

CHAPTER 15

GROUP SELF-INSURANCE

Authority

N.J.S.A. 17:1-8.1, 17:1-15e, 17:49A-1 et seq., 18A:18B-1 et seq., 34:15-77 et seq. and 40A:10-36 et seq.

Source and Effective Date

R.2010 d.162, effective July 2, 2010.
See: 42 N.J.R. 43(a), 42 N.J.R. 1732(c).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 15, Group Self-Insurance, expires on July 2, 2017. See: 43 N.J.R. 1203(a).

Chapter Historical Note

Chapter 15, Group Self-Insurance, was adopted as R.1984 d.172, effective May 21, 1984. See: 16 N.J.R. 340(a), 16 N.J.R. 1273(a).

Subchapter 2, Joint Insurance Funds for Local Government Units, was adopted as R.1984 d.540, effective December 3, 1984. See: 16 N.J.R. 1164(a), 16 N.J.R. 3310(b).

Pursuant to Executive Order No. 66(1978), Chapter 15, Group Self-Insurance, was readopted as R.1989 d.585, effective October 26, 1989. See: 21 N.J.R. 1817(a), 21 N.J.R. 3668(a).

Subchapter 3, Joint Insurance Funds for Local Governmental Units Providing Group Health and Term Life Benefits, was adopted as R.1993 d.354, effective July 19, 1993. See: 25 N.J.R. 436(a), 25 N.J.R. 3220(a).

Pursuant to Executive Order No. 66(1978), Chapter 15, Group Self-Insurance, was readopted as R.1994 d.551, effective October 17, 1994. See: 26 N.J.R. 2518(a), 26 N.J.R. 3356(a), 26 N.J.R. 4407(b).

Subchapter 4, Joint Insurance Funds for School Boards Providing Property and Liability Coverages, was adopted as R.1996 d.277, effective June 17, 1996. See: 28 N.J.R. 765(a), 28 N.J.R. 3135(a).

Subchapter 5, Joint Insurance Funds for School Boards Providing Group Health and Term Life Benefits, was adopted as R.1996 d.278, effective June 17, 1996. See: 28 N.J.R. 779(a), 28 N.J.R. 3156(a).

Subchapter 6, Joint Insurance Funds for Nonprofit Corporations and Keys Amendment Facilities, was adopted as R.1997 d.151, effective April 7, 1997. See: 28 N.J.R. 4708(a), 29 N.J.R. 1326(a).

Pursuant to Executive Order No. 66(1978), Chapter 15, Group Self-Insurance, was readopted as R.1999 d.350, effective September 14, 1999. See: 31 N.J.R. 2125(b), 31 N.J.R. 3091(a).

Chapter 15, Group Self-Insurance, was readopted as R.2005 d.112, effective March 10, 2005. See: 36 N.J.R. 4625(a), 37 N.J.R. 1075(a).

Chapter 15, Group Self-Insurance, was readopted as R.2010 d.162, effective July 2, 2010. See: Source and Effective Date. See, also, section annotations.

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APPENDIX. CERTIFICATION OF JOINT INSURANCE FUND PROFESSIONALS

SUBCHAPTER 1. HOSPITAL WORKERS' COMPENSATION GROUP SELF-INSURANCE

Law Reviews and Journal Commentaries:

An Insurer's Duty to Act In Good Faith. Jeffrey A. Cohen, 192 N.J.L.J. 21 (1998).

(f) For purposes of this section:

1. "Budgeted losses" means the amount established in the fund's budget for losses anticipated for a particular fund year, as annually certified by the fund's actuary; and

2. "Cumulated budgeted losses" means the fund's budgeted losses for the current fund year plus the four fund years immediately preceding. For a fund in existence for less than three years, cumulated budgeted losses shall be based on an estimate of three years budgeted losses pro rata for that period. For example, a newly formed fund would multiply its cumulated budgeted losses by three, a fund with two years experience would multiply its cumulated budgeted losses by 1.5, and so on. Any fund with three years or more of experience shall base its cumulated budgeted losses on its actual years of experience, not to exceed five years.

(g) Nothing in this section shall be construed as prohibiting a fund from establishing an aggregate excess insurance cap in amounts greater than that required by this section.

11:15-6.23 Financial statement and reports

(a) An annual certified report in a form acceptable to the Commissioner shall be prepared by each fund, filed with the Department, and made available to each fund member on or before April 1 of each year. The report shall include:

1. An annual audited statement of the financial condition of the fund prepared by an independent certified public accountant and performed in accordance with generally accepted accounting principles, which shall include a statement of the organization of the fund indicating the persons who perform each function for the fund and the relationship and interdependency of each function, and including its balance sheet and receipts and disbursements for the preceding year;

2. Reports of outstanding liabilities by line of coverage showing the number of claims, amounts paid to date and current reserves for unpaid losses, claims and unearned assessments as certified by an actuary;

3. A certification by the chairman or administrator that periodic reports were made to fund members in the form and manner required by N.J.A.C. 11:15-6.4(h);

4. Any material changes in information from that previously submitted; and

5. Such other information as may be requested by the Department from a particular fund.

(b) In addition to the reports required pursuant to (a) above, for the initial two fiscal years of a fund, a fund shall file with the Department quarterly unaudited statements of the financial condition of the fund in a form acceptable to the Commissioner within 60 days after the end of each calendar quarter. After the initial two years, a fund shall file with the Department semiannual unaudited statements of the financial condition of the fund in a form acceptable

to the Commissioner within 60 days after end of each six month period. The semi-annual report covering the six-month period ending December 31 shall include a compilation of the results reported in the semi-annual report for the period ending June 30 immediately preceding. All statements filed pursuant to this subsection shall include the information set forth in (a) above, except that certification by a certified public accountant or the actuarial opinion statement shall not be required.

11:15-6.24 Examination of funds

(a) In addition to any examination conducted pursuant to N.J.A.C. 11:15-6.6(g), the Commissioner may conduct an examination of any fund as he or she deems necessary, or at any time the Commissioner has reasonable cause to believe the fund may be insolvent or in a financial condition detrimental to its members or the public. It shall be the duty of the fund members, commissioners, executive committee, administrator and chairman to notify the Commissioner of any information indicating that any fund may be in a financial condition detrimental to the fund's members or the public.

(b) The fund's members, commissioners, or executive committee, if any, may, upon majority vote, request that the Commissioner order an examination of the fund, or any fund member, which they, in good faith, believe may be in a financial condition detrimental to other fund members or to the public.

(c) Any examination made pursuant to N.J.S.A. 17:49A-14 and this subchapter shall be conducted in accordance with the procedures set forth in N.J.A.C. 11:15-6.6(g).

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

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

Rewrote (b).

11:15-6.25 Servicing organizations; administrator

(a) No servicing organization of a fund or producer appointed pursuant to N.J.A.C. 11:15-6.6(d)10, or their employees, officers or directors shall have either a direct or indirect financial interest in the administrator of that fund, or be an employee, officer or director of the administrator, unless notice of such interest has been provided to the fund commissioners and members.

(b) No administrator of a fund, or its employees, officers or directors shall be an employee, officer or director of, or have either a direct or indirect financial interest in, a servicing organization of that fund, or an insurance producer appointed by that fund pursuant to N.J.A.C. 11:15-6.6(d)10, unless notice of such interest has been provided to the fund commissioners and members.

(c) Each contract with a servicing organization providing claims adjustment and administration services shall include a clause stating: "Unless the fund commissioners otherwise permit, the servicing organization shall handle to their conclusion all claims and other obligations incurred during the contract period."

(d) The fund commissioners shall notify the Department within 10 days of any determination to terminate or nonrenew any agreement with a servicing organization. The notification shall include a detailed statement that sets forth the manner and method by which claims handling and other obligations performed by the servicing organization will be provided or a statement that sets forth the reasons why the fund commissioners believe that the particular service is no longer necessary.

(e) The fund commissioners or the executive committee, if any, may designate an administrator to carry out the policies established by the fund commissioners and to provide day-to-day management of the fund. The minutes of the commissioners' or executive committee meetings shall detail the areas of authority delegated to the administrator.

(f) Any employee, officer or director of an administrator, servicing organization, or producer appointed pursuant to N.J.A.C. 11:15-6.6(d)10 shall disclose to the fund commissioners or executive committee any direct or indirect financial interest such employee, officer or director has in any other administrator, servicing organization or insurance producer.

11:15-6.26 Conflict of interest

The fund shall adopt a written conflict of interest policy, which shall be provided to each fund member, and shall include such provisions as the fund commissioners deem appropriate, including, but not limited to, a conflict of interest questionnaire. A copy of the conflict of interest policy shall be made available for review and inspection by the Department as part of an examination of the fund or upon request.

11:15-6.27 Notice and hearing

(a) The Commissioner shall give prior written notice of any proposed suspension, revocation of authority, cease and desist order, or other enforcement action to the fund commissioners, executive committee, or member as the case may be, or to any person to whom the proposed enforcement action applies specifically. Such notice shall be served personally or by certified or registered mail upon all interested parties, shall set forth the grounds for the proposed enforcement action, and shall inform the interested party of its right to request a hearing on the proposed enforcement action.

(b) The interested party involved shall have 20 days from the mailing of the notice to request a hearing on the proposed enforcement action. Such a hearing shall be conducted in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and Uniform Administrative Procedure Rules, N.J.A.C. 1:1. Failure to mail a request for a hearing within the time prescribed shall result in the suspension, revocation, monetary penalty or cease and desist order becoming effective 30 days from issuance of the original notice. In no event shall any revocation become effective prior to the date that a hearing is scheduled.

11:15-6.28 Orders

(a) After notice and opportunity for a hearing, as provided in N.J.A.C. 11:15-6.27, the Commissioner may issue an order revoking or suspending a fund's authority or requiring a person or fund to cease and desist from engaging in an act or practice found to be in violation of any provision of N.J.S.A. 17:49A-1 et seq., or this subchapter.

(b) Upon a finding, after notice and opportunity for a hearing, as provided at N.J.A.C. 11:15-6.27, that a fund has violated any cease and desist order, the Commissioner may revoke his or her approval of the fund.

(c) Upon a finding, after notice and opportunity for a hearing, as provided at N.J.A.C. 11:15-6.27, the Commissioner may issue an order requiring the fund commissioners, or the executive committee, if any, to dismiss an administrator or servicing organization or terminate the contract of an administrator or servicing organization because of any fraud, material misrepresentation, incompetence or untrustworthiness, misappropriation or conversion of monies or violation of any fiduciary responsibilities by such administrator or servicing organization, or any of the employees, officers or directors thereof.

11:15-6.29 Compliance dates

(a) Except as otherwise specifically provided in this subchapter, funds subject to this subchapter shall comply with all of the requirements contained in this subchapter commencing with the fund year immediately following April 7, 1997, or October 4, 1997, whichever is later.

(b) Unless otherwise provided by this subchapter, all information and documents and any amendments thereto required by this subchapter shall be filed within 30 days from the date such information or document is due or such change or amendment has occurred.

11:15-6.30 Severability

The rules contained in this subchapter and any of the provisions thereof shall be severable, and if any of its provisions shall be held to be unconstitutional or otherwise invalid, the decision of the court shall not affect the validity of the remaining rules or any of the provisions thereof.

APPENDIX

Exhibit A

NEW JERSEY DEPARTMENT OF BANKING AND INSURANCE

CERTIFICATION OF JOINT INSURANCE FUND PROFESSIONALS FOR THE FUND YEAR ENDING JUNE 30, 199__ OR DECEMBER 31, 199__ (as applicable)

I, _____, hereby certify that:
(Name)