

CHAPTER 13

COMMERCIAL LINES INSURANCE

Authority

N.J.S.A. 17:1-8.1, 17:1-15e and 17:29AA-1 et seq.

Source and Effective Date

R.2003 d.21, effective December 12, 2002.
See: 34 N.J.R. 2947(a), 35 N.J.R. 252(a).

Chapter Expiration Date

Chapter 13, Commercial Lines Insurance, expires on December 12, 2007.

Chapter Historical Note

Chapter 13, Commercial Lines Insurance, was adopted as R.1982 d.423, effective December 6, 1982. See: 14 N.J.R. 1045(a), 14 N.J.R. 1398(c).

Pursuant to Executive Order No. 66(1978), Chapter 13, Commercial Lines Insurance, was readopted as R.1987 d.512, effective November 12, 1987. See: 19 N.J.R. 1783(a), 19 N.J.R. 2302(b). Subchapter 6, Commercial Insurance Rating Plans, was adopted as R.1990 d.594, effective December 3, 1990. See: 21 N.J.R. 3430(a), 22 N.J.R. 3625(b). Subchapter 7, Commercial Lines Insurance: Policy Form Standards, was adopted as R.1991 d.411, effective August 5, 1991. See: 23 N.J.R. 159(a), 23 N.J.R. 2340(a).

Pursuant to Executive Order No. 66(1978), Chapter 13, Commercial Lines Insurance, was readopted as R.1992 d.492, effective November 10, 1992. See: 24 N.J.R. 2830(a), 24 N.J.R. 4408(a). Subchapter 8, Commercial Lines Insurance: Prospective Loss Costs Filing Procedures, was adopted as R.1993 d.411, effective August 16, 1993. See: 25 N.J.R. 1047(a), 25 N.J.R. 3829(b).

Pursuant to Executive Order No. 66(1978), Chapter 13, Commercial Lines Insurance, was readopted as R.1997 d.521, effective November 10, 1997. See: 29 N.J.R. 4248(a), 29 N.J.R. 5310(a).

Chapter 13, Commercial Lines Insurance, was readopted as R.2003 d.21, effective December 12, 2002. See: Source and effective date. See, also, section annotations.

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SUBCHAPTER 1. GENERAL PROVISIONS

11:13-1.1 Purpose

The Commercial Insurance Deregulation Act of 1982 (N.J.S.A. 17:29AA-1 et seq.) establishes a separate rating law for commercial lines insurance and exempts such lines from the provisions of N.J.S.A. 17:29AA-1 et seq. except as provided by the Act. This chapter provides rules for the implementation of the Act.

11:13-1.2 Scope

(a) This chapter applies to all policies or contracts of insurance issued by a licensed insurer pursuant to Title 17 of the Revised Statutes except:

1. Ocean marine, title, mortgage guaranty, workers' compensation and employers' liability, and policy or contract of reinsurance, other than joint reinsurance, as

provided for in section 22 of the Commercial Insurance Deregulation Act of 1982, insurance written through the New Jersey Medical Malpractice Reinsurance Association, insurance written through the New Jersey Insurance Underwriting Association, and the insurance issued by hospital service or medical service corporations;

2. Insurance issued for personal, family or household purposes;

i. Examples of policies of insurance issued for personal, family or household purposes are:

(1) Policies used solely to provide homeowners insurance, dwelling fire insurance on one to four family units, or individual fire insurance on dwelling contents;

(2) Policies principally used to provide primary insurance on private passenger automobiles that are individually owned and used for personal or family needs;

(3) Policies of personal inland marine, personal theft, residence glass, personal liability insurance and personal excess; and

(4) Policies of self-storage personal property insurance as defined at N.J.A.C. 11:17-1.2.

ii. Insurance issued for personal, family or household purposes does not include insurance used to cover business, professional or other commercial risks, such as farmowners, businessowners and commercial multi-peril policies.

Amended by R.1989 d.621, effective December 18, 1989.

See: 21 N.J.R. 1641(b), 21 N.J.R. 3926(a).

"Farmowners insurance" added as example of policies issued for personal, family or household purposes.

Amended by R.1997 d.278, effective July 7, 1997.

See: 28 N.J.R. 4707(a), 29 N.J.R. 2853(a).

Added (a)2i(5).

Amended by R.2002 d.104, effective April 1, 2002.

See: 33 N.J.R. 4056(a), 34 N.J.R. 1454(a).

In (a), substituted "that" for "which" in 2i(2), deleted 2i(4) and recodified former 2i(5) as 2i(4), and inserted "farmowners," in 2ii.

11:13-1.3 Definitions

The following words and terms, when used in this chapter, have the following meanings unless the context clearly indicates otherwise.

"Advisory organizations" means any group, association or other organization of insurers, whether located within or outside this State, that assists insurers or rating organizations in ratemaking, by the collection and furnishing of loss or expense statistics.

"Commissioner" means the Commissioner of Banking and Insurance.

"Department" means Department of Banking and Insurance.

"Farmowners insurance" means a policy of insurance issued to the owner(s) of property used for agricultural purposes, which may include property coverages on dwellings, farm buildings and personal property including household property, farm equipment, livestock, farm produce and supplies; and farmers comprehensive personal liability coverages against liabilities as the owner of the farm property and operator of the farming enterprise. As defined herein, farmowners insurance is reported on the statutory Annual Statement as "Farmowners Multi Peril".

"Insurer" means any person, corporation, company, association, joint underwriting association, partnership, or any other legal entity licensed under the laws of this State to transact the business of insurance in this State.

"Policy" means any contract of insurance subject to this chapter and includes, but is not limited to, all policies, contracts, certificates and endorsements.

"Rating Organization" means every person or persons, corporation, partnership, company, society or association engaged in the business of rate-making for two or more insurers.

"Special Risks" means:

1. Commercial lines insurance risks as specified on a list promulgated by the Commissioner, which are of an unusual nature or high loss hazard or are difficult to place or rate or which are excess or umbrella or which are eligible for export;

2. Inland marine insurance, other than personal lines (The 1976 Revision of the Nation-wide Marine Definition, adopted by the National Association of Insurance Commissioners, has been adopted by the State of New Jersey. This instrument describes, although not exclusively, the kinds of risks which may be classified or identified as inland marine insurance.);

3. Fidelity, surety or forgery bonds; or

4. Commercial lines insurance risks which produce minimum annual premium in excess of \$10,000 as specified in N.J.A.C. 11:13-4.

"Supplementary rate information" includes any manual or plan of rates, statistical plan, classification, rating schedule, rating rule and any other rule used by an insurer in making rates.

Amended by R.1989 d.621, effective December 18, 1989.

See: 21 N.J.R. 1641(b), 21 N.J.R. 3926(a).

Added definition for "farmowners insurance".

Amended by R.1997 d.521, effective December 15, 1997.

See: 29 N.J.R. 4248(a), 29 N.J.R. 5310(a).

Amended "Commissioner", "Department", and "Special Risks".

Amended by R.2003 d.21, effective January 6, 2003.

See: 34 N.J.R. 2947(a), 35 N.J.R. 252(a).

Added "Advisory organization".

11:13-1.4 Rate and policy form requirements

(a) Pursuant to N.J.S.A. 17:29AA-10, rates shall not be made or used which are excessive, inadequate or unfairly discriminatory.

(b) Pursuant to N.J.S.A. 17:29AA-11 policy forms shall not be unfair, inequitable, misleading or contrary to law, nor shall they produce rates, which are excessive, inadequate or unfairly discriminatory.

11:13-1.5 Separability

If any provision of this chapter, or its application to any person or circumstances is held to be invalid, the remainder of this chapter and its application to the other persons or circumstances shall not be affected.

SUBCHAPTER 2. COMMERCIAL LINES FILINGS**11:13-2.1 Filing of rates, supplementary rate information, and policies**

(a) This subchapter sets forth procedures and requirements for the filing of commercial lines rates, supplementary rate information and policies. The requirements of this subchapter shall not be applicable to:

1. Policy forms exempted by order of the Commissioner; or

2. Rates, supplementary rate information or policy forms used in connection with any special risk provided, however, that policy forms which are used in connection with commercial lines risks producing a minimum annual premium in excess of \$10,000 as described under N.J.A.C. 11:13-4.1(a)4 and which are not otherwise described as special risks shall be subject to the requirements and filing procedures found in this subchapter.

(b) Pursuant to N.J.S.A. 17:29AA-5, every insurer and rating organization or advisory organization shall file with the Commissioner all rates and supplementary rate information and all changes and amendments thereof no later than 30 days after becoming effective.

(c) Pursuant to N.J.S.A. 17:29AA-6 insurers shall file copies of all policy forms for approval with the Commissioner at least 30 days prior to becoming effective.

(d) Filings submitted to the Commissioner must be explicit and self-contained, must be supported by statistics, where applicable, and must set forth the information upon which the filer relied in making the filing.

Amended by R.2003 d.21, effective January 6, 2003.

See: 34 N.J.R. 2947(a), 35 N.J.R. 252(a).

In (b), inserted "or advisory organization" following "rating organization".

11:13-2.2 Filing of changes

(a) Filings containing changes in rates, supplementary rate information, including any manual rules or plans, or in policy forms or endorsement required to be filed with the Department shall be presented in the following fashion:

1. A copy of the page or pages containing the passage for which a change is proposed shall be filed in such form that the text is self-contained without need to refer to material not included in the filing. Matter to be changed or omitted by the filing shall be identified, preferably by marking the passages to be changed with a marking pencil; where matter is to be added, a mark () shall so indicate.

2. A memorandum shall be filed reciting the rule or section of form to be changed, properly referenced as to the manual or form, with newly added matter underlined and matter to be eliminated in brackets [].

(b) An explanatory note shall state the reason or purpose for the proposed change including any statistical support, and a calculation or estimate of the effect of the change on premiums and/or losses shall be submitted:

1. Filings of proposed rate changes must contain all information upon which the rate filer relied. Due consideration must be given to: past and prospective loss experience, including where pertinent, the conflagration and catastrophe hazards, if any, both within and without the State; all factors reasonably related to the kind of insurance involved; a reasonable profit for the insurer; and, in the case of participating insurer, policyholder's dividends.

11:13-2.3 Adoption of rates, supplementary rate information or policies of other filers

(a) If a filer adopts rates or supplementary rate information used by other filers or proposes to adopt policy forms or endorsements previously approved (or deemed approved) for other filers in New Jersey, the filing shall clearly identify such reference including the name of the filer and, if applicable, the date such filings were approved in this State, including any amendments thereof. The Department staff will give reasonable assistance to a filer in obtaining such information to the extent that it is a public record:

1. If the proponent only wishes to adopt the filing with a different effective date, the filing shall clearly identify the rating organization's or advisory organization's file number but shall not include a copy of the material referred to.

i. If the proponent wishes to adopt such filing material with some exceptions, he shall clearly identify such reference and shall submit copies of only those pages containing such exceptions.

2. If the proponent wishes to delay the effective date or non-adopt either of the following: rate or supplementary rate information, or policies and endorsements ap-

proved for rating organizations or accepted for reference purposes on behalf of advisory organizations in New Jersey, the filing shall clearly identify such reference but shall not include a copy of the referred material. Pursuant to N.J.S.A. 17:29AA-5, every insurer shall file with the Commissioner all changes and amendments thereof not later than 30 days after becoming effective.

3. If the proponent wishes to adopt filings approved in New Jersey for other filers acting independently of rating organizations or advisory organizations, the material made reference to must be filed with any modifications identified as outlined under N.J.A.C. 11:13-2.2.

Amended by R.2003 d.21, effective January 6, 2003.
See: 34 N.J.R. 2947(a), 35 N.J.R. 252(a).
Rewrote the section.

11:13-2.4 New filings

Policy forms and supplementary rate information such as manual rules or rating plans are rarely entirely new. Most such filings are built upon something previously or currently in use. Any required action with respect to such filings will be expedited if they are identified as to their foundation. Filings shall not be identified as new filings if they properly fall under the categories discussed under N.J.A.C. 11:13-2.2 and 2.3.

11:13-2.5 Filing Source Documents

(a) The Filing Source Documents, MARS001 and MARS002, herein incorporated by reference as Exhibits A and B in the Appendix of N.J.A.C. 11:1-2, shall be used in conjunction with the procedures and requirements set forth in N.J.A.C.11:13-2.1 through 2.5 by all insurers and rating organizations or advisory organizations in submitting filings required pursuant to the Commercial Deregulation Act of 1982 and this chapter.

(b) Every insurer and every rating organization or advisory organization submitting filings of policy forms, rules, rates or supplementary rate information shall complete and submit with the filing the Filing Source Documents, MARS001 and MARS002.

(c) Pursuant to N.J.S.A. 17:29AA-6, only a policy form filing which is accompanied by properly completed Filing Source Documents MARS001 and MARS002, shall be deemed approved by the Commissioner as of its deemed effective date unless disapproved by the Commissioner prior to that date.

Amended by R.2002 d.101, effective April 1, 2002.
See: 33 N.J.R. 1875(a), 34 N.J.R. 1431(b).
Rewrote the section.

Amended by R.2003 d.21, effective January 6, 2003.
See: 34 N.J.R. 2947(a), 35 N.J.R. 252(a).

In (a) and (b), added "or advisory organizations" following "rating organizations".

SUBCHAPTER 3. EXPENSE EXPERIENCE

11:13-3.1 Expense experience

(a) N.J.A.C. 11:4-10.1 and 10.2 including all subsequent amendments and supplements are hereby adopted as rules with the modifications indicated in (b) below.

1. This document is available for review at or may be purchased from the New Jersey Department of Banking and Insurance, 20 West State Street, PO Box 325, Trenton, New Jersey 08625.

(b) The following are modifications to the rule referenced in (a) above:

1. Reference to N.J.S.A. 17:29A-5 contained in N.J.A.C. 11:4-10.1(a) is deleted and replaced with N.J.S.A. 17:29AA-16.

Amended by R.1997 d.521, effective December 15, 1997.
See: 29 N.J.R. 4248(a), 29 N.J.R. 5310(a).
Amended by R.2003 d.21, effective January 6, 2003.
See: 34 N.J.R. 2947(a), 35 N.J.R. 252(a).
Rewrote (a)1.

SUBCHAPTER 4. SPECIAL RISKS

11:13-4.1 Special risks

(a) This subchapter sets forth procedures and requirements which are applicable to various categories of commercial lines risks herein designated as special risks pursuant to section 3.k of Commercial Insurance Deregulation Act of 1982. Such special risks are:

1. Commercial lines insurance risks as specified on a list promulgated by the Commissioner which are of an unusual nature or high loss hazard or are difficult to place or rate or which are excess or umbrella, or which are eligible for export;

2. Inland marine insurance, other than personal inland marine;

3. Fidelity, surety or forgery bonds; or

4. Commercial lines insurance risks which produce minimum annual premium in excess of \$10,000. Only premiums generated by coverages subject to the Commercial Insurance Deregulation Act of 1982 shall be used in determining whether a risk generates a premium sufficient to qualify under this paragraph. Risks producing a minimum annual premium in excess of \$10,000 shall be:

i. A single risk which generates annual premium in excess of \$10,000 written under a single policy.

ii. A single risk which generates annual premium in excess of \$10,000 written under more than one policy if all are written by the same insurer or group.