

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.2011 d.044, effective January 6, 2011.
See: 42 N.J.R. 2199(a), 43 N.J.R. 309(a).

Chapter Expiration Date

Chapter 2, Insurance Group, expires on January 6, 2016.

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Subchapter 10, Casualty Insurers, Personal Lines Insurance, was repealed by R.1985 d.71, effective February 19, 1985.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Subchapter 1, Educational Requirements for Licensing, was repealed, and Subchapter 19, Approval of Insurance Schools and Company Training Programs, was repealed by R.1989 d.192, effective April 3, 1989.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 Mortgage 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).

Subchapter 39, Increase in Capital and Surplus Requirements For Life and Health Insurers, was renamed Increase in Capital and Surplus Requirements for Insurers by R.1997 d.186, effective May 5, 1997. See: 29 N.J.R. 404(a), 29 N.J.R. 2175(b).

Pursuant to Executive Order No. 66(1978), Chapter 2, Insurance Group, was readopted as R.2001 d.6, effective November 30, 2000. See: 32 N.J.R. 3530(a), 33 N.J.R. 85(a).

Subchapter 14, Procedures for the Conduct of Voting on a Plan of Reorganization of a Domestic Mutual Life Insurer, was adopted as new rules by R.2001 d.84, effective March 5, 2001. See 32 N.J.R. 4330(a), 33 N.J.R. 802(a).

Subchapter 19, Designation of Third Party for Certain Notifications by Senior Citizen Insureds, was adopted as new rules by R.2002 d.210, effective July 1, 2002. See: 34 N.J.R. 366(a), 34 N.J.R. 2315(a).

Subchapter 42, Homeowners' Insurance: Standard Hurricane Deductibles And Expedited Process for Homeowners' Insurance Changes, was adopted as new rules by R.2003 d.450, effective November 17, 2003. See: 35 N.J.R. 1189(a), 35 N.J.R. 5280(b).

Subchapter 43, Treatment of Allocated Deposit-Type Deferred Contract Funds for Purposes of Calculating the Special Purpose Apportionment and the Fraud Assessment, was adopted as new rules by R. 2004, d.407, effective November 1, 2004. See: 36 N.J.R. 2976(a), 36 N.J.R. 4929(a).

Chapter 2, Insurance Group, was readopted by R.2005 d.350, effective September 21, 2005. As part of R.2005 d.350, Subchapter 38, Temporary Waiver from Increase in Property and Casualty Capital and Surplus Requirements, was repealed, effective October 17, 2005. See: 37 N.J.R. 2285(a), 37 N.J.R. 4026(a).

Subchapter 39, Increase in Capital and Surplus Requirements for Insurers, was renamed Increase in Capital and Surplus Requirements for Insurers and Health Maintenance Organizations by R.2005 d.421, effective December 5, 2005. See: 37 N.J.R. 2992(a), 37 N.J.R. 4556(b).

Subchapter 23A, Military Sales Practices, was adopted as new rules by R.2008 d.67, effective March 17, 2008. See: 39 N.J.R. 4053(a), 40 N.J.R. 1663(b).

Subchapter 26, Annual Audited Financial Reports, was renamed Annual Financial Reporting by R.2010 d.026, effective January 19, 2010. See: 41 N.J.R. 3364(a), 42 N.J.R. 486(b).

Chapter 2, Insurance Group, was readopted as R.2011 d.044, effective January 6, 2011. As a part of R.2011 d.044, Subchapter 41, Windstorm Market Assistance Program, was repealed, effective February 7, 2011. See: Source and Effective Date. See, also, section annotations.

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4. Where, pursuant to (k)3 above, a spokesperson required to be licensed as an insurance producer is not licensed as an insurance producer, the advertisement shall include, in the manner prescribed by (k)5 below, the following statement: "This offer is not available in New Jersey." The requirements of this paragraph shall apply to cases where the advertisement originates in or emanates from another state but is received or appears in New Jersey and to advertisements which originate in or emanate from New Jersey.

5. The fact of a financial interest, or the proprietary or representative capacity of a spokesperson, shall be disclosed in an advertisement. In both television and radio advertising, the disclosure shall be spoken by the spokesperson and, in the case of television, visually presented consistent with the requirements for print advertising in this subsection. In print advertising, the disclosure shall be presented in a type style and size that is at least equal to the largest type otherwise used in the advertisement. The disclosure required by this paragraph shall be accomplished in the introductory portion of the endorsement and shall be given prominence.

6. If a spokesperson is directly or indirectly compensated for making an endorsement, such fact shall be disclosed by use of the phrase "This is a Paid Endorsement" or by words of similar meaning in the manner provided by (k)5 above. The requirements of this paragraph do not apply where the spokesperson is a company officer, a company director or an employee who is paid generally, but not specifically, for making the advertisement.

7. The disclosure requirements of this subchapter shall not apply where the sole financial interest or compensation of a spokesperson, for all endorsements made on behalf of the insurer, consists of the payment of union "scale" wages required by union rules, and if the payment is actually for such "scale" for television or radio performances.

8. An advertisement shall not state or imply that an insurer, policy or contract, or any type or line of insurance has been approved or endorsed by any individual, group of individuals, society, association, organization, governmental agency or other entity, unless such is the fact and any proprietary relationship between such individual(s) or entity and the insurer is disclosed and the prior written approval of the individual, group of individuals, society, association, organization, governmental agency or other person has been secured. Prior written approval shall not be required in cases where the endorsing individual is a company officer, company director or employee.

9. If the person making the endorsement in (k)8 above has been formed by the insurer or is owned, or controlled by the insurer, or the person or persons who own or control the insurer, such fact shall be disclosed in the advertisement. If the insurer or an officer of the insurer formed or controls the association, or holds any policymaking position in the association, that fact shall also be disclosed.

10. When an endorsement refers to benefits received under a policy for a specific claim, the claim date, including claim number, date of loss and other pertinent information shall be

retained by the insurer for inspection until the completion by the Department of the next market conduct examination of the insurer.

11. Endorsements which do not correctly reflect the present practices of the insurer or which are not applicable to the policy or benefits being advertised shall not be used.

12. An advertisement shall not state or imply that an insurer or a policy has been approved or an insurer's financial condition has been examined and found to be satisfactory by a governmental agency unless such is the fact and without prior written approval.

(l) An advertisement shall not contain statistical information relating to any insurer or policy unless it accurately reflects recent and relevant facts. The source of any such statistics used in an advertisement shall be identified therein.

(m) Advertisements referring to introductory, initial, or special offers and enrollment periods must comply with the following requirements:

1. An advertisement of an individual policy or combination of such policies shall not state or imply that such policy or combination of such policies is an introductory, initial, or special offer, or that applicants will receive substantial advantages not available at a later date, or that the offer is available only to a specified group of individuals, unless such is the fact. An advertisement shall not describe an enrollment period as "special" or "limited" or use similar words or phrases in describing it when the insurer uses successive enrollment periods as its usual method of marketing its policies;

2. An advertisement shall not state or imply that only a specific number of policies will be sold, or that a time is fixed for the discontinuance of the sale of the particular policy advertised because of special advantages available in the policy;

3. An advertisement shall not offer a policy which utilizes a reduced initial premium rate in a manner which overemphasizes the availability and the amount of the reduced initial premium. When an insurer charges an initial premium that differs in amount from the amount of the renewal premium payable, all references to the reduced initial premium shall be followed by an asterisk or other appropriate symbol which refers the reader to that specific portion of the advertisement which contains the full rate schedule for the policy being advertised; and

4. An enrollment period during which a particular insurance policy may be purchased on an individual basis shall not be offered in New Jersey unless there has been a lapse of not less than three months between the close of the immediately preceding enrollment period. The advertisement shall specify the date by which the applicant must mail the application, which shall be not less than 10 days and not more than 40 days from the date on which such enrollment period is advertised for the first time.

i. Paragraph (m)4 above applies to all advertising media, that is, mail, newspapers, radio, television, magazines, and periodicals, by any one insurer. The phrase "any one insurer" includes all the affiliated companies of a group of insurance companies under common management or control.

ii. Paragraph (m)4 above does not apply to the use of a termination or cutoff date beyond which an individual application for a guaranteed issue policy will not be accepted by an insurer in those instances where the application has been sent to the applicant in response to his or her request.

iii. Paragraph (m)4 above is also inapplicable to solicitations of employees or members of a particular group or association which otherwise would be eligible under specific provisions of the New Jersey insurance laws for group or blanket insurance.

iv. In cases where an insurance product is marketed on a direct basis to prospective insureds by reason of some common relationship with a sponsoring organization, this rule shall be applied separately to each sponsoring organization.

(n) An advertisement of a particular policy shall not state or imply that prospective insureds shall be or become members of a special class, group, or quasi-group and as such enjoy special rates, dividends, or underwriting privileges, unless such is the fact.

(o) An advertisement shall not make unfair or incomplete comparisons of policies, benefits, dividends, or rates of other insurers. An advertisement shall not falsely or unfairly describe other insurers, their policies, services, or methods of marketing.

Amended by R.1989 d.391, effective July 17, 1989.

See: 21 N.J.R. 970(a), 21 N.J.R. 2039(a), 21 N.J.R. 2289(c).

At (k), requirements regarding third party endorsements greatly expanded.

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

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

Amended by R.2005 d.350, effective October 17, 2005.

See: 37 N.J.R. 2285(a), 37 N.J.R. 4026(a).

In (k)3, added "-28" following "defined at N.J.S.A. 17:22A", substituted "N.J.S.A. 17:22A-29" for "N.J.S.A. 17:22A-3", and substituted "N.J.S.A. 17:22A-26 et seq." for "N.J.S.A. 17:22A-1 et seq."

11:2-23.6 Identification of insurer, plan and number of policies

(a) The name of the insurer shall be clearly identified, and if any specific individual policy is advertised it shall be identified either by form number or other appropriate description. An advertisement shall not use a trade name, an insurance group designation, name of a parent company of the insurer, name of a particular division of the insurer, service mark, slogan, symbol, or other device or reference without disclosing the name of the insurer, if the advertisement would have the capacity or tendency to mislead

or deceive as to the true identity of the insurer or create the impression that a company other than the insurer would have any responsibility for the financial obligation under a policy.

(b) No advertisement shall use any combination of words, symbols, or physical materials which by their content, phraseology, shape, color or other characteristics are so similar to a combination of words, symbols, or physical materials used by a governmental program or agency or otherwise appear to be of such a nature that they tend to mislead prospective insureds into believing that the solicitation is in some manner connected with such governmental program or agency.

(c) When a choice of the amount of benefits is referred to, an advertisement shall disclose that the amount of benefits provided depends upon the plan selected and that the premium will vary with the amount of the benefits.

(d) When an advertisement refers to various benefits which may be contained in two or more policies, other than group master policies, the advertisement shall disclose that such benefits are provided only through a combination of such policies.

Case Notes

Fine was appropriate penalty for insurance broker's misleading advertisement. *Karpinski v. Automated Insurance Concepts Agency, Inc.*, 96 N.J.A.R.2d (INS) 13.

11:2-23.7 Jurisdictional licensing and status of insurer; statements about the insurer

(a) An advertisement which is intended to be seen or heard beyond the limits of the jurisdiction in which the insurer is licensed shall not imply licensing beyond such limits.

(b) An advertisement may state that an insurer is licensed in the state where the advertisement appears, provided that it does not exaggerate such fact or suggest or imply that competing insurers may not be so licensed.

(c) Such advertisements by direct mail insurers shall indicate that the insurer is licensed in a specified state or states only, or is not licensed in a specified state or states, by use of some language such as "This Company is licensed only in State A" or "This Company is not licensed in State B."

(d) An advertisement shall not create the impression that the insurer, its financial condition or status, the payment of its claims, or the merits, desirability, or advisability of its policy forms or kinds of plans of insurance are recommended or endorsed by any governmental entity. If a governmental entity has recommended or endorsed a policy form or plan, however, such fact may be stated if the entity authorized its recommendation or endorsement to be used in an advertisement and if the advertisement clearly defines the scope and extent of the recommendation.

(b) If an insurer is subject to an order issued by the Commissioner pursuant to (a) above, and the insurer objects to the actions ordered to be taken as set forth therein, the insurer may request a hearing before the Department on the Commissioner's determination within 10 days from the date of receipt of such order as follows:

1. A request for a hearing shall be in writing and shall include:

- i. The name, address, and daytime telephone number of a contact person familiar with the matter;
- ii. A copy of the order involved;
- iii. A statement requesting the hearing; and
- iv. A concise statement specifying the manner wherein the action(s) ordered by the Commissioner would not result in improving the condition of the insurer.

2. Pursuant to N.J.S.A. 17:51A-1 et seq., all proceedings, hearings, notices, correspondence, reports, records and other information in the possession of the Commissioner or the Department relating to the supervision of the insurer are confidential, except as otherwise provided by N.J.S.A. 17:51A-1 et seq. Any confidential proceeding in connection with an order issued pursuant to this rule and N.J.S.A. 17:51A-1 et seq. shall be held by the Commissioner or his designee at the Department.

3. The Commissioner may open such proceedings or hearings or disclose the notices, correspondence, reports, records or information to a department, agency or instrumentality of this or another state of the United States, or make such information public, if the Commissioner determines that the disclosure is necessary or proper for the enforcement of the laws of this or another state of the United States, is in the best interest of the public, or in the best interest of the insurer, its insureds or creditors.

(c) Nothing contained in this section shall be construed to limit or preclude the Commissioner from independently requiring an insurer to take specific actions or limit specified activities pursuant to other provisions of Title 17 or 17B of the Revised Statutes.

Emergency New Rule, R.1993 d.447, effective August 16, 1993 (expired October 15, 1993).

See: 25 N.J.R. 4286(a).

Adopted Concurrent Proposal, R.1993 d.556, effective October 15, 1993.

See: 25 N.J.R. 4286(a), 25 N.J.R. 5182(a).

Changes upon adoption effective November 15, 1993.

Amended by R.1996 d.3, effective January 2, 1996.

See: 27 N.J.R. 3278(b), 28 N.J.R. 152(b).

SUBCHAPTER 28. CREDIT FOR REINSURANCE

11:2-28.1 Purpose and scope

(a) The purpose of these rules is to implement the provisions of N.J.S.A. 17:51B-1 et seq. by establishing procedures

to be employed by insurers which cede risks to appropriate reinsurers and which assume the risk from the ceding insurers to whom these rules apply.

(b) This subchapter applies to all insurers which transact business in this State, except as described in (b)2 below, including insurers which are domiciled in this State. This subchapter also applies to insurers which are either licensed to transact business in this State or are eligible to write surplus lines insurance in this State, and which in either case are domiciled in a state or country which does not employ standards regarding credit for reinsurance substantially similar to the standards set forth herein.

1. For a life and health ceding insurer to qualify for a credit for reinsurance in accordance with this subchapter, the ceding insurer shall also comply with the requirements of N.J.S.A. 17:51B-1 et seq. and all administrative rules promulgated thereunder concerning the regulation of life and health reinsurance contracts.

2. Where an insurer which is either licensed to transact business in this State or is an eligible surplus lines insurer in this State and in either case the state in which it is domiciled is accredited by the NAIC or employs standards regarding credit for reinsurance as determined by the Commissioner to be substantially similar to the standards set forth in these rules, the insurer shall comply with the rules regarding credit for reinsurance in its state of domicile.

Amended by R.1993 d.557, effective November 15, 1993.

See: 25 N.J.R. 4289(a), 25 N.J.R. 5184(a).

Amended by R.1996 d.3, effective January 2, 1996.

See: 27 N.J.R. 3278(b), 28 N.J.R. 152(b).

11:2-28.2 Definitions

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

"Annual statement" means a statement showing an insurer's financial condition at the close of business on December 31 of the preceding year and its business for that year in the form adopted by the NAIC, prepared in accordance with the annual statement instructions and the Accounting Practices and Procedures Manual adopted by the NAIC and all applicable provisions of law.

"Assuming insurer" or "reinsurer" means any person which engages in the activity of insuring part or all of an insurance risk from an originating or ceding insurer.

"Authorized officer" means the president of the company whose signature is attested to by the secretary of the company or any such equivalent officers or individuals.

"Beneficiary":

1. As used in N.J.A.C. 11:2-28.9 means the entity for whose sole benefit the trust has been established and any

successor of the beneficiary by operation of law. Where a court of competent jurisdiction appoints a successor in interest to the named beneficiary, then the named beneficiary includes and is limited to the court appointed domiciliary receiver, conservator, rehabilitator or liquidator; or

2. As used in N.J.A.C. 11:2-28.10 means the domestic insurer for whose benefit the letter of credit has been established and any successor of the beneficiary by operation of law. Where a court of competent jurisdiction appoints a successor in interest to the named beneficiary, then the named beneficiary includes and is limited to the court appointed domiciliary receiver, conservator, rehabilitator or liquidator.

“Ceding insurer” means an insurer which procures indemnification for itself from an assuming insurer with respect to all or part of an insurance risk associated with one or more policies which it issued should losses be sustained.

“Certificate of eligibility” means a certificate issued by the Commissioner evidencing the authority of an unauthorized insurer to transact the business of surplus lines insurance in this State.

“Clean and unconditional letter of credit” or “clean and unconditional confirmation” means a letter of credit or confirmation which:

1. Makes no reference to any other agreement, document or entity;
2. Provides that a beneficiary need only draw a sight draft under the letter of credit or confirmation and present it to promptly obtain funds and that no other document need be presented; and
3. Indicates that it is not subject to any conditions or qualifications outside of the letter of credit.

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

“Date of the ceding insurer’s statutory financial statement” means the period ending date for which the statutory financial statement is rendered.

“Delinquency proceeding” means, for the purpose of this subchapter, any proceeding commenced against a reinsurer for the purpose of liquidating, rehabilitating, reorganizing or conserving such reinsurer.

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

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

“Eligible surplus lines insurer” means an unauthorized insurer which is issued a certificate of eligibility to transact the business of insurance in this State and in which insurance coverage is placed or may be placed pursuant to N.J.S.A. 17:22-6.40 et seq.

“Evergreen” means a provision in a letter of credit or its confirmation which prevents the expiration of the letter of credit or its confirmation without due advance written notice to the beneficiary from the issuing or confirming bank or trust company.

“Grantor” as used in connection with the establishment of a trust agreement means the entity that has established a trust for the sole benefit of the beneficiary. When established in conjunction with a reinsurance agreement, the grantor is the unlicensed, unaccredited assuming insurer.

“Insurer” means any corporation, association, partnership, reciprocal exchange, interinsurer, Lloyd’s insurer, fraternal benefit society or other person engaged in the business of insurance pursuant to N.J.S.A. 17:17-1 et seq. or N.J.S.A. 17B-17-1 et seq.; any medical service corporation operating pursuant to N.J.S.A. 17:48A-1 et seq.; any hospital service corporation operating pursuant to N.J.S.A. 17:48-1 et seq.; any health service corporation operating pursuant to N.J.S.A. 17:48E-1 et seq.; or any dental service corporation operating pursuant to N.J.S.A. 17:48C-1 et seq.

“NAIC” means the National Association of Insurance Commissioners.

“Net assets” means an insurer’s total admitted assets less its total reserves and other liabilities.

“Obligations” as used in connection with the establishment of a trust agreement means:

1. Reinsured losses and allocated loss expenses paid by the ceding company, but not recovered from the assuming insurer;
2. Reserves for reinsured losses reported and outstanding;
3. Reserves for reinsured losses incurred but not reported; and
4. Reserves for allocated reinsured loss expenses and unearned premiums.

“Qualified United States financial institution”:

1. As used at N.J.A.C. 11:2-28.8(b)3 and 28.10 means an institution that:
 - i. Is organized or, in the case of a branch or agency office of a foreign banking organization in the United States, licensed, under the laws of the United States or any state thereof;

“State” means the State of New Jersey.

“Withdraw” or “withdrawal” means the nonrenewal, cancellation, or termination of policies, or surrender of authority to transact the business of insurance in this State, or any insurer action that is equivalent to a withdrawal from the business of insurance in this State which may include, but is not limited to, the elimination of a rating system, termination of agency contracts, reduction in agency commissions, restrictions on agency solicitation or binding authority, insurer refusal of applications or declaration of a dividend to an affiliate, when such action or actions exceed those occurring in the ordinary course of business. Whether the above activities are equivalent to a withdrawal shall be determined by the Commissioner on a case-by-case basis.

“Withdraw” or “withdrawal” also means the transfer to another insurer of insurance business pursuant to an assumption agreement as defined herein or a portfolio reinsurance agreement as defined herein.

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

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

Amended by R.2005 d.111, effective April 4, 2005.

See: 36 N.J.R. 4358(a), 37 N.J.R. 1069(a).

Rewrote “Annual statement”, “Automobile”, “Business of insurance”, “Commencement date”, “Insurance producer”, “Insurer”, “Plan” and “Rating system”; added “Hazardous financial condition” and “Homeowners’ insurance”.

11:2-29.3 Informational filing withdrawals

(a) Any insurer seeking to withdraw shall file the informational filing and otherwise comply with the requirements set forth in N.J.S.A. 17:17-10 or 17:33B-30, as applicable.

(b) Any insurer seeking to withdraw shall, as part of the informational filing required pursuant to N.J.S.A. 17:17-10 or 17:33B-30, as applicable, provide the information listed in (c) below. Failure to provide all of the information shall result in a determination that the informational filing is non-compliant, and it shall be disapproved by the Commissioner. The Department shall notify a filer within 10 days of the Department’s receipt of the informational filing if it is non-compliant. The insurer may resubmit the informational filing when the deficiencies have been corrected, which shall be considered a new submission.

(c) An informational filing shall contain the following:

1. The reason for the insurer’s withdrawal;
2. Copies of the following notifications:
 - i. The Policyholder Notice of Intent to Withdraw required pursuant to N.J.S.A. 17:17-10b(1) and 17:33B-30a(1);
 - ii. The one-year non-renewal notice required pursuant to N.J.S.A. 17:17-10b(3) and 17:33B-30a(3);

iii. The producer notice by which the insurer advises its producers of its intent to withdraw (Producer Notice), where applicable; and

iv. The non-renewal notice to be provided to insureds within the timeframes set forth in N.J.A.C. 11:3-8, 11:1-20 or 11:1-5.2, as applicable;

3. The lines of insurance and/or program(s) to be withdrawn;

4. The number of exposures and number of policies to be non-renewed;

5. The insurer’s market share by line and, in addition, for private passenger automobile insurance, exposures by territory, and for homeowners’ insurance, exposures by Windstorm Market Survey Report and, separately, any additional zip codes that fall within the insurer’s definition of “coastal area”;

6. A list of the insurer’s producers and their current business addresses; and

7. The proposed duration of the non-renewal of the company’s book of business.

(d) The insurer shall send a notice to its policyholders of the proposed withdrawal no later than 30 days following the submission of an informational filing to the Commissioner that has not been disapproved as non-compliant.

(e) Non-renewals shall not commence prior to one calendar year and 90 days following the submission of the compliant informational filing, unless a waiver is requested and approved by the Commissioner pursuant to N.J.A.C. 11:2-29.4.

(f) The insurer shall send to every policyholder:

1. A notice of non-renewal no later than one calendar year preceding the date of non-renewal, unless a waiver is requested and approved by the Commissioner pursuant to N.J.A.C. 11:2-29.4; and

2. A final notice of non-renewal in accordance with the time limit established pursuant to N.J.A.C. 11:3-8, 11:1-20 and 11:1-5.2, as applicable.

(g) Non-renewals shall take place in a manner so as to be applicable to all insureds on an equitable basis with respect to risk classification and territorial or other form of rating factor, and shall be effectuated at a uniform rate over a period not exceeding three calendar years, commencing with the date established in (e) above, unless the three-year timeframe is otherwise waived; provided, however, that if more than one company files for withdrawal for the same line of business and the companies, in the aggregate, write more than 25 percent of the market share for that line of business, the Commissioner may extend the period of withdrawal to five years.

(h) The minimum requirements for the Notice of Intent to Withdraw and non-renewal notices referenced above are set forth below. A sample of the notices shall be posted on the Department's web site at www.njdoabi.org, as may be modified from time to time.

1. The Notice of Intent to Withdraw shall:

i. Include a prominent heading, in boldface 14-point type or other conspicuous manner which draws the reader's attention;

ii. State that the purpose of the notification is to advise the insured that the insurer intends to withdraw from the applicable line(s) and/or program(s) of insurance in New Jersey;

iii. State that, as required by law, the insurer has submitted an informational filing withdrawal to the New Jersey Department of Banking and Insurance advising of its intent to withdraw;

iv. Explain the terms of the withdrawal, including the date of the proposed commencement of the non-renewal of policies and the proposed duration of the company's non-renewal of policies;

v. If applicable, such as in a case where a waiver has not been requested or approved, advise the insured that the company will send a notice of non-renewal no later than one calendar year preceding the date of non-renewal; and

vi. Advise the insured that a notice of non-renewal will be sent in accordance with the time limits established by law for that line of coverage.

2. The one-year non-renewal notice and final notices of non-renewal shall:

i. Advise the insured that the non-renewal is based on an informational filing withdrawal submitted by the insurer to the New Jersey Department of Banking and Insurance;

ii. Explain the general terms of the withdrawal and, where the informational filing provides for a replacement carrier(s), indicate that replacement coverage is being made available, and through whom such coverage is available;

iii. Advise that the non-renewal is based on a business decision of the insurer and is not intended as a negative reflection on the policyholder's insurability;

iv. Where applicable, include the name, address and telephone number of the appropriate residual market mechanism where the policyholder may seek coverage in the event that the insured is not eligible for or coverage is otherwise not available in the voluntary market;

v. Include the following statement: "For information that will assist you in shopping for coverage, you

may contact your insurance agent, as well as the New Jersey Department of Banking and Insurance at 1-800-446-SHOP (7467) or visit the Department on the web at www.njdoabi.org"; and

vi. If the insurer is sending a one-year non-renewal notice, state that a final notice of non-renewal will be sent in accordance with applicable timeframes for that line (for example, not less than X days prior to the expiration of the policy);

3. If a replacement carrier is utilized, in addition to the requirements set forth in (h)2 above, where an offer of replacement coverage is sent separately, the final non-renewal notice shall either include or be accompanied by further information about the replacement carrier and the process to be followed for securing coverage with the new carrier.

(i) The one-year non-renewal notice, unless waived pursuant to N.J.A.C. 11:2-29.4, and the final non-renewal notice shall be sent within the timeframes for such notices as provided by N.J.S.A. 17:17-10 or 17:33B-30, as applicable, and N.J.A.C. 11:3-8, for private passenger automobile insurance, and N.J.A.C. 11:1-20 or 5.2, as applicable, for all other lines. The notice(s) shall contain the information required for such notices set forth in applicable law. Except as set forth in this section, the notice(s) shall not include the statements otherwise required pursuant to N.J.A.C. 11:1-20.2(h) and 11:3-8.3(e)2i, as applicable, related to filing complaints with the Department concerning the non-renewal.

(j) Insurers may include additional information in the notice to policyholders or provide additional notices to policyholders containing such information that the insurer deems appropriate, provided such notices or information are filed as set forth above in this section, and the information or notices are not inconsistent with the requirements of this subchapter.

Repeal and New Rule, R.2008 d.220, effective August 4, 2008.

See: 40 N.J.R. 1058(a), 40 N.J.R. 4595(a).

Section was "General Provisions".

11:2-29.4 Requests for waivers

(a) An insurer may request a waiver of the one-year and 90-day waiting period for commencement of nonrenewals pursuant to N.J.S.A. 17:17-10b(2) or 17:33B-30a(2), a waiver of the requirement to send non-renewal notices no later than one year prior to the dates of the non-renewals set forth in N.J.S.A. 17:17-10b(3) and 17:33B-30a(3), and a waiver of the maximum three-year non-renewal period set forth in N.J.S.A. 17:17-10b(4) and 17:33B-30a(4). A request shall include a list of the insurer's producers and their current business addresses, the proposed commencement date of the withdrawal, the name(s) of any replacement carrier(s) proposed to be utilized, the number of policies to be non-renewed, and the insurer's market share in this State with respect to the type of policies to be non-renewed. The decision regarding the re-