

5. Where no written application has been made prior to declination, the agent or broker shall, if so requested by the applicant within 90 days from the date of denial, provide the applicant with a written explanation of the declination within 10 working days of the request. Such communication shall, when applicable, include the reasons why the coverage offered is with less favorable terms or conditions than those requested; and

6. Not bind coverage for automobile physical damage perils prior to inspection of the automobile by the insurer when the insurer requires such inspection pursuant to the provisions of N.J.A.C. 11:3-36.

(b) For the purpose of this section, the Commissioner may impose a civil penalty in an amount of up to \$2,000 for the first violation and up to \$5,000 for the second and each subsequent violation and any other penalty provided by law.

New Rule, R.1992 d.189, effective April 20, 1992.  
See: 23 N.J.R. 3199(a), 24 N.J.R. 1510(a).

Section was "Penalties."

Emergency Amendment R.1993 d.135, effective March 1, 1993. (operative March 8, 1993) (expires April 30, 1993.)  
See: 25 N.J.R. 1290(a).

Binder requirements added to (a)3.

Adopted Concurrent Proposal, R.1993 d.238, effective April 30, 1993.

See: 25 N.J.R. 1290(a), 25 N.J.R. 2479(a).

Amended by R.1994 d.598, effective December 5, 1994.

See: 26 N.J.R. 3591(a), 26 N.J.R. 4777(a).

Amended by R.2000 d.44, effective February 7, 2000.

See: 31 N.J.R. 3583(a), 32 N.J.R. 499(a).

**11:17A-1.8 Penalties**

(a) The Commissioner shall impose penalties for violations of this subchapter in accordance with the provisions of N.J.S.A. 17:22A-26 et seq. and any other applicable law.

(b) For the purpose of determining the existence of a violation and assessing a penalty under this subchapter, a separate violation shall be deemed to exist, and a separate penalty therefor shall be assessed, for each violation of the provisions of this subchapter.

Recodified from 1.7 by R.1992 d.192, effective April 20, 1992.

See: 23 N.J.R. 546(a), 24 N.J.R. 1510(a).

Section was "Severability."

Amended by R.2002 d.354, effective November 4, 2002.

See: 34 N.J.R. 2286(a), 34 N.J.R. 2549(b), 34 N.J.R. 3839(a).

In (a), amended the N.J.S.A. reference.

**Case Notes**

Licensee responsible for any submission of false applications by employee. *Fortunato v. Benner*, 92 N.J.A.R.2d (INS) 73.

Insurance producer license revoked for consumer fraud and other misconduct. *Fortunato v. Conte*, 92 N.J.A.R.2d (INS) 17.

**11:17A-1.9 Severability**

If any provision of this subchapter or the application thereof to any person or circumstance is held invalid, the remainder of the subchapter and the application of such

provision to other persons or circumstances shall not be affected thereby.

Recodified from 1.8 by R.1992 d.192, effective April 20, 1992.

See: 23 N.J.R. 546(a), 24 N.J.R. 1510(a).

**SUBCHAPTER 2. UNFAIR TRADE PRACTICES**

**11:17A-2.1 Purpose; scope**

(a) This subchapter implements the provisions of N.J.S.A. 17:29A-15, 17:29B-4 and 17B:30-13 and 15 by prohibiting insurance producers from engaging in certain practices in connection with the business of insurance.

(b) This subchapter applies to all insurance producers.

Amended by R.2002 d.354, effective November 4, 2002.

See: 34 N.J.R. 2286(a), 34 N.J.R. 2549(b), 34 N.J.R. 3839(a).

Deleted references to limited insurance representatives throughout.

**11:17A-2.2 (Reserved)**

Amended by R.2000 d.17, effective January 3, 2000.

See: 31 N.J.R. 2859(a), 32 N.J.R. 60(b).

In "Inducement", substituted a reference to \$20.00 for a reference to \$10.00.

Repealed by R.2000 d.44, February 7, 2000.

See: 31 N.J.R. 3583(a), 32 N.J.R. 499(a).

Section was "Definitions".

**11:17A-2.3 Rebates and inducements; prohibited practices**

(a) No insurance producer shall offer, make or give, or permit to be offered, made or given, to any person directly or indirectly, an inducement to purchase insurance other than that plainly expressed in the insurance contract.

(b) No insurance producer shall offer, pay or give, or permit to be offered, paid or given, to any person, directly or indirectly, any rebate of premiums payable on a contract of insurance, other than that plainly expressed in the contract or provided for in ratings systems filed by or on behalf of the insurer writing the contract and approved by the Commissioner.

(c) No insurance producer shall offer, pay or give, or permit to be offered, paid or given, to any person, directly or indirectly, anything of value in return for that person's agreement not to purchase insurance from another insurance producer or insurer.

(d) No insurance producer shall offer, pay or give, or permit to be offered, paid or given, to any person, directly or indirectly, anything of value as compensation for being unable to offer a comparable or better insurance program at less cost.

(e) The provisions of this section shall apply whether or not a contract of insurance is ultimately effected.

**11:17A-2.4 Rebates and inducements; determination of value**

(a) For the purpose of determining the value of any item pursuant to N.J.A.C. 11:17A-2.3, an insurance producer shall retain the original invoice for such item for five years beyond the later of the date the offer is discontinued or the date the last item is given.

(b) The value of any favor, advantage, valuable consideration or any other item or service shall be determined by the Commissioner or his or her designee.

Amended by R.2005 d.237, effective July 18, 2005.  
See: 37 N.J.R. 413(a), 37 N.J.R. 2691(c).

In (b), substituted "Commissioner" for "Commission" preceding "or his or her designee".

**11:17A-2.5 Tie-ins; coercion**

(a) No financial institution licensed as an insurance producer shall, as a condition precedent, concurrent or subsequent to the lending of money or the extension of credit, or the renewal of the loan or extension of credit, require that the borrower acquire, finance or negotiate a policy or contract of insurance through any particular insurer or insurance producer, or cancel insurance with another insurance producer or insurer.

1. A financial institution licensed as an insurance producer shall accept the insurance policy provided by a borrower unless a reasonable basis exists to disapprove the insurance policy. For the purpose of this paragraph, disapproval shall be deemed unreasonable if it is not based solely on reasonable standards as determined by the Commissioner, uniformly applied, relating to the extent of coverage required and the financial soundness and services of an insurer. Such standards shall not discriminate against any particular type of insurer, nor shall such standards call for the disapproval of an insurance policy because such policy contains coverage in addition to that required. If a financial institution rejects the insurance furnished by the borrower, it shall provide the borrower with a clear and complete written statement of reasons for the rejection.

2. Pursuant to and consistent with (a) and (a)1 above, all financial institutions licensed as insurance producers shall issue a written disclosure to prospective insureds which shall inform them of their right to acquire insurance coverage from and through sources independent of the financial institution and its subsidiaries when such insurance coverage is required to secure a loan, credit or mortgage, or any renewal thereof. The written disclosure required by this paragraph shall be worded as follows, and printed in a type size not less than 10 point type, and shall be maintained by the insurance producer for at least five years. A copy of this disclosure shall be given to the borrower at the time the issue of insurance first arises.

**DISCLOSURE NOTICE**

The Insurance Laws of New Jersey provide that the lender may not require the borrower to take insurance through any particular insurer or insurance producer (for example, agent or broker).

The borrower has the right to have the insurance placed with or through an insurance producer and insurer of his or her choice, provided that they meet the reasonable requirements of the lender. Subject to the rules adopted by the Commissioner, the lender has the right to designate reasonable requirements as to the insurer and the insurance producer and as to the adequacy of the coverage. The lender cannot require the borrower to cancel insurance with another insurance producer and insurer unless the continuation of such coverage and relationship would be unreasonable within the meaning of this notice and N.J.A.C. 11:17A-2.5.

I have read the foregoing statement and understand my rights and privileges and those of the lender relative to the placing of insurance.

I have selected \_\_\_\_\_ (insert name) as the Insurance Company/ Agency/Insurance Producer to provide the required \_\_\_\_\_ (insert type) insurance.

\_\_\_\_\_  
Name of Borrower  
\_\_\_\_\_  
Name of Borrower  
\_\_\_\_\_  
Date

(b) No financial institution licensed as an insurance producer shall require, directly or indirectly, that any borrower, mortgagor, purchaser, insurer or other insurance producer pay a separate charge in connection with the handling of any insurance policy required as security for a loan or the extension of credit, or pay a separate charge to substitute the insurance policy of one insurer for that of another.

(c) No financial institution licensed as an insurance producer shall require any procedure or condition of an insurer or insurance producer not customarily required of insurers or insurance producer that are affiliated or connected with the financial institution.

(d) No insurance producer shall engage in any conduct which reasonably could result in or results in:

- 1. Leading a person to believe that his or her credit-worthiness, or that the extension of credit, is conditioned upon the purchase of insurance through a particular insurance producer or insurer; or
- 2. An unlicensed financial institution either soliciting, negotiating, or selling insurance business acting on behalf of the insurance producer.

(e) No insurance producer shall require an applicant or policyholder, or a member of the applicant's or policyholder's family, to purchase from him or her a collateral policy of insurance as a condition precedent to securing or renewing a policy of insurance. Nothing in this subsection shall prevent an insurance producer from requiring the purchase of a collateral insurance policy from a source other than the insurance producer, including a person or entity with whom he or she is associated, if such a condition precedent is based upon appropriate underwriting guidelines of the insurer.