

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Former section, "Miscellaneous fees", repealed.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. (RESERVED)**SUBCHAPTER 34. SURPLUS LINES:
EXPORTABLE LIST****11:1-34.1 Purpose and scope**

(a) The purpose of this subchapter is to identify the procedures concerning the creation and modification of an exportable list of certain classes of insurance coverages or risks and to promulgate the list as a rule, in implementation of N.J.S.A. 17:22-6.43.

(b) This subchapter shall apply to all surplus lines insurers and producers. Pursuant to N.J.S.A. 17:22-6.40, this subchapter shall not apply to life insurance companies, which may not become eligible surplus lines insurers.

11:1-34.2 Definitions

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

"Annuity" means a contract not coming within the definition of life insurance as set forth in N.J.S.A. 17B:17-3, or health insurance as set forth in N.J.S.A. 17B:17-4, under which an insurer obligates itself to make periodic payments for a specified period of time, such as for a number of years, or until the happening of an event, or for life, or for a period of time determined by any combination thereof. Such a contract which includes extra benefits of the kinds set forth in N.J.S.A. 17B:17-3 or 17B:17-4 shall nevertheless be deemed to be an annuity if such extra benefits constitute a subsidiary or incidental part of the entire contract.

"Authorized insurer" means a domestic or foreign insurer duly authorized by a Certificate of Authority issued by the Commission to transact the business of insurance in this State.

"Commissioner" means the Commissioner of the Department of Insurance of the State of New Jersey.

"Department" means the Department of Insurance of the State of New Jersey.

"Exportable list" means a list of any class or classes of insurance coverages or risks declared and promulgated by the Commissioner for which there is no reasonable or adequate market among authorized insurers in this State.

"Health insurance" means a contract or agreement whereby an insurer is obligated to pay or allow a benefit of pecuniary value with respect to the bodily injury, disablement, sickness, death by accident or accidental means of a human being, or because of any expense relating thereto, or because of any expense incurred in prevention of sickness, and includes every risk pertaining to any of the enumerated risks. Health insurance does not include workers' compensation coverages.

"Life insurance" means a policy or contract whereby an insurer is obligated to pay or allow a benefit of pecuniary value with respect to the cessation of human life. Life insurance includes also the granting of endowment benefits and optional modes of settlement of proceeds of life insurance as well as provisions for additional benefits in event of death by accident or accidental means or in event of dismemberment or loss of sight, or safeguarding such insurance against lapse or giving a special surrender value or special benefit or an annuity in the event that the insured shall become totally and permanently disabled, whether such provisions are incorporated in a policy or contract of life insurance or in a policy or contract supplemental thereto. Life insurance does not include workers' compensation coverages.

"State" means the State of New Jersey.

"Surplus lines insurer" means an eligible, unauthorized insurer with which an insurance coverage is placed or may be placed pursuant to N.J.S.A. 17:22-6.40 et seq. (see Appendix A to this subchapter, incorporated herein by reference).

11:1-34.3 Exportable list hearing

(a) In the month of November or December of each year, the Department shall hold a hearing, pursuant to N.J.S.A. 17:22-6.43, for the purpose of determining the extent of the existence of a reasonable or adequate market among authorized insurers for certain classes of insurance coverages and risks.

1. This hearing shall be preceded by a notice of hearing published in the New Jersey Register at least 30 days prior to the date of the hearing, which notice shall include information concerning the date by which, and the person to whom, written public comment may be made. Notice shall also be provided to persons who have previously requested receipt of such notice.

2. The notice published in the New Jersey Register and as otherwise provided pursuant to (a)1 above shall also request that persons who wish to testify at the hearing provide the Department with timely notice of this intention, including a brief summary of the subject matter of their testimony.

3. The notice shall indicate whether the hearing shall address the merits of maintaining all items currently on the list, or whether the hearing will consider only specific additions, deletions or clarifications regarding the list.

(b) The hearing shall be conducted by a hearing officer designated by the Commissioner. The length of testimony permitted at the hearing and the receipt of questions from the floor shall be within the discretion of the hearing officer.

(c) Interested parties may present evidence to the Commissioner that the conditions of non-procurability have changed. Evidence of non-procurability should demonstrate that there exists no reasonable or adequate market among authorized insurers.

(d) A transcript of the hearing shall be made and a copy thereof shall be made available to any interested person upon request and payment of an appropriate fee.

Public Notice: Public hearing on the Exportable List.
See: 28 N.J.R. 4680(b).

11:1-34.4 Exportable list hearing record

(a) The record of the hearing shall include the following:

1. Timely-received written public comments;
2. The transcript of the hearing; and
3. Any other information which the hearing officer may deem relevant.

11:1-34.5 Promulgation and modification of exportable list

(a) Upon review of the exportable list hearing record, the Commissioner shall, by rule, declare eligible for export generally, and notwithstanding the provisions of N.J.S.A. 17:22-6.43(a), (b) and (c), any class or classes of insurance coverage or risk for which he or she finds there exists no reasonable or adequate market among authorized insurers; provided, however, that if adequate documentary evidence has been presented which satisfies the Commissioner that a reasonable or adequate market does exist among authorized insurers, he or she may, by rule, strike any class or classes of insurance coverage or risks from the exportable list.

(b) The Commissioner may, by rule amending this subchapter, specifically declare ineligible for export any class or classes of insurance coverage or risk which he or she determines to be generally procurable through diligent effort among authorized insurers pursuant to N.J.S.A. 17:22-6.43(a).

(c) When, during the term of a duly promulgated exportable list, the Commissioner determines that changed conditions require a modification of the exportable list, he or she may, after a hearing, by rule, amend the list.

1. Notice of the Commissioner's action shall be provided to all surplus lines agents, eligible surplus lines insurers, authorized insurers and others who have previously requested receipt of such information.

11:1-34.6 Exportable list

(a) The exportable list is as follows:

1. Amusement Devices, Parks and Carnivals;

2. Animal Mortality;
3. Armored Cars;
4. Auto Racing and Race Tracks;
5. Day Care Center Liability;
6. Difference In Condition;
7. Environmental Impairment Liability Insurance;
8. Excess and Buffer Liability;
9. Excess Loss and Excess Aggregate for Self-Insurers; Public Liability and Workers' Compensation;
10. Golf Driving Range;
11. Fine Arts Dealers;
12. First Loss and Excess of First Loss Insurance;
13. House Movers and Building Demolition;
14. Kidnapping, Ransom and Extortion Insurance;
15. Manufacturers and Contractors Liability for Floor Waxers, Building Maintenance People, Window Washers and Exterminators;
16. "Large Risks" which means any insured:
 - i. Which procures insurance for any property casualty risk by use of the services of either an employee who is a full-time insurance manager or buyer, or a regularly and continuously retained qualified insurance consultant; and
 - ii. Whose aggregate commercial premiums for insurance (excluding, Life, Health and Accident, Annuities and Workers' Compensation insurance) total at least \$500,000;
17. Motor vehicle coverage as follows:
 - i. Physical Damage Coverage for Limousines; and
 - ii. Physical Damage Coverage for Trucks, including trailers and trailer interchange (over 10,000 pounds) for Non-Fleet (one to five) risks, and commercial fleet (over five) risks irrespective of gross vehicle weight;
18. Mortgage Impairment;
19. Pony Rides/Riding Academies;
20. Physical Damage Coverage for Private Passenger and Commercial Vehicles with an original cost new of \$40,000 or above;
21. Product Liability Products or Products Recall Coverage;
22. Professional Liability insurance as follows:
 - i. Errors and Omissions; and
 - ii. Professional Liability except:
 - (1) Legal malpractice liability;

- (2) Medical malpractice liability
 - (A) Hospitals Professional Liability
 - (B) Physicians and Surgeons Professional Liability
 - (C) Dentist Professional Liability
 - (D) Employees Professional Liability
 - (E) Nurses Professional Liability
 - (F) Optometrists Professional Liability
 - (G) Physiotherapists Professional Liability
 - (H) Chiroprodists Professional Liability
23. Short Term Events;
24. Skating Rinks (Roller and Ice) and Skate Board Parks;
25. Swim Clubs/Swim Pools;
26. Vacant and Unoccupied Building;
27. Warehouseman's Legal Liability;
28. Automobile Personal Injury Protection (PIP) coverage in excess of \$250,000.
29. Commercial auto liability for taxicabs;
30. Commercial auto liability for intermediate and long-haul trucking.

(b) The following kinds of insurance, if sold by eligible surplus lines insurers, are specifically not eligible for export, since the Department has determined that they are procurable from authorized or admitted insurers after a diligent effort:

1. Health insurance, including specific excess or aggregate excess purchased by self-funded health benefit plans, as defined by N.J.S.A. 17B:17-4; and
2. Annuities including Funding Agreements or Guaranteed Investment Contracts (GIC's) as defined by N.J.S.A. 17B:17-5.

(c) Life insurance is specifically not eligible for export pursuant to N.J.S.A. 17:22-6.40 et seq.

APPENDIX A

LIST OF UNAUTHORIZED INSURERS WHICH QUALIFY AS ELIGIBLE SURPLUS LINES INSURERS

The following is a list of unauthorized insurers which qualify as eligible surplus lines insurers in New Jersey as of December 1, 1993.

Companies of other States	Domicile
Agricultural Excess and Surplus Insurance Co.	Wilmington, DE
Allianz Underwriters Insurance Co.	Los Angeles, CA

Companies of other States	Domicile
American Empire Surplus Lines Insurance Co.	Wilmington, DE
Appalachian Insurance Co.	Johnston, RI
Associated International Insurance Co.	Los Angeles, CA
California Union Insurance Co.	Los Angeles, CA
Columbia Casualty Insurance Co.	Chicago, IL
Evanston Insurance Co.	Evanston, IL
Empire Indemnity Insurance Co.	Oklahoma, OK
Essex Insurance Co.	Wilmington, DE
First Specialty Insurance Co.	Jefferson City, MO
First State Insurance Co.	Wilmington, DE
General Agents Insurance Co.	Oklahoma City, OK
General Star Indemnity Co.	Stamford, CT
Gibraltar Casualty Co.	Dover, DE
Great Central Insurance Co.	Peoria, IL
The Home Insurance Co. of Illinois	Chicago, IL
Interstate Fire and Casualty Co.	Chicago, IL
Investors Special Risk Insurance Co.	Phoenix, AZ
Landmark Insurance Company	Los Angeles, CA
Lexington Insurance Co.	Wilmington, DE
Lincoln Insurance Co.	Dover, DE
Monticello Insurance Co.	Wilmington, DE
Mt. Hawley Insurance Co.	Peoria, IL
Mt. Vernon Fire Insurance Co.	King of Prussia, PA
National Indemnity Co.	Omaha, NE
Nautilus Insurance Co.	Scottsdale, AZ
Pacific Insurance Co.	Los Angeles, CA
Penn-America Insurance Co.	Hatboro, PA
Preferred Physicians Insurance Co.	Omaha, NE
Reliance Insurance Company	Chicago, IL
Royal Surplus Lines Insurance Co.	Glastonbury, CT
Savers Property-Casualty Insurance Co.	Overland Park, KS
Scottsdale Insurance Co.	Wilmington, DE
Scottsdale Insurance Co.	Columbus, OH
Steadfast Insurance Co.	Dover, DE
St. Paul Surplus Lines Insurance Co.	St. Paul, MN
T.H.E. Insurance Co.	Metairie, LA
Tudor Insurance Co.	Keene, NH
United Capital Insurance Co.	Stevens Point, WI
United Coastal Insurance Co.	Phoenix, AZ
United National Insurance Co.	Phila., PA
Vanguard Underwriters Insurance Co.	Oklahoma, OK
Western Alliance Insurance Co.	Austin, TX
Western Indemnity Insurance Co.	Houston, TX
Western World Insurance Co.	Keene, NH

Companies of other Countries	
Aegon Insurance Co. (U.K.) Ltd.	London, England
Anglo-American Insurance Co., Ltd.	London, England
Associated Electric and Gas Insurance Services, Ltd.	Hamilton, Bermuda
Lloyds of London	London, England
Riunione Adriatica Di Sicurtà, s.p.a.	Trieste, Italy
Sphere Drake Insurance Co., p.l.c.	London, England
Terra Nova Insurance Co., Ltd.	London, England

(b) This subchapter shall apply to any person, insurer, subsidiary or insurance holding company system subject to the requirements set forth in N.J.S.A. 17:27A-1 et seq.

11:1-35.2 Definitions

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

“Acquisition” means any agreement, arrangement or activity, the consummation of which results in a person acquiring directly or indirectly the control of another person, and includes, but is not limited to, the acquisition of voting securities, and assets, and bulk reinsurance and mergers.

“Affiliate” means a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

“Alien insurer” means an insurer formed under the laws of any country other than the United States, its states, districts, territories, commonwealth and possessions.

“Authorized insurer” means a foreign or alien insurer, duly authorized by a certificate of authority issued by the Commissioner to transact insurance in this State pursuant to N.J.S.A. 17:32-1 et seq. or 17B:23-1 et seq.

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

“Control” is as defined at N.J.S.A. 17:27A-1c.

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

“Domestic insurer” means an insurer formed under the laws of this State.

“Executive officer” means chief executive officer, chief operating officer, chief financial officer, treasurer, secretary, controller, and any other individual performing functions corresponding to those performed by the foregoing officers under whatever title.

“Foreign insurer” means an insurer formed under the laws of a jurisdiction of the United States other than this State, and shall include an alien insurer except where clearly noted otherwise.

“Insurance holding company system” means two or more affiliated persons, one or more of which is an insurer.

“Insurer” means any person or persons, corporation, partnership, or company authorized by the laws of this State to transact the business of insurance in this State, except that it shall not include agencies, authorities or instrumentalities of the United States, its possessions and territories, the Commonwealth of Puerto Rico, the District of Columbia, or a state or a political subdivision of a state.

SUBCHAPTER 35. INSURANCE HOLDING COMPANY SYSTEMS

11:1-35.1 Purpose and scope

(a) The purpose of this subchapter is to set forth filing and procedural requirements governing the filing of required information with respect to the acquisition of control of, or merger with, a domestic insurer, and registration and notification requirements for insurers which are members of an insurance holding company system, pursuant to N.J.S.A. 17:27A-1 et seq.