

CHAPTER 2

INSURANCE GROUP

Authority

N.J.S.A. 17:1-8.1, 17:1-15e, 17:17-1 et seq., 17B:17-1 et seq., 34:15-77 and 54:18A-1 et seq.

Source and Effective Date

R.2001 d.6, effective November 30, 2000.
See: 32 N.J.R. 3530(a), 33 N.J.R. 85(a).

Executive Order No. 66(1978) Expiration Date

Chapter 2, Insurance Group, expires on November 30, 2005.

Chapter Historical Note

Chapter 2, Insurance Group, was adopted and became effective prior to September 1, 1969.

Subchapter 10, Casualty Insurers, Personal Lines Insurance, was adopted as new rules by R.1970 d.71, effective June 26, 1970.

Subchapter 11, Rules Governing Advertisement of Health Insurance, was adopted as new rules by R.1972 d.95, effective May 16, 1972. See: 4 N.J.R. 69(b), 4 N.J.R. 128(d).

Subchapter 12, Mass Marketing of Property and Liability Insurance, was adopted as new rules by R.1974 d.271, effective September 25, 1974. See: 6 N.J.R. 313(d), 6 N.J.R. 408(a).

Subchapter 13, Group Coverage Discontinuance and Replacement, was adopted as new rules by R.1974 d.272, effective February 1, 1975. See: 5 N.J.R. 342(c), 6 N.J.R. 409(a).

Subchapter 17, Unfair Claims Settlement Practices, was adopted as new rules by R.1981 d.407, effective November 2, 1981, operative January 15, 1982. See: 12 N.J.R. 600(f), 13 N.J.R. 774(c), 13 N.J.R. 894(a).

Subchapter 18, Readable Policies, was adopted as new rules by R.1982 d.410, effective November 15, 1982. See: 14 N.J.R. 967(a), 14 N.J.R. 1307(c).

Subchapter 10, Casualty Insurers, Personal Lines Insurance, was repealed by R.1985 d.71, effective February 19, 1985. See: 16 N.J.R. 2920(a), 17 N.J.R. 458(b).

Subchapter 23, Advertisement of Life Insurance and Annuities, was adopted as new rules by R.1985 d.600, effective November 18, 1985. See: 16 N.J.R. 2626(a), 17 N.J.R. 2776(a).

Subchapter 19, Approval of Insurance Schools and Company Training Programs, was adopted as new rules by R.1985 d.608, effective December 2, 1985. See: 16 N.J.R. 2920(b), 17 N.J.R. 2901(b).

Subchapter 1, Educational Requirements for Licensing, was repealed, and Subchapter 19, Approval of Insurance Schools and Company Training Programs, was repealed by R.1989 d.192, effective April 3, 1989. See: 20 N.J.R. 1152(a), 21 N.J.R. 899(b).

Subchapter 26, Annual Audited Financial Reports, was adopted as new rules by R.1989 d.612, effective December 18, 1989. See: 21 N.J.R. 3054(a), 21 N.J.R. 3919(b).

Pursuant to Executive Order No. 66(1978), Chapter 2, Insurance Group, was readopted as R.1991 d.4, effective November 30, 1990, and Subchapter 8, Mid-Term Substitution by Mortgagor of Insurance Policies, was repealed, effective January 7, 1991, by R.1991 d.4. See: 22 N.J.R. 1673(a), 23 N.J.R. 103(a).

Subchapter 32, Custodial Deposits, was adopted as new rules by R.1991 d.14, effective January 7, 1991. See: 22 N.J.R. 2640(a), 23 N.J.R. 105(a).

Subchapter 31, Manner of Determining Premium for Perpetual Homeowners Insurance, was adopted as new rules by R.1991 d.139, effective March 18, 1991. See: 22 N.J.R. 601(a), 23 N.J.R. 860(b).

Subchapter 29, Orderly Withdrawal of Insurance Business, was adopted as new rules by R.1991 d.262, effective May 20, 1991. See: 23 N.J.R. 15(b), 23 N.J.R. 1673(a).

Subchapter 35, Relief from Insurer Obligations Under the Fair Automobile Insurance Reform Act of 1990, was adopted as new rules by R.1991 d.519, effective October 21, 1991. See: 23 N.J.R. 660(a), 23 N.J.R. 3166(a).

Subchapter 27, Determination of Insurers in a Hazardous Financial Condition, was adopted as new rules by R.1992 d.292, effective July 6, 1992. See: 23 N.J.R. 3197(a), 24 N.J.R. 2456(a).

Subchapter 33, Workers' Compensation Self-Insurance, was adopted as new rules by R.1993 d.157, effective April 5, 1993. See: 24 N.J.R. 1944(a), 24 N.J.R. 2708(b), 25 N.J.R. 1526(a).

Subchapter 28, Credit for Reinsurance, was adopted as emergency new rules by R.1993 d.448, effective August 16, 1993, expires October 15, 1993. See: 25 N.J.R. 4289(a). The provisions of R.1993 d.448 were readopted as R.1993 d.557, effective October 15, 1993. See: 25 N.J.R. 4289(a), 25 N.J.R. 5184(a).

Subchapter 36, Risk Retention Groups and Purchasing Groups, was adopted as emergency new rules by R.1993 d.449, effective August 16, 1993, expires October 15, 1993. See: 25 N.J.R. 4298(a). The provisions of R.1993 d.449 were readopted as R.1993 d.558, effective October 15, 1993. See: 25 N.J.R. 4298(a), 25 N.J.R. 5197(a).

Subchapter 37, Producer-Controlled Insurers, was adopted as emergency new rules by R.1993 d.450, effective August 16, 1993, expires October 15, 1993. See: 25 N.J.R. 4304(a). The provisions of R.1993 d.450 were readopted as R.1993 d.559, effective October 15, 1993. See: 25 N.J.R. 4304(a), 25 N.J.R. 5202(a).

Subchapter 38, Increase in Property and Casualty Capital and Surplus Requirements, was adopted as emergency new rules by R.1993 d.451, effective August 16, 1993, expires October 15, 1993. See: 25 N.J.R. 4306(a). The provisions of R.1993 d.451 were readopted as R.1993 d.560, effective October 15, 1993. See: 25 N.J.R. 4306(a), 25 N.J.R. 5204(a).

Subchapter 39, Increase in Capital and Surplus Requirements for Life and Health Insurers, was adopted as emergency new rules by R.1993 d.452, effective August 16, 1993, expires October 15, 1993. See: 25 N.J.R. 4309(a). The provisions of R.1993 d.452 were readopted as R.1993 d.561, effective October 15, 1993. See: 25 N.J.R. 4309(a), 25 N.J.R. 5208(a).

Subchapter 40, Life, Health and Annuity Reinsurance Agreements, was adopted as emergency new rules by R.1993 d.453, effective August 16, 1993, expires October 15, 1993. See: 25 N.J.R. 4314(a). The provisions of R.1993 d.453 were readopted as R.1993 d.562, effective October 15, 1993. See: 25 N.J.R. 4314(a), 25 N.J.R. 5212(a).

Subchapter 34, Surplus Lines Insurance: Allocation of Premium Tax and Surcharge, was adopted as new rules by R.1993 d.582, effective November 15, 1993. See: 25 N.J.R. 1826(a), 25 N.J.R. 5194(a).

Petition for Rulemaking. See: 26 N.J.R. 2487(b).

Subchapter 41, Windstorm Market Assistance Program, was adopted as new rules by R.1995 d.53, effective January 17, 1995. See: 26 N.J.R. 4304(a), 27 N.J.R. 364(a).

Subchapter 1, Admission Requirements for Foreign and Alien Life and Health Insurers, was adopted as new rules by R.1995 d.80, effective February 6, 1995. See: 26 N.J.R. 4586(a), 27 N.J.R. 559(a).

Pursuant to Executive Order No. 66(1978), Chapter 2, Insurance Group, was readopted as R.1996 d.3, effective November 30, 1995, with amendments effective January 2, 1996. See: 27 N.J.R. 3278(b), 28 N.J.R. 152(b).

Pursuant to Executive Order No. 66(1978), Chapter 2, Insurance Group, was readopted as R.2001 d.6, effective November 30, 2000. See: Source and Effective Date. See, also, section annotations.

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APPENDIX A

SUBCHAPTER 1. ADMISSION REQUIREMENTS FOR FOREIGN AND ALIEN LIFE AND HEALTH INSURERS

11:2-1.1 Purpose

This subchapter establishes the procedures, requirements and standards which govern the application of foreign and alien insurers engaged in the business of life and health insurance for a certificate of authority to transact the business of insurance in this State.

11:2-1.2 Scope

This subchapter applies to all foreign and alien insurers that apply for a certificate of authority to transact the business of life and health insurance in this State. The filing requirements contained in this subchapter shall not apply to the continuation, renewal or timely reinstatement of existing certificates of authority except where the Commissioner, pursuant to law, shall otherwise require.

11:2-1.3 Definitions

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

"Commissioner" means the Commissioner of the Department of Banking and Insurance of this State.

"Committee on Admissions" means the advisory committee within the Department appointed by the Commissioner to aid in the review of applications for admission to transact the business of insurance in this State and to render to the Commissioner recommendations as to the disposition of such applications.

"Department" means the Department of Banking and Insurance of this State.

"IRIS" means the NAIC Insurance Regulatory Information System.

"NAIC" means National Association of Insurance Commissioners.

Amended by R.2001 d.6, effective January 2, 2001.

See: 32 N.J.R. 3530(a), 33 N.J.R. 85(a).

Amended "Commissioner" and "Department".

11:2-1.4 General eligibility requirements

(a) In order for a foreign or alien insurer to be admitted as a life and health insurer in this State, the requirements in this section shall be satisfied in addition to any other requirements in this subchapter or any other provision of law.

1. The applicant shall satisfy the Commissioner that its condition or methods of operation are not such as would render its operation hazardous to the public or its policyholders in this State. In determining whether a hazardous financial condition exists, the factors identified in N.J.A.C. 11:2-27.3 shall be considered. A hazardous financial condition shall exist when those factors indicate, either singly or in combination of two or more, that the financial condition of any applicant which has applied to transact, or is already transacting the business of insurance in any jurisdiction, is considered by the Commissioner to be hazardous to the policyholders, stockholders, claimants, creditors, or the general public. The Commissioner shall further consider any other fact or circumstance that indicates that an insurer's operations may be hazardous.

2. The applicant shall satisfy at least the minimum capital and surplus requirements of a similar domestic insurer of this State for all lines of insurance that it is authorized to write pursuant to the certificate of authority issued by its place of domicile, whether or not the applicant desires to transact any of those lines of insurance in this State, subject to the following:

i. In determining whether an applicant meets the minimum capital and surplus requirements, the following shall be deducted from unassigned funds:

(1) The statement value of any and all special deposits not held for the protection of all policyholders;

(2) Reserves and losses reinsured with companies not authorized in New Jersey, accredited as reinsurers in New Jersey, or otherwise in compliance with N.J.S.A. 17:51B-1 et seq., net of any offsets;

(3) The statement value for the portion of assets held in excess of investment limitations for life and health insurers pursuant to N.J.S.A. 17B:20-1 et seq.;

(4) Reserve shortfalls caused by the company holding reserves weaker than those mandated by N.J.S.A. 17B:19, or such other standards provided by administrative rule, actuarial guidelines, or determined necessary by actuarial analysis;

(5) The excess of the statement value over the market value of bonds held by the applicant; and

(6) Off balance sheet guarantees and contingent liabilities for which the company has not previously established a liability in an appropriate amount.

ii. Capital and surplus requirements may be reduced to the level required for the kinds of insurance actually being marketed if the applicant:

(1) Does not transact one or more of the kinds of insurance contained in the certificate of authority issued by its state or country of domicile; and

(2) Submits a resolution by its board of directors stating that it will refrain from transacting the kind(s) of insurance permitted by the certificate of authority issued by its state or country of domicile.

3. An applicant which has total adjusted capital of less than its company action level risk-based capital or which has otherwise triggered a company action level event, as these terms are defined in N.J.A.C. 11:2-39, as of December 31 of the preceding calendar year, shall not be considered for admission until the applicant's status has improved.

4. The applicant shall be deemed to have its application deferred if any one of the following conditions exist:

i. An applicant which has failed four or more IRIS tests shall have its application deferred until it has demonstrated to the Commissioner and its place of domicile that the IRIS test results are not indicative of a financial condition that may be hazardous to the policyholders, stockholders, claimants, creditors or the general public; or

ii. An applicant which has failed to file with the NAIC an annual statement for the prior year shall have its application deferred until it has filed with the NAIC such annual statement.

5. The applicant shall satisfy the following seasoning requirements:

i. Subject to the provisions of this subchapter, no applicant shall be considered for a certificate of authority to transact the business of insurance in this State unless the Commissioner has been furnished with evidence that the applicant has been authorized by its state or country of domicile to engage in the kind(s) of insurance business for which the applicant seeks a certificate of authority, and has in fact been actively, continuously and successfully engaged in such business, without a change in control, for a period of at least five years prior to the date of the application for the New Jersey certificate of authority.

ii. An applicant qualified under (a)5i above shall demonstrate that:

(1) During any three of the last five years, including therein the two most recent years of business operations, it generated a net gain from operations, after Federal taxes, as reported in the annual statement;

(2) Surplus has not decreased over the five-year period in question except for dividends to policyholders, reserve strengthening and increases in the asset valuation reserve; and

(3) It has received either an evaluation acceptable to the Department from Dun and Bradstreet or one of the top three ratings from one of the following: Standard and Poor's, Duff and Phelps, Moody's, A.M. Best or other nationally recognized rating agency.

iii. The Commissioner may, upon request of an applicant, on a case by case basis, waive in the case of (a)5iii(1), (2) and (3) below, or reduce in the case of (a)5iii(1) below, the five-year seasoning requirements of (a)5i and ii above. In determining whether a reduction or waiver is appropriate in a particular case, the Commissioner shall consider whether the requirements of this section have been satisfied, and, in addition, whether the requirements described in (a)5iii(1) through (4) below, if applicable, have been satisfied. These requirements relate, respectively, to the following circumstances:

(1) The applicant is a wholly-owned subsidiary of a life and health insurer which has been authorized to transact the business of insurance in this State for at least five years or is an affiliate of a life and health insurer which has the same ultimate parent and which has been authorized to transact the business of insurance in this State for at least five years. The Commissioner shall be satisfied as to the financial condition and methods of operation of the authorized insurer who shall effectively guaranty, by a resolution in a form prescribed by the Commissioner and passed by its board of directors, the minimum capital and surplus requirements required by law of the applicant during the first 10 years of its operation in this State. In the case of an authorized affiliate with the same ultimate parent, the Commissioner may require that the guarantee be provided by the ultimate parent. The applicant shall also be required to demonstrate a sound plan of operation and that surplus has not decreased over the five-year period in question, or such shorter time as the applicant has been operating under current control, except as provided in (a)5ii(2) above.

(2) The applicant is a wholly-owned subsidiary of an insurer which has been authorized to transact the business of insurance in this State for at least one year, and secured admission into this State by having been in operation for at least five years pursuant to (a)5i and ii above. The Commissioner shall be satisfied as to the financial condition and methods of operation of the authorized insurer, which shall effectively guaranty, by a resolution in a form prescribed by the Commissioner and passed by its board of directors, the minimum capital and surplus require-

ments required by law of the applicant during the first 10 years of its operation in this State. The insurer parent shall also be required to have either an evaluation acceptable to the Department from Dun and Bradstreet, or one of the top two ratings from at least one of the following: Standard and Poor's, Duff and Phelps, Moody's, A.M. Best or other nationally recognized rating agency.

(3) The applicant is the continuing corporation resulting from a merger or consolidation of insurers, at least one of which has been authorized in this State to transact the kind(s) of insurance business for which the applicant seeks a New Jersey certificate of authority and has been actively engaged in such insurance business for at least five years and is currently in good standing. The applicant shall also be required to demonstrate a sound plan of operation.

(4) The applicant, being an insurance company with a non-insurance company parent, has completed three full years of operation without a change in control, and, subsequent to its first two years of operation, has available a filed examination report conducted by its state of domicile, which report is in accordance with Department standards for examinations. The first two full years of operation covered by the examination report shall be sufficient to make the report useful and meaningful to the Department. The applicant shall also be required to have experienced profitable operations in two of the three years, including the most current year of business, and shall demonstrate a sound plan of operation. Additionally, the applicant shall obtain or satisfy all of the following:

(A) A financial guaranty from its ultimate parent, in a form prescribed by the Commissioner, that the applicant will maintain the minimum capital and surplus required by law for a period of 10 years from the date of admission;

(B) The ultimate parent must be a United States corporation actively engaged in business for a period of not less than five years prior to the date of application for the New Jersey certificate of authority;

(C) The ultimate parent shall have either an evaluation acceptable to the Department from Dun and Bradstreet or one of the top two ratings from at least two of the following for at least three years prior to application: Standard and Poor's, Duff and Phelps, and Moody's; and

(D) The ultimate parent shall have a net worth of at least \$25,000,000, excluding investments in insurance or insurance related subsidiaries, which amount shall be set by the Commissioner upon his or her consideration of the general financial condi-

tion of the parent and relevant underwriting factors such as, but not limited to, the volume to be written and the type of risk, and any other factors which the Commissioner, in his or her discretion, shall consider to be appropriate.

iv. The Commissioner may initiate proceedings to revoke authorization for non-compliance with the requirements set forth in (a)5iii above.

6. The applicant shall procure a New Jersey certificate of authority by establishing compliance with the applicable requirements of N.J.S.A. 17B:17-1 et seq. and 17B:23-1 et seq. relating to authorization of foreign and alien insurers to transact the business of life and health insurance in this State, and by successfully completing an admissions process which shall include a detailed review by the Commissioner of the business affairs and financial condition of the applicant as provided by this subchapter.

(b) An applicant shall submit a letter of intent consisting of the preliminary information set forth in N.J.A.C. 11:2-1.5 prior to making a formal application for admission.

Amended by R.2001 d.99, effective March 19, 2001.
See: 32 N.J.R. 4194(a), 33 N.J.R. 1004(a).

Rewrote (a)3; and in (a)4i, deleted "been identified as second or third priority and/or has" from opening sentence.

11:2-1.5 Letter of intent

(a) Prior to the acceptance of a final application for a certificate of authority in this State, all foreign and alien insurers who desire to transact the business of life and health insurance in this State shall submit, as a preliminary application, a letter of intent, which shall include, where applicable, the information required in (a)1 through 9 below.

1. The name of the applicant;
2. The name of any person, as defined in this subchapter, or other entity, by whom the applicant is controlled;
3. The applicant's insurance holding company registration statements including the holding company systems chart for the most recent five years;
4. The name of any insurer(s) currently licensed, or applying for admission, in this State with whom the applicant is affiliated;
5. The kind(s) of insurance proposed to be written by the applicant in this State;
6. A certified copy of the applicant's most recent annual statement, prepared on the NAIC annual statement forms used by New Jersey domestic insurers;
7. A certified copy of the applicant's current certificate of authority from its place of domicile;

8. The results of the most recent NAIC IRIS tests and related communications concerning the applicant, which shall satisfy the requirements of N.J.A.C. 11:2-1.4(a)4i-ii; and

9. The risk-based capital report as of December 31 for the calendar year next preceding its application date, as filed with the insurance regulatory official of its state of domicile. If the state of domicile does not have a risk-based capital statute or regulation substantially similar to N.J.A.C. 11:2-39, the applicant shall submit a risk-based capital report prepared in accordance with N.J.A.C. 11:2-39.

11:2-1.6 Final application

(a) After the submission of the letter of intent as required by N.J.A.C. 11:2-1.5, the applicant, upon notice from the Department, shall file the following items:

1. A copy of its charter as currently in force, certified by the lawful custodian of the original document;
2. A copy of its bylaws as currently in force, certified by a senior officer of the insurer;
3. Seven copies of the current annual statement, including all supplemental exhibits;
4. One copy of the annual statement for each of the past four years, including all supplemental exhibits;
5. An analysis of par/non-par profits and surplus;
6. A certificate of valuation, certified by the insurance commissioner of the insurer's state or country of domicile;
7. A certificate of compliance certified by the insurance commissioner of the insurer's place of domicile;
8. A certified copy of a report of the most recent examination of the insurer's affairs by the Department or its equivalent, of the place in which the insurer is domiciled;
9. A document appointing the Commissioner as attorney for service of process;
10. An application for admission, on a form to be prescribed and provided by the Department, including the payment of a non-refundable application fee of \$5,000 for an admissions application and \$2,500 for an application for an extension of authority;
11. A copy of the applicant's quarterly financial statements for the current year, in the NAIC format, and for such other periods of time as shall be required by the Commissioner;
12. Where applicable, a certified copy of the filing made pursuant to the holding company act of the place of domicile, for the last fiscal period, supplemented as necessary to meet the requirements of N.J.S.A. 17:27A-3(a) and (b) and applicable Securities and Exchange Commission filing requirements;

13. A statement of ownership of the applicant which shall include all shareholders of record who control five percent or more of the outstanding shares of the applicant, directly or indirectly;

14. A copy of any agreements by which the right to conduct or influence any of the affairs of the applicant is transferred to others;

15. Any employment or deferred compensation agreements in which any officer, director or shareholder who controls five percent or more of the outstanding shares of the applicant, directly or indirectly, participates;

16. Any tender offer materials (advertisements, invitations, etc.), if any tender offer has been made by the insurer or its parent to acquire another company within the three years preceding;

17. Biographical affidavits, to be completed by all directors and senior officers on a form prescribed and provided by the Department;

18. A calculation of adjusted surplus as described in N.J.A.C. 11:2-1.4(a)2i and completed in accordance with the instructions and worksheets provided by the Department;

19. Details of any circumstances within the past three years where the applicant has received a rating of less than one of the top three ratings from any rating agency or an indication that less than one of the top three ratings would be given if published;

20. A corporate plan of operation consisting of:

i. A schedule listing the following:

(1) All jurisdictions in which the applicant has applied for authorization to transact the business of insurance during the preceding 10 years and the dates and results of such applications;

(2) All jurisdictions from which the applicant has withdrawn during the preceding 10 years, and the reasons for withdrawal; and

(3) All administrative, civil or criminal actions, orders, proceedings and determinations thereof to which the applicant, or its affiliates, or any of its directors or principal officers has been subject, due to an alleged violation of any law governing insurance operations in any jurisdiction during the preceding 10 years. Where the alleged violation is a felony (or its equivalent in a jurisdiction which does not use this designation of a crime) such actions, orders, proceedings and determinations shall include violations not related to insurance operations. If a license has been refused, suspended or revoked by any jurisdiction, the applicant shall furnish an explanation and a copy of any orders, proceedings, and determinations related thereto;

ii. A description of the applicant's present business plan(s) for conducting an insurance business, including, but not limited to:

(1) Geographical areas in which business is being written;

(2) The types of insurance to be written;

(3) Marketing methods;

(4) A summary of the methods of establishing premium rates;

(5) Investment strategy, including a description of controls in place to ensure that the strategy is followed;

(6) Five-year financial projections including premium volume and income by line of business; capital, surplus and risk-based capital levels; and

(7) A description of agency systems, including any managing general agency contracts;

iii. A description of the applicant's proposed plan for conducting an insurance business in this State, including, but not limited to:

(1) The geographical area in which business is intended to be done;

(2) The types of insurance intended to be written;

(3) Proposed marketing methods;

(4) Proposed methods for the establishment of premium rates;

(5) A five-year forecast of anticipated premiums in this State by line of business; and

(6) Proposed agency systems;

iv. A summary of the applicant's reinsurance program on assumed business, indicating the name of the ceding insurers, retentions, maximum risks, types of business, types of agreements, and any other information which may, in the opinion of the Department, be relevant to this part of the applicant's operations. Additional information may be requested by the Department in order to supplement or clarify information already provided by the applicant;

v. A summary of the applicant's reinsurance program on ceded business, indicating the name of the reinsurers, retentions, maximum risks, types of business, types of contracts, and any other information which may, in the opinion of the Department, be relevant to this part of the applicant's operations. Additional information may be requested by the Department in order to supplement or clarify information already provided by the applicant;

vi. The number and ratio of complaints as defined by the place of domicile to the number of policies in the place of domicile, for those lines of business in which the state or country of domicile makes such determinations; and

vii. Copies of all management, exclusive agency, administrative services, or any other operating contracts with affiliates or non-affiliates, where applicable, signed by the parties and certified to by the insurer's secretary and chief operating officer;

21. If the applicant is a foreign insurer, evidence of a certificate of deposit, certified by the commissioner of the place of domicile, confirming the deposit made therewith and that such deposit satisfies the requirements of the insurer's place of domicile;

22. If a United States branch of an alien insurer, the applicant shall provide the Department with:

i. A certificate of deposit certified by its insurance commissioner showing the amount in trust for policyholders which shall be sufficient to satisfy the requirements of N.J.S.A. 17B:22-3;

ii. A certified copy of power of attorney in favor of its United States manager; and

iii. A certified copy of a deed of trust to the trustee of the applicant's funds; and

23. If the applicant is an alien insurer, a statement of trusted surplus in the United States.

11:2-1.7 Review procedures; appeals

(a) Upon receipt of a final application, the Commissioner shall conduct a thorough background investigation and review which shall include the information contained in N.J.A.C. 11:2-1.4, 1.5 and 1.6, inquiries regarding claims settlement practices and any other information which, in the opinion of the Commissioner, may be necessary to make an appropriate decision regarding the application.

(b) The applicant shall ensure that all filings submitted to the Department are current. Any amendment, changes or replacements to documents on file shall be timely updated.

(c) Applications accepted after November 1 of each year shall not be reviewed until the next annual statement becomes available and is received for review. The review of such applications shall begin as of April 1 of each year, after the receipt of annual statements which shall be submitted no later than March 1 of each year.

(d) Before a decision on an application is made, the Department may request from an applicant, in writing, any additional information it may require. Failure by an applicant to respond to written inquiries by the Department within 45 days may be considered grounds for rejection of the application.

(e) Application reviews shall be conducted by the Department on a monthly basis. The Department's Committee on Admissions shall make a recommendation to the Commissioner concerning each application which has been reviewed. The Commissioner shall consider the recommendation and make his or her decision on the application within 10 working days from receipt of the recommendation. Written notice of the decision shall be mailed to the applicant by certified mail within 10 working days of the date of the Commissioner's decision.

(f) When the Commissioner rejects an application, the notice of rejection shall include a statement specifying the reasons for the rejection. Such notice shall inform the applicant of the right:

1. To request an informal Departmental review of the rejection within 20 days of receipt of the notice of rejection; and
2. To provide the Department with a written statement, including supporting documentation, if any, disputing with specificity the reasons for rejection within 30 days of the receipt of the notice of rejection.

(g) Upon timely receipt of the request for Departmental review and the written statement of the applicant, if any, the Department shall promptly review the application, attached documents, Department records and the written statement. In appropriate circumstances, the Commissioner may provide the applicant with an opportunity to present its position in person. If, after reviewing the record, the Commissioner determines that the applicant has failed to qualify, the Commissioner shall promptly so inform the applicant.

(h) Where an application has been rejected, the applicant shall not be eligible to reapply until there is one full year or more of acceptable experience.

11:2-1.8 Compliance

This subchapter shall apply to all applicants submitting a letter of intent on or after April 1, 1995. Applicants whose applications have been received by the Department prior to April 1, 1995, may elect to proceed under this subchapter if they so notify the Department no later than May 1, 1995. Applicants whose letters of intent have been received by the Department prior to April 1, 1995, who do not timely notify the Department that they wish to proceed under this subchapter, shall have their application reviewed under the procedures preexisting this subchapter.

11:2-1.9 Severability

If any provisions 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.

SUBCHAPTER 2. INSURANCE ON FINANCED AUTOMOBILES

11:2-2.1 Return of unearned premiums

(a) N.J.S.A. 17:16D-14(a) requires that whenever a financial insurance contract is cancelled, the insurer on notice of such financing shall return whatever gross unearned premiums are due under the insurance contract to the premium finance company for the account of the insured or insureds.

(b) Upon the effective date of this regulation, such unearned premiums shall be remitted by insurers to finance companies not later than 60 days after the effective date of cancellation, or 60 days after the completion of any payroll audit necessary to determine the amount of premium earned while the policy was in force. Such audit shall be performed within 30 days after the effective date of cancellation.

As amended, R.1972 d.167, effective August 25, 1972.
See: 4 N.J.R. 103(d), 4 N.J.R. 221(a).