunder is multiplied to determine the premium, which rate is filed with the Commissioner pursuant to N.J.S.A. 17:29AA-5.

“Commercial lines insurance” includes all insurance policies so defined in N.J.S.A. 17:29AA-3a.

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

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

“Filer” means a rating organization or any insurer making its own rates and proposing to establish a new rate, a rate change, or a rating rule.

“Commercial insurance rating plan” includes any plan of rates and rules for the adjustment of premiums from base rates for commercial lines insurance coverages.

“Policy” means any contract of commercial lines insurance including, but not limited to, all policies, contracts, certificates and endorsements.

“Supplementary rate information” includes any manual or plan of rates, statistical plan, classification, rating schedule, rating rule and any other rule used by an insurer in making rates.

Amended by R.1997 d.521, effective December 15, 1997. See: 29 N.J.R. 4248(a), 29 N.J.R. 5310(a). Amended “Commissioner” and “Department”.

11:13-6.3 Commercial insurance rating plans

(a) Filers may submit commercial insurance rating plans that provide for modification of rates in the development of premiums for specific risks.

(b) A commercial insurance rating plan shall be filed with the Commissioner in accordance with N.J.S.A. 17:29AA-5 and this subchapter.