

ADMINISTRATION

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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.

11:1-33.4 Penalties

Failure to comply with the provisions of this subchapter shall subject producers and surplus lines agents to penalties as provided in N.J.S.A. 17:22-6.61 and 17:22A-17.

Recodified from N.J.A.C. 11:1-33.9 by R.2005 d.104, effective April 4, 2005.

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

Former N.J.A.C. 11:1-33.4, Policy form standards, repealed.

11:1-33.5 (Reserved)

Repealed by R.2005 d.104, effective April 4, 2005.

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

Section was "Exclusions".

11:1-33.6 (Reserved)

Repealed by R.2005 d.104, effective April 4, 2005.

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

Section was "List of disapproved or withdrawn forms or contracts; exportable list hearing".

11:1-33.7 (Reserved)

Repealed by R.2005 d.104, effective April 4, 2005.

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

Section was "Refiling policy forms".

11:1-33.8 (Reserved)

Recodified to N.J.A.C. 11:1-33.3 by R.2005 d.104, effective April 4, 2005.

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

11:1-33.9 (Reserved)

Recodified to N.J.A.C. 11:1-33.4 by R.2005 d.104, effective April 4, 2005.

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

APPENDIX EXHIBIT A-1

Form to be used at the time of quotation:

The undersigned applicant has been advised by the undersigned originating insurance producer and understands that an insurance policy written by a surplus lines insurer is not subject to the filing or approval requirements of the New Jersey Department of Banking and Insurance. Such a policy may contain conditions, limitations, exclusions and different terms than a policy issued by an insurer granted a Certificate of Authority by the New Jersey Department of Banking and Insurance.

Applicant's Signature

Applicant's Name (Print or Type)

Date of Applicant's Signature

Producer Signature

Producer Name (Print or Type)

Date of Producer Signature

New Jersey Producer License Reference Number

EXHIBIT A-2

Statement to Appear on all Surplus Lines Policies, Evidence of Coverage and Renewal Policies or to be provided or as a stand alone notice:

This policy is written by a surplus lines insurer and is not subject to the filing or approval requirements of the New Jersey Department of Banking and Insurance. Such a policy may contain conditions, limitations, exclusions and different terms than a policy issued by an insurer granted a Certificate of Authority by the New Jersey Department of Banking and Insurance. The insurer has been approved by the Department as an eligible surplus lines insurer, but the policy is not covered by the New Jersey Insurance Guaranty Fund, and only a policy of medical malpractice liability insurance as defined in N.J.S.A. 17:30D-3d or a policy of property insurance covering owner-occupied dwellings of less than four dwelling units are covered by the New Jersey Surplus Lines Guaranty Fund.

Repeal and New Rule, R.2005 d.104, effective April 4, 2005.

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

EXHIBIT B

Form No. SLPS-6-CERT1 [] [] [] [] [] - [] [] - [] [] [] [] []

Transaction #

STATE OF NEW JERSEY DEPARTMENT OF BANKING AND INSURANCE SURPLUS LINES EXAMINING OFFICE PO BOX 325 Trenton, New Jersey 08625-0325

CERTIFICATION OF EFFORT TO PLACE RISK WITH AUTHORIZED INSURER

This certification shall be submitted by the originating producer to the surplus lines agent within 30 business days after the effectuation of any surplus lines insurance. The original of the certification must be maintained in the files of the surplus lines agent and a copy in the files of the producer and both must be available for inspection by the Commissioner for a period of at least five years.

(Name of insured)

(Address of insured)

(Location of Property or Risk)

(Insurance Coverage: Description and Amount)
//

(Originating producer—Corporate or partnership)

(Originating producer—Individual name and/or Title)

(Originating producer—Complete Address)

The above hereby certifies that he/she is duly licensed as an insurance producer under the laws of New Jersey, and that: On or about _____, I was engaged by the insured named herein to procure insurance of the kind described herein and in the amount shown. I have made a diligent effort first to place this coverage with authorized insurers, each of which is authorized in New Jersey to write insurance of the kind requested and is an insurer that I had a good faith reason to believe might consider writing the type of coverage described herein.

The following insurers are among those that I contacted relative to this risk, or to substantially similar risks within the past 30 days:

Table with 5 columns: Insurer, Representative, Telephone No., Date, Result Code*. Contains two rows of blank lines for data entry.

*Result Codes: (enter appropriate code(s) for each insurer listed above)

A— Having made a diligent effort, I was unable to obtain an offer/quote from this authorized insurer in the admitted market, which declined to accept all or any part of risk.

AND/OR

B— Having made a diligent effort, the only offer(s)/quote(s) obtained reflected such a substantial increase in premium over

similar coverage placed within the preceding 12 months that comparable coverage is, as a practical matter, unavailable from this authorized insurer in the admitted market.

AND/OR

C—Having made a diligent effort, the only offer(s)/quote(s) obtained reflect(s) such a substantial reduction in coverage from coverage placed within the preceding 12 months for substantially similar premium that comparable coverage is, as a practical matter, unavailable from this authorized insurer in the admitted market.

I certify that the foregoing statements made by me are true to the best of my knowledge and belief. I am aware that if any of the statements are willfully false, I am subject to civil and criminal penalties.

(Date) _____ (Signature) _____

Repeal and New Rule, R.2005 d.104, effective April 4, 2005. See: 36 N.J.R. 2144(a), 37 N.J.R. 1065(a).

EXHIBIT C

Form No. SLPS-8-AFF3 []-[]-[]

Transaction #

STATE OF NEW JERSEY
DEPARTMENT OF BANKING AND INSURANCE
THE SURPLUS LINES EXAMINING OFFICE
PO BOX 325 Trenton, New Jersey 08625-325

SUPPLEMENTAL CERTIFICATION BY SURPLUS LINES
AGENT FOR PROCUREMENT OF INSURANCE FROM
INELIGIBLE UNAUTHORIZED INSURER

Named of Insured _____

(Street Address) (City or Town) (State) (Zip Code)

Location of Risk _____

(Street Address) (City or Town) (State) (Zip Code)

Insurance Coverage _____
(Type of Coverage) (Policy Limits)

(Name of Surplus Lines Agent Representing Insured Above)

(Title of Representative for Corporation or Partnership)

(Name of Business, Corporation or Partnership)

(Street Address) (City or Town) (State) (Zip Code)

The above named individual is duly licensed as an insurance producer with surplus lines authority pursuant to *N.J.S.A. 17:22-1 et seq.*

Name of Ineligible Unauthorized Insurer that business was placed with:

| | <u>NAIC #</u> | <u>ISI#</u> |
|----------|---------------|-------------|
| 1. _____ | _____ | _____ |
| 2. _____ | _____ | _____ |
| 3. _____ | _____ | _____ |
| 4. _____ | _____ | _____ |

Attach additional listings if needed.

The named ineligible unauthorized insurer has deposited with the Commissioner in accordance with N.J.A.C. 11:2-32, securities in the amount acceptable to the Commissioner, which are held by the Commissioner for the benefit of New Jersey policyholders; and

(I) (We) have procured from such ineligible unauthorized insurer and filed with the Commissioner a certified copy of its current annual statement of financial condition in accordance with N.J.S.A. 17:22-6.45(h).

(I) (We) do not know of this coverage(s) being offered by companies I represent or by other companies in the admitted market.

(I) (We) certify that the foregoing statements made by me are true. I am aware that if any of the statements are willfully false, I am subject to civil and criminal penalties.

Name of Surplus Lines Agent

By: _____
(Signature)

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 New Jersey Department of Banking and Insurance.

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

“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).

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

11:1-34.3 Exportable list hearing

(a) In the month of November or December of each year, the Commissioner or his or her designee shall hold a hearing, pursuant to N.J.S.A. 17:22-6.43, for the purpose of determining the extent of the existence or a reasonable or adequate market among authorized insurers for certain classes of insurance coverages and risks. Additionally, the hearing shall provide interested parties the opportunity to present relevant information for the Commissioner's consideration as to why forms disapproved or withdrawn should be approved.

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.

4. The notice shall provide a list of disapproved policy forms or contracts that have been disapproved or withdrawn by the Commissioner since the previous exportable list hearing was held.

(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).

Public Notice: Public hearing on the Exportable List.
See: 29 N.J.R. 5028(b).

Public Notice: Public hearing on the Exportable List.
See: 30 N.J.R. 4291(b).

Public Notice: Public hearing on the Exportable List.
See: 31 N.J.R. 3860(a).

Public Notice: Public hearing on the Exportable List.
See: 32 N.J.R. 4019(a).

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

Rewrote (a).

Public Notice: Public Hearing on the Exportable List.
See: 34 N.J.R. 315(a), 3994(a).

Public Notice: Public Hearing on the Exportable List.
See: 35 N.J.R. 5446(a).

Public Notice: Public Hearing on the Exportable List.
See: 36 N.J.R. 5173(a).

Public Notice: List of Special Risks.
See: 37 N.J.R. 2260(a).

Public Notice: Notice of Public Hearing on the Exportable List.
See: 37 N.J.R. 4477(b).

Public Notice: Public Hearing on the Exportable List.
See: 38 N.J.R. 5178(b).

Public Notice: Public Hearing on the Exportable List.
See: 39 N.J.R. 4963(a).

Public Notice: Public Hearing on the Exportable List.
See: 40 N.J.R. 7004(a).

Public Notice: Public Hearing on the Exportable List.
See: 41 N.J.R. 4565(a).

Public Notice: Public Hearing on the Exportable List.
See: 42 N.J.R. 3076(a).

Public Notice: List of Special Risks.
See: 43 N.J.R. 210(b).

Public Notice: Public Hearing on the Exportable List.
See: 43 N.J.R. 2676(a).

Public Notice: Public Hearing on the Exportable List.
See: 44 N.J.R. 2917(b).

Public Notice: Public Hearing on the Exportable List.
See: 45 N.J.R. 2509(b).

Public Notice: Public Hearing on the Exportable List.
See: 46 N.J.R. 2202(b).

Public Notice: Public Hearing on the Exportable List.
See: 47 N.J.R.3164(c).

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 \$60,000 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) Chiropractors Professional Liability

(I) Surgery Centers 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 and limousines; (Eligible Surplus Lines insurer's certificate of eligibility must state that they are permitted to write this risk.)

30. Commercial auto liability for intermediate and long-haul trucking; (Eligible Surplus Lines insurer's certificate of eligibility must state that they are permitted to write this risk.)

31. Liquor Liability;

32. Employment Practices Liability;

33. Livestock Gross Margin Policies for Dairy Cattle;

34. Gap Coverage for Private Passenger and Commercial Automobile; and

35. Flood insurance for primary and excess coverage.

(b) With the exception of Special Risk Disability and Personal Accident Coverage as set forth in (b)3 and 4 below, 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.

2. Annuities including Funding Agreements or Guaranteed Investment Contracts (GIC's) as defined by N.J.S.A. 17B:17-5.

3. "Special Risk Disability and Personal Accident Coverage" means insurance providing coverage on a professional athlete, a professional musician or entertainer, or an executive essential to the insured's business operations obtained by a policyholder who procures insurance:

i. For risk of financial loss caused by the cessation of earned income due to disability from sickness, ailment or bodily injury;

ii. For risk of financial loss caused by a contractual requirement to pay an executive or other person essential to the insured's business operations who can no longer perform his or her duties due to disability from sickness, ailment or bodily injury;

iii. For risk of accidental death in an amount equal to or exceeding \$1,000,000 in face amount only where no

reasonable or adequate market exists among admitted insurers; or

iv. For risk of financial loss caused by a contractual requirement to pay an executive or other person essential to the insured's business operations who can no longer perform his or her duties due to death. Such coverage, where no reasonable or adequate market exists among admitted insurers, must be purchased in an amount equal to or exceeding \$1,000,000 in face amount only and with a policy period not to exceed 24 months.

4. Insurance providing coverage on a person that is not a professional athlete, professional musician or entertainer, or executive or other person essential to a business operation, for any of the risks listed in (b)3i through iv above may be placed with an eligible surplus lines insurer after a diligent effort has been made by a licensed New Jersey insurance producer to procure the insurance from authorized or admitted insurers. The New Jersey surplus lines producer that placed such insurance shall submit a separate report to the Life and Health Office of the Department of Banking and Insurance of placements made during each calendar quarter, within 15 days after the end of such calendar quarter. Such report shall include a copy of the certification of diligent effort (Form No. SLPS-6CERT) and a description of the nature of the risk and the basis of export. This reporting requirement shall apply to placements made through December 31, 2012.

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

(d) The Department shall publish and update on its website a list of Unauthorized Insurers that qualify as Eligible Surplus Lines Insurers in New Jersey.

Amended by R.1997 d.488, effective November 17, 1997.

See: 29 N.J.R. 1009(b), 29 N.J.R. 5023(a).

Added (a)31 and (a)32.

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

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

Rewrote (a) and added (d).

Public Notice: Unauthorized insurers qualified as eligible surplus lines insurers.

See: 33 N.J.R. 2349(c).

Public Notice: Unauthorized insurers qualified as eligible surplus lines insurers.

See: 34 N.J.R. 1055(a).

Public Notice: List of Unauthorized Insurers Which Qualify as Eligible New Jersey Surplus Lines Insurers.

See: 36 N.J.R. 2562(a).

Amended by R.2005 d.135, effective May 2, 2005.

See: 36 N.J.R. 4622(a), 37 N.J.R. 1522(b).

In (a), inserted "and limousines" following "auto liability for taxicabs" in 29.

Amended by R.2005 d.442, effective December 19, 2005.

See: 37 N.J.R. 3214(a), 37 N.J.R. 5014(a).

In (a)20, increased the original cost new of \$40,000 to \$60,000; rewrote the introductory paragraph of (b) and (b)1.

Public Notice: Department of Banking and Insurance; Surplus Lines Examining Office: list of unauthorized insurers which qualify as eligible New Jersey Surplus Lines insurers.

See: 38 N.J.R. 1603(a).

Public Notice: List of Unauthorized Insurers Which Qualify as Eligible New Jersey Surplus Lines Insurers.

See: 39 N.J.R. 1320(a).

Amended by R.2010 d.159, effective July 19, 2010.

See: 41 N.J.R. 3778(a), 42 N.J.R. 1608(a).

In (a)32, deleted “and” from the end; added new (a)33; recodified former (a)33 as (a)34; in the introductory paragraph of (b), substituted “Special Risk Disability and Personal Accident Coverage as set forth in (b)3” for “disability insurance as set forth in (b)1”; in (b)1, deleted the last two sentences; deleted (b)1i through (b)1v; and added (b)3.

Amended by R.2012 d.002, effective January 3, 2012.

See: 43 N.J.R. 2268(a), 44 N.J.R. 86(a).

Added (a)22ii(2)(I); in the introductory paragraph of (b), inserted “and 4”; in (b)3iii, deleted “and with a policy period not to exceed 24 months,” following “only”; in (b)3iv, inserted “and with a policy period not to exceed 24 months”; added (b)4; and rewrote (d).

Amended by R.2015 d.084, effective May 18, 2015.

See: 46 N.J.R. 1541(a), 47 N.J.R. 1005(b).

In (a)33, deleted “and” from the end; in (a)34, substituted “; and” for a period; and added (a)35.

APPENDIX A

(RESERVED)

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

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

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.

(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.

“Person” means an individual, a corporation, a partnership, an association, a joint stock company, a trust, an unincorporated organization, any similar entity or any combination of the foregoing acting in concert.

“Principal insurer” means the insurer with the largest amount of direct written premium within the holding company system as shown by the last filed annual statement.

“Subsidiary” of a specified person is an affiliate controlled by such person directly, or indirectly through one or more intermediaries.

“Ultimate controlling person” means that person which is not controlled by any other person.

“Unauthorized insurer” means an insurer that is not an authorized insurer.

“Voting security” includes any security convertible into or evidencing a right to acquire a voting security.

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

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

Amended “Commissioner” and “Department”.

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) Three 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
Office of Solvency Regulation
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 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.

Amended by R.2006 d.307, effective September 5, 2006.

See: 37 N.J.R. 4156(a), 38 N.J.R. 3586(a).

In address in (b), substituted "Office of Solvency Regulation" for "Division of Financial Examinations".

Amended by R.2011 d.284, effective November 21, 2011.

See: 43 N.J.R. 1566(a), 43 N.J.R. 3094(a).

In the introductory paragraph of (b), substituted "Three" for "Seven".

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 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 determination that all required information has been filed pursuant to (e) above, 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. Notice also shall be posted on the Department's website.

1. Unless a hearing with live testimony is determined to be necessary as set forth in (g) below, for purposes of this subsection, the scheduled date for a hearing on the papers shall be seven days after the publication of the notice referenced in (f) above.

(g) The hearing required pursuant to N.J.S.A. 17:27A-2d shall be on the documents filed. Notwithstanding the foregoing, the Department shall, however, conduct a public hearing with live testimony on a proposed acquisition at the request of a committee of the Legislature. In addition, the Department may conduct a public hearing with live testimony if

it determines that such a hearing is in the interest of the policyholders of the insurer being acquired or of the public. In making that determination, the Department shall consider the following, whether:

1. The insurer being acquired has policyholders;
2. The applicant is not currently transacting insurance business in this State, either directly or through affiliates;
3. The insurer to be acquired has been found to be in a hazardous financial condition, is under administrative supervision pursuant to N.J.S.A. 17:51A-1 et seq., or is the subject of an order of rehabilitation pursuant to N.J.S.A. 17:30C-1 et seq., or 17B:32-31 et seq.;
4. The coverages or rates for the policyholders of the insurer to be acquired will change or the coverage currently provided will be terminated;
5. The applicant, insurer to be acquired, or an "interested party" as defined in (j) below, has requested a hearing; and
6. A hearing with live testimony is in the best interest of the policy holders of the insurer being acquired or of the public, based on the circumstances of a particular proposed acquisition.

(h) A verbatim transcript of a hearing, if a hearing with live testimony is held pursuant to (g) above 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.

(i) 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 Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

(j) 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 (i) 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).

Amended by R.2007 d.314, effective October 15, 2007.

See: 39 N.J.R. 1984(a), 39 N.J.R. 4405(a).

In (e), deleted "scheduling of the public" preceding "hearing"; in the introductory paragraph of (f), substituted "determination that all required information has been filed pursuant to (e) above" for "scheduling of the hearing" and inserted the last sentence; added (f)1; added new (g); recodified former (g) through (i) as (h) through (j); in (h), inserted, "if a hearing with live testimony is" and substituted "(g) above" for "N.J.S.A. 17:27A-2d"; in (i), substituted "Open Public Records Act" for "Right to Know" law"; and in the introductory paragraph of (j), substituted "(i)" for "(h)".

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:

1. The statement or report contains substantially similar information required to be furnished on Exhibit B; and

2. The filing insurer is the principal insurer in the insurance holding company system.

(b) An insurer filing a registration statement or report in lieu of Exhibit B on behalf of an affiliated insurer shall provide a brief statement of facts to substantiate the filing insurer's claims that it, in fact, is the principal insurer in the insurance holding company system.

(c) With the prior approval of the Commissioner, an unauthorized insurer may follow any of the procedures which could be done by an authorized insurer under paragraph (a) above.

(d) Except as provided at (c) above, any insurer may make consolidated or alternate filings as set forth in this section without the prior approval of the Commissioner. The Commissioner, however, may require individual filings at any time if he or she deems such filings necessary in the interest of clarity, ease of administration or the public good.

11:1-35.9 Disclaimers and termination of registration

(a) A disclaimer of affiliation or a request for termination of registration claiming that a person does not, or will not upon the taking of some proposed action, control another person (hereinafter referred to as the "subject") shall contain the following information:

1. The number of authorized, issued and outstanding voting securities of the subject;

2. With respect to the person whose control is denied and all affiliates of such person, the number and percentage of shares of the subject's voting securities which are held of record or known to be beneficially owned, and the number of such shares concerning which there is a right to acquire, directly or indirectly;

3. All material relationships and bases for affiliation between the subject and the person whose control is denied and all affiliates of such person; and

4. A statement explaining why such person should not be considered to control the subject.

(b) A request for termination of registration shall be deemed to have been granted unless the Commissioner, within 30 days after receipt of the request, notifies the registrant otherwise.

11:1-35.10 Transactions subject to prior notice

(a) An insurer required to give notice of a proposed transaction pursuant to N.J.S.A. 17:27A-4 shall furnish the required information as set forth in Exhibit D within the applicable time frames set forth in N.J.S.A. 17:27A-4.

(b) Notification of extraordinary dividends and any other ordinary dividend distribution to shareholders shall include the following information:

1. The amount of the proposed dividend;

2. The date established for payment of the dividend;

3. A statement as to whether the dividend is to be in cash or other property. If the dividend is in property, a description thereof shall be provided, as well as a description of its cost, fair market value, and an explanation of the basis for valuation;

4. A copy of the work paper calculations determining whether the proposed dividend is an extraordinary dividend as defined in N.J.S.A. 17:27A-4c(2)(b). The work paper shall include the following information:

i. The amounts, dates and form of payment of all dividends or distributions (including regular dividends but excluding distributions of the insurer's own securities) paid within the period of 12 consecutive months ending on the date fixed for payment of the proposed dividend for which approval is sought and commencing on the day after the same day of the same month in the last preceding year;

ii. The insurer's surplus as regards policyholders (total capital and surplus) as of the 31st of December next preceding;

iii. If the insurer is a life insurer, the net gain from operations less realized capital gains for the 12-month period ending the 31st day of December next preceding; and

iv. If the insurer is not a life insurer, the net income less realized capital gains for the 12-month period ending the 31st day of December next preceding;

5. A balance sheet and statement of income for the period intervening from the last annual statement filed with the Commissioner and the end of the month preceding the month in which the request for dividend approval is submitted;

6. A brief statement as to the effect of the proposed dividend upon the insurer's surplus and the reasonableness of surplus in relation to the insurer's outstanding liabilities and the adequacy of surplus relative to the insurer's financial needs; and

7. The non-refundable filing fee as set forth at N.J.A.C. 11:1-32.4(b)14.

11:1-35.11 Adequacy of surplus

In determining the adequacy and reasonableness of an insurer's surplus, the Commissioner shall consider the factors set forth in N.J.S.A. 17:27A-4b, among others, and need not consider any single factor as necessarily controlling. The Commissioner may consider the net effect of all of these factors plus other factors bearing on the financial

condition of the insurer. In comparing the surplus maintained by other insurers, the Commissioner shall consider the extent to which each of these factors varies from company to company and in determining the quality and liquidity of investments in subsidiaries, the Commissioner shall consider the individual subsidiary and may discount or disallow its valuation to the extent that, in his or her judgment, the individual investment so warrants.

11:1-35.12 Pre-acquisition notification

(a) If a domestic insurer, including any person controlling a domestic insurer, is proposing a merger or acquisition pursuant to N.J.S.A. 17:27A-2a, that person shall file a pre-acquisition notification form, in the form of Appendix Exhibit E, incorporated herein by reference.

(b) If a non-domiciliary insurer licensed to do business in this State is proposing a merger or acquisition pursuant to N.J.S.A. 17:27A-4.1, that person shall file a pre-acquisition notification form in the form of Exhibit E. No pre-acquisition notification form need be filed if the acquisition is not subject to N.J.S.A. 17:27A-4.1 as set forth in N.J.S.A. 17:27A-4.1b(2).

(c) In addition to the information required by Exhibit E, the Commissioner may require the filer to provide, or otherwise may obtain, an expert opinion as to the competitive impact of the proposed acquisition.

New Rule, R.1997 d.12, effective January 6, 1997. See: 28 N.J.R. 4700(a), 28 N.J.R. 129(b). Former section recodified as N.J.A.C. 11:1-35.13.

11:1-35.13 Penalties

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

Recodified from 11:1-35.12 by R.1997 d.12, effective January 6, 1997. See: 28 N.J.R. 4700(a), 29 N.J.R. 129(b).

APPENDIX

EXHIBIT A

FORM A

STATEMENT REGARDING THE ACQUISITION OF CONTROL OF OR MERGER WITH A DOMESTIC INSURER

Name of Domestic Insurer

BY

Name of Acquiring Person (Applicant)

filed with the Insurance Department of the State of

NEW JERSEY

Dated: _____, 19__

Name, title address and telephone number of Individual to Whom Notices and Correspondence Concerning this Statement Should be Addressed:

ITEM 1. INSURER AND METHOD OF ACQUISITION

State the name and address of the domestic insurer to which this application relates and a brief description of how control is to be acquired.

ITEM 2. IDENTITY AND BACKGROUND OF THE APPLICANT

(a) State the name and address of the applicant seeking to acquire control over the insurer.

(b) If the applicant is not an individual, state the nature of its business operations for the past five years or for such lesser period as such person and any predecessors thereof shall have been in existence. Briefly describe the business intended to be done by the applicant and the applicant's subsidiaries.

(c) Furnish a chart or listing clearly presenting the identities of the inter-relationships among the applicant and all affiliates of the applicant, regardless of the amount of the affiliate's total assets. Indicate in such chart or listing the percentage of voting securities of each such person which is owned or controlled by the applicant or by any other such person. If control of any person is maintained other than by the ownership or control of voting securities, indicate the basis of such control. As to each person specified in such chart or listing indicate the type of organization (for example, corporation, trust, partnership) and the state or other jurisdiction of domicile. If court proceedings involving a reorganization or liquidation are pending with respect to any such person, indicate which person, and set forth the title of the court, nature of proceedings and the date when commenced.

ITEM 3. IDENTITY AND BACKGROUND OF INDIVIDUALS ASSOCIATED WITH THE APPLICANT.

State the following with respect to (1) the applicant if (s)he is an individual; (2) all persons who are directors, executive officers or owners of 10 percent or more of the voting securities of the applicant if the applicant is not an individual; (3) all general partners of the applicant if the applicant is a limited partnership; or (4) all members of the applicant if the applicant is a limited liability company.

(a) Name and business address;

(b) Present principal business activity, occupation or employment including position and office held and the name, principal business and address of any corporation or other organization in which such employment is carried on;

(c) Material occupation, positions, offices or employment during the last five years, giving the starting and ending dates of each and the name, principal business and address of any business corporation or other organization in which each such occupation, position, office or employment was carried on; if any such occupation, position, office or employment required licensing by or registration with any federal, state or municipal governmental agency, indicate such fact, the current status of such licensing or registration, and an explanation of any surrender, revocation, suspension or disciplinary proceedings in connection therewith.

(d) Whether or not such person has ever been convicted in a criminal proceeding (excluding minor traffic violations) during the last ten years and, if so, give the date, nature of conviction, name and location of court, and penalty or other disposition of the case.

The information set forth above shall be submitted in the form of the biographical affidavit adopted by the National Association of Insurance Commissioners. However, the applicant may file for the public record as part of the Form A statement a biographical affidavit excluding the individual's Social Security number and residence addresses, provided that a complete biographical affidavit is filed with the Department that contains the individual's Social Security number and residence addresses for the Department's review. When a biographical affidavit excluding the individual's Social Security number and residence address is filed, the complete biographical affidavit also filed shall not be deemed part of the public record, and shall be 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.

ITEM 4. NATURE, SOURCE AND AMOUNT OF CONSIDERATION

(a) Describe the nature, source and amount of funds or other consideration used or to be used in effecting the merger or other acquisition of control. If any part of the same is represented or is to be represented by funds or other consideration borrowed or otherwise obtained for the purpose of acquiring, holding or trading securities, furnish a description of the transaction, the names of the parties thereto, the relationship, if any, between the borrower and the lender, the amounts borrowed or to be borrowed, and copies of all agreements, promissory notes and security arrangements relating thereto.

(b) Explain the criteria used in determining the nature and amount of such consideration.

(c) If the source of the consideration is a loan made in the lender's ordinary course of business and if the applicant wishes the identity of the lender to remain confidential, he must specifically request that the identity be kept confidential.

ITEM 5. FUTURE PLANS OF INSURER

Describe any plans or proposals which the applicant may have to declare an extraordinary dividend, to liquidate such insurer, to sell its assets to or merge it with any person or persons or to make any other material change in its business operations or corporate structure or management.

ITEM 6. VOTING SECURITIES TO BE ACQUIRED

State the number of shares of the insurer's voting securities which the applicant, its affiliates and any person listed in Item 3 plan to acquire, and the terms of the offer, request, invitation, agreement or acquisition, and a statement as to the method by which the fairness of the proposal was determined. A copy of the final executed purchase agreement shall also be attached to this statement, unless the insurer being acquired is in rehabilitation. In such a case, a copy of the draft purchase agreement shall nevertheless be attached, which shall reflect the general terms for the purchase as agreed to by the parties as of the date of the filing.

ITEM 7. OWNERSHIP OF VOTING SECURITIES

State the amount of each class of any voting security of the insurer which is beneficially owned or concerning which there is a right to acquire beneficial ownership by the applicant, its affiliates or any person listed in Item 3.

ITEM 8. CONTRACTS, ARRANGEMENTS OR UNDERSTANDINGS WITH RESPECT TO VOTING SECURITIES OF THE INSURER

Give a full description of any contracts, arrangements or understandings with respect to any voting security of the insurer in which the applicant, its affiliates or any person listed in Item 3 is involved, including but not limited to transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, or the giving or withholding of proxies. Such description shall identify the persons with whom such contracts, arrangements or understandings have been entered into.

ITEM 9. RECENT PURCHASES OF VOTING SECURITIES

Describe any purchase of any voting securities of the insurer by the applicant, its affiliates or any person listed in Item 3 during the 12 calendar months preceding the filing of this Statement. Include in such description the dates of purchase, the names of the purchasers, and the consideration paid or agreed to be paid therefor. State whether any such shares so purchased are hypothecated.

ITEM 10. RECENT RECOMMENDATIONS TO PURCHASE

Describe any recommendations to purchase any voting security of the insurer made by the applicant, its affiliates or any person listed in Item 3, or by anyone based upon interviews or at the suggestion of the applicant, its affiliates or any person listed in Item 3 during the 12 calendar months preceding the filing of this statement.

ITEM 11. AGREEMENTS WITH BROKER-DEALERS

Describe the terms of any agreement, contract or understanding made with any broker-dealer as to solicitation of voting securities of the insurer for tender and the amount of any fees, commissions or other compensation to be paid to broker-dealers with regard thereto.

ITEM 12. FINANCIAL STATEMENTS AND EXHIBITS

(a) Financial statements and exhibits shall be attached to this statement as an appendix, but list under this item the financial statements and exhibits so attached.

(b) The financial statements shall include the annual financial statements of the persons identified in Item 2(c) (including trusts, partnerships or corporations) for the preceding five fiscal years (or for such lesser period as such applicant and its affiliates and any predecessors thereof shall have been in existence), and similar information covering the period from the end of such person's last fiscal year, if such information is available. Such statements may be prepared on either an individual basis, or, unless the Commissioner otherwise requires, on a consolidated basis if such consolidated statements are prepared in the usual course of business.

The annual financial statements of the applicant shall be accompanied by the certificate of an independent public accountant to the effect that such statements present fairly the financial position of the applicant and the results of its operations for the year then ended, in conformity with generally accepted accounting principles or with requirements of insurance or other accounting principles prescribed or permitted under law. In the case of annual statements for individuals, in lieu of an annual statement certified by an independent certified public accountant, the Commissioner may accept annual statements for individuals that conform with the Institute of Certified Public Accountants Guidelines for Financial Compilation, or such similar guidelines acceptable to the Commissioner.

Financial statements for individuals shall consist of: (1) a balance sheet showing the status of the individual's assets and liabilities and equity (net worth) as of year end for each of the preceding five years; and (2) a statement of income or statement of revenue and expenses for the same period. The statements shall include the total assets and total liabilities, and shall accurately reflect the net income, of the individual for each of the preceding five years. Financial statements of individuals shall be 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., shall not be subject to subpoena, and shall not be made public by the Commissioner or any other person without the prior written consent of the individual, except pursuant to an order of a court of competent jurisdiction. The Department shall promptly notify any person affected thereby of the application for such an order.

If the applicant is an insurer which is actively engaged in the business of insurance, the financial statements need not be certified, provided they are based on the Annual Statement of such person filed with the insurance department of the person's domiciliary state and are in accordance with the requirements of insurance or other accounting principles prescribed or permitted under the law and regulations of such state.

(c) File as exhibits copies of all tender offers for, requests or invitations for, tenders of, exchange offers for, and agreements to acquire or exchange any voting securities of the insurer and (if distributed) of additional soliciting material relating thereto, any proposed employment, consultation, advisory or management contracts concerning the insurer, annual reports to the stockholders of the insurer and the applicant for the last two fiscal years, and any additional documents or papers required by Form A or N.J.A.C. 11:1-35.3.

ITEM 13. SIGNATURE AND CERTIFICATION

Signature and certification required as follows:

SIGNATURE

Pursuant to the requirements of N.J.S.A. 17:27A-2

_____ has caused this application to be duly signed on its behalf in the City of _____ and State of _____ on the _____ day of _____, 19__.

(SEAL) _____
Name of Applicant

BY _____
(Name) (Title)

Attest:

(Signature of Officer)

(Title)

CERTIFICATION

The undersigned deposes and says that (s)he has duly executed the attached application dated _____, 19__, for and on behalf of _____; that (s)he is the
(Name of Applicant)

_____ of such company and that (s)he is authorized
(Title of Officer)

to execute and file such instrument. Deponent further says that (s)he is familiar with such instrument and the contents thereof, and that the facts set forth are true to the best of his/her knowledge, information and belief.

(Signature) _____

(Type or print name beneath) _____

Amended by R.1997 d.12, effective January 6, 1997.
See: 28 N.J.R. 4700(a), 29 N.J.R. 129(b).

In Item 3, in introductory paragraph, added (3), and in (d), added second paragraph; and, in Item 12, in (b), inserted third paragraph.

EXHIBIT B
FORM B

INSURANCE HOLDING COMPANY SYSTEM
ANNUAL REGISTRATION STATEMENT

Filed with the Insurance Department of the State of
NEW JERSEY

By

Name of Registrant

On Behalf of Following Insurance Companies

Name Address

Three horizontal lines for listing insurance companies.

Date: _____, 19__

Name, Title, Address and Telephone Number of Individual
to Whom Notices and Correspondence Concerning this
Statement Should be Addressed:

Three horizontal lines for providing contact information.

ITEM 1. IDENTITY AND CONTROL OF REGISTRANT

Furnish the exact name of each insurer registering or
being registered (hereinafter called "the Registrant"), the
home office address and principal executive offices of each;
the date on which each Registrant became part of the
insurance company system; and the method(s) by which
control of each Registrant was acquired and is maintained.

ITEM 2. ORGANIZATIONAL CHART

Furnish a chart or listing clearly presenting the identities
of and interrelationships among all affiliated persons within
the insurance holding company system, regardless of the
amount of the affiliate's total assets. The chart or listing
should show the percentage of each class of voting securities
of each affiliate which is owned, directly or indirectly, by
another affiliate. If control of any person within the system
is maintained other than by the ownership or control of
voting securities, indicate the basis of such control. As to
each person specified in such chart or listing indicate the
type of organization (for example, corporation, trust, part-
nership) and the state or other jurisdiction of domicile.

ITEM 3. THE ULTIMATE CONTROLLING PERSON

As to the ultimate controlling person in the insurance
holding company system, furnish the following information:

- (a) Name.
(b) Home office address.
(c) Principal executive office address.
(d) The organizational structure of the person, that is,
corporation, partnership, individual, trust, etc.
(e) The principal business of the person.
(f) The name and address of any person who holds or
owns 10 percent or more of any class of voting security,
the class of such security, the number of shares held of
record or known to be beneficially owned, and the per-
centage of class so held or owned.
(g) If court proceedings involving a reorganization or
liquidation are pending, indicate the title and location of
the court, the nature of proceedings and the date when
commenced.

ITEM 4. BIOGRAPHICAL INFORMATION

Furnish the following information for the directors and
executive officers of the ultimate controlling person: the
individual's name and address, his or her principal occupa-
tion and all offices and positions held during the past five
years, and any conviction of crimes other than minor traffic
violations during the past ten years.

ITEM 5. TRANSACTIONS AND AGREEMENTS

Briefly describe the following agreements in force, and
transactions currently outstanding or which have occurred
during the last calendar year between the Registrant and its
affiliates:

- (1) Loans, other investments, or purchases, sales or
exchanges of securities of the affiliates by the Registrant
or of the Registrant by its affiliates;
(2) Purchases, sales or exchanges of assets;
(3) Transactions not in the ordinary course of business;
(4) Guarantees or undertakings for the benefit of an
affiliate which result in an actual contingent exposure of
the Registrant's assets to liability, other than insurance
contracts entered into in the ordinary course of the
Registrant's business;
(5) All management agreements, service contracts and
all cost-sharing arrangements;
(6) Reinsurance agreements;
(7) Dividends and other distributions to shareholders,
including the declarations and authorizations thereof;
(8) Consolidated tax allocation agreements; and
(9) Any pledge of the Registrant's stock and/or of the
stock of any subsidiary or controlling affiliate, for a loan
made to any member of the insurance holding company
system.

No information need be disclosed if such information is not material.

Sales, purchases, exchanges, loans or extensions of credit, investments, guarantees or other contingent obligations involving 0.5 percent or less of the Registrant's admitted assets as of the 31st day of December next preceding shall not be deemed material.

The description shall be in a manner as to permit the proper evaluation thereof by the Commissioner, and shall include at least the following: the nature and purpose of the transaction, the nature and amounts of any payments or transfers of assets between the parties, the identity of all parties to such transaction, and relationship of the affiliated parties to the Registrant.

ITEM 6. LITIGATION OR ADMINISTRATIVE PROCEEDINGS

A brief description of any litigation or administrative proceedings of the following types either then pending or concluded within the preceding fiscal year, to which the ultimate controlling person or any of its directors or executive officers was a party or of which the property of any such person is or was the subject; give the names of the parties and the court or agency in which such litigation or proceedings is or was pending:

(a) Criminal prosecutions or administrative proceedings by any government agency or authority which may be relevant to the trustworthiness of any party thereto; and

(b) Proceedings which may have a material effect upon the solvency or capital structure of the ultimate controlling person including, but not necessarily limited to, bankruptcy, receivership or other corporate reorganizations.

ITEM 7. STATEMENT REGARDING PLAN OR SERIES OF TRANSACTIONS

The insurer shall furnish a statement that transactions entered into since the filing of the prior year's annual registration statement are not part of a plan or series of like transactions, the purpose of which is to avoid statutory threshold amounts and the review that might otherwise occur.

ITEM 8. FINANCIAL STATEMENTS AND EXHIBITS

(a) Financial statements and exhibits should be attached to this statement as an appendix, but list under this item the financial statements and exhibits so attached.

(b) The financial statements shall include the annual financial statements of the ultimate controlling person in the insurance holding company system as of the end of the person's latest fiscal year.

If at the time of the initial registration, the annual financial statements for the latest fiscal year are not available, annual statements for the previous fiscal year may be filed and similar financial information shall be filed for any subsequent period to the extent such information is available. Such financial statements may be prepared on either an individual basis, or unless the Commissioner otherwise requires, on a consolidated basis if such consolidated statements are prepared in the usual course of business.

Unless the Commissioner otherwise permits, the annual financial statements shall be accompanied by the certificate of an independent public accountant to the effect that such statements present fairly the financial position of the ultimate controlling person and the results of its operations for the year ended, in conformity with generally accepted accounting principles or with requirements of insurance or other accounting principles prescribed or permitted under law. If the ultimate controlling person is an insurer which is actively engaged in the business of insurance, the annual financial statements need not be certified, provided they are based on the Annual Statement of such insurer filed with the insurance department of the insurer's domiciliary State and are in accordance with requirements of insurance or other accounting principles prescribed or permitted under the law and regulations of such state.

(c) Exhibits shall include copies of the latest annual reports to shareholders of the ultimate controlling person and proxy material used by the ultimate controlling person, and any additional documents or papers required by Form B or N.J.A.C. 11:1-35.3.

ITEM 9. FORM C REQUIRED

A Form C, Summary of Registration Statement, must be prepared and filed with this Form B.

ITEM 10. SIGNATURE AND CERTIFICATION

Signature and certification required as follows:

SIGNATURE

Pursuant to the requirements of N.J.S.A. 17:27A-3, the Registrant has caused this annual registration statement to be duly signed on its behalf in the City of _____ and State of _____ on the _____ day of _____, 19____.

(SEAL) _____
Name of Registrant

BY _____
(Name) (Title)

Attest:

(Signature of Officer)

(Title)

CERTIFICATION

The undersigned deposes and says that (s)he has duly executed the attached annual registration statement dated _____, 19____, for and on behalf of _____; that
(Name of Company)
(s)he is the _____ of such company and that (s)he
(Title of Officer)
is authorized to execute and file such instrument. Depo-
nent further says that (s)he is familiar with such instrument
and the contents thereof, and that the facts therein set forth
are true to the best of his/her knowledge, information and
belief.

(Signature) _____
(Type or print name beneath) _____

**EXHIBIT C
FORM C**

SUMMARY OF REGISTRATION STATEMENT

Filed with the Insurance Department of the State of
NEW JERSEY

By

Name of Registrant

On Behalf of Following Insurance Companies

| Name | Address |
|-------|---------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

Date: _____, 19____

Name, Title, Address and Telephone Number of Individual
to Whom Notices and Correspondence Concerning This
Statement Should be Addressed:

Furnish a brief description of all items in the current
annual registration statement which represent changes from
the prior year's annual registration statement. The descrip-
tion shall be in a manner as to permit the proper evaluation
thereof by the Commissioner, and shall include specific
reference to Item numbers in the annual registration state-
ment and to the terms contained therein.

Changes occurring under Item 2 of Form B insofar as
changes in the percentage of each class of voting securities
held by each affiliate is concerned, need only be included
where such changes are ones which result in ownership of
holdings of 10 percent or more of voting securities, loss or
transfer of control, or acquisition or loss of partnership
interest.

Changes occurring under Item 4 of Form B need only be
included where: an individual is, for the first time, made a
director or executive officer of the ultimate controlling
person; a director or executive officer terminates his or her
responsibilities with the ultimate controlling person; or in
the event an individual is named president of the ultimate
controlling person.

If a transaction disclosed on the prior year's annual
registration statement has been changed, the nature of such
change shall be included. If a transaction disclosed on the
prior year's annual registration statement has been effectua-
ted, furnish the mode of completion and any flow of funds
between affiliates resulting from the transaction.

The insurer shall furnish a statement that transactions
entered into since the filing of the prior year's annual
registration statement are not part of a plan or series of like
transactions whose purpose it is to avoid statutory threshold
amounts and the review that might otherwise occur.

SIGNATURE AND CERTIFICATION

Signature and certification required as follows:

SIGNATURE

Pursuant to the requirements of N.J.S.A. 17:27A-3, the
Registrant has caused this summary of registration state-
ment to be duly signed on its behalf in the City of
_____ and State of _____ on the _____ day
of _____, 19____.

(SEAL) _____
Name of Registrant
BY _____
(Name) (Title)

Attest:

(Signature of Officer)

(Title)

CERTIFICATION

The undersigned deposes and says that (s)he has duly
executed the attached summary of registration statement
dated _____, 19____, for and on behalf of _____;
(Name of Company)
that (s)he is the _____ of such company and that
(Title of Officer)

(s)he is authorized to execute and file such instrument. Deponent further says that (s)he is familiar with such instrument and the contents thereof, and that the facts therein set forth are true to the best of his/her knowledge, information and belief.

(Signature) _____
(Type or print name beneath) _____

EXHIBIT D

FORM D

PRIOR NOTICE OF A TRANSACTION

Filed with the Insurance Department
of the State of NEW JERSEY

By

Name of Registrant

On Behalf of Following Insurance Companies
Name Address

Date: _____, 19__

Name, Title, Address and Telephone Number of Individual
to Whom Notices and Correspondence Concerning This
Statement Should be Addressed:

ITEM 1. IDENTITY OF PARTIES TO TRANSACTION

Furnish the following information for each of the parties
to the transaction:

- (a) Name.
- (b) Home office address.
- (c) Principal executive office address.
- (d) The organizational structure, that is, corporation, partnership, individual, trust, etc.
- (e) A description of the nature of the parties' business operations.
- (f) Relationship, if any, of other parties to the transaction to the insurer filing the notice, including any ownership or debtor/creditor interest by any other parties to the transaction in the insurer seeking approval, or by the insurer filing the notice in the affiliated parties.

(g) Where the transaction is with a non-affiliate, the name(s) of the affiliate(s) which will receive, in whole or in substantial part, the proceeds of the transaction.

ITEM 2. DESCRIPTION OF THE TRANSACTION

Furnish the following information for each transaction for which notice is being given:

- (a) A statement as to whether notice is being given pursuant to N.J.S.A. 17:27A-4a(2)(a), a(2)(b), a(2)(c), a(2)(d) or a(2)(e).
- (b) A statement of the nature of the transaction.
- (c) The proposed effective date of the transaction.

ITEM 3. SALES, PURCHASES, EXCHANGES, LOANS, EXTENSIONS OF CREDIT, GUARANTEES OR OTHER CONTINGENT OBLIGATIONS, INVESTMENTS OR LOANS COLLATERALIZED BY THE STOCK OF A SUBSIDIARY OR AFFILIATE

Furnish a brief description of the amount and source of funds, securities, property or other consideration for the sale, purchase, exchange, loan, extension of credit, guarantee or other contingent obligation, investment, or loan collateralized by the stock of a subsidiary or affiliate; whether any provision exists for purchase by the insurer filing notice, by any party to the transaction, or by any affiliate of the insurer filing notice; a description of the terms of any securities being received, if any; and a description of any other agreements relating to the transaction such as contracts or agreements for services, consulting agreements and the like. If the transaction involves other than cash, furnish a description of the consideration, its cost and its fair market value, together with an explanation of the basis for evaluation.

If the transaction involves a loan, extension of credit or a guarantee, furnish a description of the maximum amount which the insurer will be obligated to make available under such loan, extension of credit or guarantee, the date on which the credit or guarantee will terminate, and any provisions for the accrual of or deferral of interest.

If the transaction involves an investment, guarantee or other arrangement, state the time period during which the investment, guarantee or other arrangement will remain in effect, together with any provisions for extensions or renewals of such investments, guarantees or arrangements. Furnish a brief statement as to the effect of the transaction upon the insurer's surplus.

No notice need be given if the maximum amount which can at any time be outstanding or for which the insurer can be legally obligated under the loan, extension of credit or guarantee is less than (a) in the case of non-life insurers, the lesser of 3 percent of the insurer's admitted assets or 25 percent of surplus as regards policyholders or, (b) in the case of life insurers, 3 percent of the insurer's admitted assets, each as of the 31st day of December next preceding.

ITEM 4. LOANS OR EXTENSIONS OF CREDIT TO A NONAFFILIATE

If the transaction involves a loan or extension of credit to any person who is not an affiliate, furnish a brief description of the agreement or understanding whereby the proceeds of the proposed transaction, in whole or in substantial part, are to be used to make loans or extensions of credit to, to purchase the assets of, or to make investments in, any affiliate of the insurer making such loans or extensions of credit, and specify in what manner the proceeds are to be used to loan to, extend credit to, purchase assets of, or make investments in, any affiliate. Describe the amount and source of funds, securities, property or other consideration for the loan or extension of credit and, if the transaction is one involving consideration other than cash, a description of its cost and its fair market value together with an explanation of the basis for evaluation. Furnish a brief statement as to the effect of the transaction upon the insurer's surplus.

No notice need be given if the loan or extension of credit is one which equals less than, in the case of non-life insurers, the lesser of 3 percent of the insurer's admitted assets or 25 percent of surplus as regards policyholders or, with respect to life insurers, 3 percent of the insurer's admitted assets, each as of the 31st day of December next preceding.

ITEM 5. REINSURANCE

If the transaction is a reinsurance agreement or modification thereto, as described in N.J.S.A. 17:27A-4a(2)(c), furnish a description of the known and/or estimated amount of liability to be ceded and/or assumed in each calendar year, the period of time during which the agreement will be in effect, and a statement whether an agreement or understanding exists between the insurer and non-affiliate to the effect that any portion of the assets constituting the consideration for the agreement will be transferred to one or more of the insurer's affiliates. Furnish a brief description of the consideration involved in the transaction, and a brief statement as to the effect of the transaction upon the insurer's surplus.

No notice need be given for reinsurance agreements or modifications thereto if the reinsurance premium or a change in the insurer's liabilities in connection with the reinsurance agreement or modification thereto is less than 5 percent of the insurer's surplus as regards policyholders, as of the 31st day of December next preceding.

ITEM 6. MANAGEMENT AGREEMENTS, SERVICE AGREEMENTS AND COST-SHARING ARRANGEMENTS

For management and service agreements, furnish:

- (a) A brief description of the managerial responsibilities, or services to be performed.

- (b) A brief description of the agreement, including a statement of its duration, together with brief descriptions of the basis for compensation and the terms under which payment or compensation is to be made.

For cost-sharing arrangements, furnish:

- (a) A brief description of the purpose of the agreement.
- (b) A description of the period of time during which the agreement is to be in effect.
- (c) A brief description of each party's expenses or costs covered by the agreement.
- (d) A brief description of the accounting basis to be used in calculating each party's costs under the agreement.

ITEM 7. SIGNATURE AND CERTIFICATION

Signature and certification required as follows:

SIGNATURE

Pursuant to the requirements of N.J.S.A. 17:27A-4, _____ has caused this notice to be duly signed on its behalf in the City of _____ and State of _____ on the _____ day of _____, 19____.

(SEAL) _____
Name of Applicant

BY _____
(Name) (Title)

Attest:

(Signature of Officer)

(Title)

CERTIFICATION

The undersigned deposes and says that (s)he has duly executed the attached notice dated _____, 19____, for and on behalf of _____; that (s)he is the _____ (Name of Company)

_____ of such company and that (s)he is authorized (Title of Officer)

to execute and file such instrument. Deponent further says that (s)he is familiar with such instrument and the contents thereof, and that the facts therein set forth are true to the best of his/her knowledge, information and belief.

(Signature) _____

(Type or print name beneath) _____

**EXHIBIT E
FORM E**

**PRE-ACQUISITION NOTIFICATION FORM REGARD-
ING THE POTENTIAL COMPETITIVE IMPACT OF
A PROPOSED MERGER OR ACQUISITION BY A
NON-DOMICILIARY INSURER DOING BUSINESS
IN THIS STATE OR BY A DOMESTIC INSURER**

Name of Applicant

Name of Other Person
Involved in Merger or Acquisition

Filed with the Insurance Department of

Dated: _____, 19____

Name, title, address and telephone number of person com-
pleting this statement:

ITEM 1. NAME AND ADDRESS

State the names and addresses of the persons who hereby
provide notice of their involvement in a pending acquisition
or change in corporate control.

**ITEM 2. NAMES AND ADDRESSES OF AFFILIATED
COMPANIES**

State the names and addresses of the persons affiliated
with those listed in Item 1. Describe their affiliations.

**ITEM 3. NATURE AND PURPOSE OF THE PROPOSED
MERGER OR ACQUISITION**

State the nature and purpose of the proposed merger or
acquisition.

ITEM 4. NATURE OF BUSINESS

State the nature of the business performed by each of the
persons identified in response to Item 1 and Item 2.

ITEM 5. MARKET AND MARKET SHARE

State specifically what market and market share in each
relevant insurance market the persons identified in Item 1
and Item 2 currently enjoy in this State. Provide historical
market and market share data for each person identified in
Item 1 and Item 2 for the past five years and identify the
source of such data.

For purpose of this question, market means direct written
insurance premium in this State for a line of business as
contained in the annual statement required to be filed by
insurers licensed to do business in this State.

New Rule, R.1997 d.12, effective January 6, 1997.
See: 28 N.J.R. 4700(a), 29 N.J.R. 129(b).

SUBCHAPTER 36. EXAMINATION OF INSURERS

11:1-36.1 Purpose and scope

(a) This subchapter sets forth certain procedures and
processes for the examination of the financial condition of a
company, for the payment of expenses of any examination
conducted pursuant to N.J.S.A. 17:23-20 et seq., and for
maintaining certain information as confidential pursuant to
N.J.S.A. 17:23-24f.

(b) This subchapter applies to all insurers licensed to
transact insurance in this State and to any company or
person subject to examination by the Commissioner pursu-
ant to N.J.S.A. 17:23-20 et seq.

Amended by R.2001 d.135, effective May 7, 2001.
See: 32 N.J.R. 4328(a), 33 N.J.R. 1387(a).

In (a), substituted "N.J.S.A. 17:23-20 et seq., and for maintaining
certain information as confidential to N.J.S.A. 17:23-24f" for "P.L.
1993, c.236"; in (b), substituted "N.J.S.A. 17:23-20 et seq." for "P.L.
1993, c.236".

11:1-36.2 Definitions

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

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

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

"Company" means any insurer or other person engaging
in or proposing or attempting to engage in any transaction
or kind of insurance or surety business and any person or
group of persons who may otherwise be subject to the
administrative, regulatory or taxing authority of the Com-
missioner.

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

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

formal criminal charges, or the suspension or revocation of any insurance license or authority by a state, other than this State, or failed to supply any documentation that the Commissioner may request in connection therewith;

11. Failed to appear in response to any subpoena issued by the Commissioner or his authorized designee; failed to produce any documents or other material requested in a subpoena; or refused or failed to cooperate with an investigation by the Commissioner of the activities of the person or any other licensee;

12. Induced the cancellation of a duly executed written memorandum between an insured and a public adjuster;

13. Made any misrepresentation of facts or advised any person on questions of law in conjunction with the business as a public adjuster;

14. Had any professional license suspended or revoked in this or any other state;

15. Solicited the adjustment of a loss or damage occurring in this State from an insured, whether by personal interview, by telephone, or by any other method, between the hours of 6:00 P.M. and 8:00 A.M. during the 24 hours after the loss has occurred;

16. Engaged in the business of a public adjuster in New Jersey with an invalid or expired license; or

17. Committed any other act, or omission which the Commissioner determines to be inappropriate conduct by a licensee of this State.

(b) Any person which violates any provision of this subchapter shall, in addition to any other penalties provided by law, be liable for a civil penalty of not more than \$2,500 for a first offense and not more than \$5,000 for the second and each subsequent offense. Each transaction or statutory violation shall constitute a separate offense.

(c) The procedures for the imposition of administrative penalties shall be governed by N.J.A.C. 11:17D-2.1.

Amended by R.2012 d.136, effective July 16, 2012.
See: 44 N.J.R. 32(a), 44 N.J.R. 1979(a).

In the introductory paragraph of (a), inserted a comma following "revoke"; in (a)4, inserted "applicant's or" and a comma following "irresponsibility"; added (a)15; recodified former (a)15 and (a)16 as (a)16 and (a)17.

Case Notes

Because a public adjuster was collaterally estopped from refuting the factual findings made in the civil fraud action against the adjuster, there was no question that certain violations alleged in the Order to Show Cause were committed. *Goldman v. Budge*, OAL Dkt. No. BKI 10260-2004S, 2007 N.J. AGEN LEXIS 515, Final Decision (June 28, 2007).

Where a public adjuster filed a deceptive and misleading property damage loss insurance claim, failed to notify the Commissioner within 30 days of having been indicted on a charge of theft by deception, and repeatedly failed to appear at scheduled OAL proceedings, the adjuster's license was revoked and the adjuster was ordered to pay a fine of

\$8,500, including \$1,000 for failing to notify the Department of the indictment in violation of N.J.A.C. 11:1-37.14(a) and \$7,500 for violations of N.J.S.A. 17:22B-14. *Goldman v. Budge*, OAL Dkt. No. BKI 10260-2004S, 2007 N.J. AGEN LEXIS 515, Final Decision (June 28, 2007).

Rarely will mitigating factors override license revocation in cases involving direct personal conduct on the part of a licensee that constitutes fraud, and particularly insurance fraud; the insurance industry is strongly affected with the public interest, and a public adjuster who is engaged, on behalf of New Jersey insureds, to settle claims with insurance companies is required to abide by a strict code of conduct prescribed by the applicable law and rules for the protection of New Jersey citizens. *Goldman v. Budge*, OAL Dkt. No. BKI 10260-2004S, 2007 N.J. AGEN LEXIS 515, Final Decision (June 28, 2007).

Where an adjuster admitted to submitting a false receipt in violation of state insurance laws, the licensee's conduct constituted violations of N.J.S.A. 17:22B-14(a) and N.J.A.C. 11:1-37.14(a) and his public adjuster license was revoked. *Goldman v. Nicolo*, OAL Dkt. No. BKI 10722-04, 2006 N.J. AGEN LEXIS 943, Final Decision (October 12, 2006).

When confronted in a disciplinary action with a motion that seeks summary decision both on the issue of liability for the alleged violations and on the quantum of sanctions to be imposed, an opposing party is required to establish the existence of a genuine issue of material disputed fact and, if the opposing party fails to do so, summary decision may be entered without the need for a further hearing on the issue of penalties. *Goldman v. Nicolo*, OAL Dkt. No. BKI 10722-04, 2006 N.J. AGEN LEXIS 943, Final Decision (October 12, 2006).

11:1-37.15 Effect of suspension or revocation of public adjuster license

(a) Upon service of any final order suspending or revoking a public adjuster license, the public adjuster shall immediately return to the Commissioner for cancellation any license in the public adjuster's possession.

(b) No other licensed individual or organization shall advertise, display or conduct any business as a public adjuster using the legal or business name of any person whose license has been suspended or revoked.

(c) No person whose public adjuster license has been suspended or revoked shall be entitled to any refund of license fees for the unexpired term of any license issued.

11:1-37.16 Reinstatement after suspension or revocation of a public adjuster license

(a) No individual, firm, association or corporation whose license has been revoked and no firm or association of which the individual is an officer or director, shall be entitled to any license or renewal license under this subchapter for a period of one year after the revocation.

(b) A person whose license has been suspended or revoked may, after one year from the effective date of any order revoking a public adjuster license or upon completion of the period of suspension, apply for reinstatement of the license on the form of application used for initial public adjuster license applicants and shall fulfill all of the requirements set forth therein.

(c) The applicant shall submit with the application a copy of the order of suspension or revocation and an executed affidavit that states:

1. That the period of suspension or revocation has been completed or in the case of a revocation one year has elapsed from the date of the revocation;

2. That all required conditions for reinstatement as described in the order of suspension or revocation have been met;

3. That documents confirming that all conditions have been met, such as receipts for fines or restitution, satisfactions of judgment, etc., are attached to the affidavit;

4. That the applicant has complied with all restrictions imposed by the order of suspension or revocation.

5. The applicant shall also include with the application an affidavit containing the following information concerning the applicant's activities since suspension or revocation:

i. An employment history;

ii. A statement concerning the other business interests, if any, of the applicant;

iii. The manner of disposition of the applicant public adjuster's business upon suspension or revocation of his or her public adjuster license;

iv. Whether restitution has been made as a result of the activities that led to the suspension or revocation, including the names and addresses of the persons or entities to whom restitution was made and amounts of restitution made;

v. Whether the applicant currently holds any other business, professional or occupational licenses in this or any other state;

vi. Whether the applicant, or any business in which he or she owns five percent or more, is or has been a party to any legal or administrative proceedings in this or any other state and, if so, a statement concerning the nature of the proceedings, the parties and the result or current status; and

vii. A written statement by the applicant describing the manner in which he or she has improved, during the period of suspension or revocation, his or her reputation, character, trustworthiness, competency and worthiness to be a public adjuster.

(d) If any license held by a firm, association or corporation is suspended or revoked, no member or partner of the firm, association or partnership and no officer or director of the corporation shall be entitled to a license or to be named as a sublicensee in a license for the same period of time unless it is demonstrated to the Commissioner that the member or

officer or director was not personally responsible in the matter for which the license was suspended or revoked.

(e) If the suspension or revocation was based upon the conviction of a crime or if the applicant was convicted of a crime since the suspension or revocation, the applicant shall submit with his or her application for licensing, a certificate in accordance with N.J.S.A. 2A:168A-3, of the Federal or state parole board or of the chief probation officer of a United States district court or a county who has supervised the applicant's probation, certifying that the applicant has achieved a degree of rehabilitation which indicates that the granting of a license is not incompatible with the welfare of society.

(f) The Commissioner, or his or her designee, shall review the application to determine whether reinstatement is warranted, based on the information provided in (c) through (e) above, and that the applicant has proven that he or she is trustworthy and competent to act as a public adjuster in a manner so as to safeguard the interests of the people in this State. The review of the application may include further investigation or inquiry, may require the applicant to provide additional information, and may further include a conference with Department personnel.

(g) If the Department is satisfied that reinstatement is warranted, the Department shall issue the license. If the Department is not satisfied that reinstatement is warranted, the Department shall deny the license and the applicant shall be given notice and opportunity for a hearing in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

11:1-37.17 Public records

(a) The following licensee records maintained by the Department shall be public records in accordance with N.J.S.A. 47:1A-1 et seq.:

1. For an individual licensee, his or her name; license reference number; business mailing and location address; date of birth; license authorities; date first licensed; date last licensed or current license expiration date; names and reference numbers of licensed organizations for which the public adjuster is a sublicensee, date became a sublicensee and date terminated, if any; names and reference numbers of employers, date relationship began and terminated; the institution of formal administrative proceedings; and the disposition of any final action taken against the licensee by the Department.

2. For a licensed organization, the legal name of the public adjuster; license reference number; other business name, if any; business mailing and location address; license authorities; date first licensed; date last licensed or current expiration date; names and reference numbers of sublicensees, and reference numbers of employees, date

relationship began and terminated; the institution of formal administrative proceedings; and the disposition of any final action taken against licensed organization by the Department.

(b) The following licensee records are specifically determined to be nonpublic records in accordance with N.J.S.A. 47:1A-1 et seq.;

1. Criminal complaints, indictments, judgments of conviction and other separate documents submitted in connection with a license application concerning whether an applicant is disqualified by reason of conviction of a crime;

2. Criminal history records obtained as the result of any fingerprint check;

3. Copies of judgments, orders or pending actions of any civil penalty or fine or order of restitution, pursuant to any unfair trade practice statute, insurance fraud statute, consumer fraud or consumer protection statute, or any similar statute in this or any other state or by the Federal government submitted in connection with a license application;

4. Copies of orders of suspension or revocation issued by professional or occupational licensing authorities, and other separate documents submitted in connection with a license application;

5. Records concerning the medical disability of any licensee;

6. Investigative files in any matter pending investigation, or in any completed investigation in which no administrative action was instituted or taken; and

7. Records concerning the contents of the licensing examination questions.

(c) Upon request by any person, the Department may issue a certification of the license status of any currently licensed public adjuster licensed within the preceding four years. Such certification shall contain the licensee's name, date of birth, license reference number, whether currently licensed or expired, whether qualified by examination or the equivalent, and whether any formal disciplinary action was taken during the last four years.

(d) Nothing in this section shall compel the Department to maintain licensee records beyond normal retirement or destruction schedules as approved by the Division of State Library, or to retrieve and provide a copy of any written record required to be filed with the Department when the information requested is available as a certified abstract of information contained in the Department's electronic data processing system.

11:1-37.18 Fees

(a) The following nonrefundable fees shall apply:

1. License fee: \$50.00.
2. Temporary sublicense fee: \$150.00.
3. Renewal temporary sublicense fee: \$150.00.
4. Processing fee: \$20.00.

(b) The examination fee shall be the amount authorized by the Commissioner to be charged by the contract vendor administering the examination on behalf of the Department.

(c) Disabled war veterans of the United States military service may apply to the Commissioner for a waiver of the above licensing and processing fees by submitting proof of a service related disability. Fees for fingerprint processing shall not be waived.

(d) All checks or money orders shall be made to: State of New Jersey—General Treasury.

Amended by R.2012 d.136, effective July 16, 2012.
See: 44 N.J.R. 32(a), 44 N.J.R. 1979(a).

In (a)1, substituted "\$50.00" for "\$300.00"; deleted (a)5 and former (d); and recodified (e) as new (d).

11:1-37.19 Requests for disclosure of social security numbers

(a) The Department may request that licensed public adjusters and license applicants submit their social security numbers to the Department. All such requests shall either include or be accompanied by a notice stating:

1. The purpose or purposes for which the Department intends to use the social security numbers;
2. That disclosure made pursuant to the request is either voluntary or mandatory; and
3. That the request is authorized by this section and by such other law as may be applicable.

New Rule, R.1997 d.187, effective May 5, 1997.
See: 29 N.J.R. 304(a), 29 N.J.R. 2178(a).

APPENDIX

**BOND NO.
PUBLIC ADJUSTER BOND**

We, [licensee], of [street address], city of, State of, as principal, and, a corporation incorporated under the laws of the State of New Jersey, and duly licensed to transact a surety business in the State of New Jersey, as surety, are indebted to the State of New Jersey, obligee, in the penal sum of \$....., for which payment we bind ourselves and our respective heirs, legal representatives, successors, and assigns, jointly and severally.

The principal has applied to the Commissioner of Insurance of the State of New Jersey for issuance of a license under the provisions of the Public Adjusters' Licensing Act, P.L. 1993, c.66, (N.J.S.A. 17:22B-1 et seq.), as a public adjuster.

Pursuant to the Public Adjusters' Licensing Act, P.L. 1993, c.66, (N.J.S.A. 17:22B-1 et seq.), every licensee shall file with the Commissioner of Insurance a surety bond in the penal sum of \$..... applicable to the licensee, and each of the sublicensees named in the license, and any temporary

sublicensee sponsored by the licensee, if any, said bond to be issued by an approved surety, conditioned on faithful and honest conduct as a public adjuster, before the license will be issued. The bond must be maintained during the term of the license.