

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Subchapter 10, Casualty Insurers, Personal Lines Insurance, was repealed by R.1985 d.71, effective February 19, 1985.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Subchapter 1, Educational Requirements for Licensing, was repealed, and Subchapter 19, Approval of Insurance Schools and Company Training Programs, was repealed by R.1989 d.192, effective April 3, 1989.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

CHAPTER TABLE OF CONTENTS

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

- 11:2-1.1 Purpose
- 11:2-1.2 Scope
- 11:2-1.3 Definitions
- 11:2-1.4 General eligibility requirements
- 11:2-1.5 Letter of intent
- 11:2-1.6 Final application
- 11:2-1.7 Review procedures; appeals
- 11:2-1.8 Compliance
- 11:2-1.9 Severability

SUBCHAPTER 2. INSURANCE ON FINANCED AUTOMOBILES

- 11:2-2.1 Return of unearned premiums

SUBCHAPTER 3. CREDIT LIFE INSURANCE AND CREDIT ACCIDENT AND HEALTH INSURANCE

- 11:2-3.1 Scope
- 11:2-3.2 Definitions
- 11:2-3.3 Forms
- 11:2-3.4 Amount
- 11:2-3.5 Term
- 11:2-3.6 Policy provisions, disclosure to debtors
- 11:2-3.7 Credit life insurance in connection with leases of personal property
- 11:2-3.8 Credit accident and health insurance in connection with leases of personal property
- 11:2-3.9 Open-end credit coverage
- 11:2-3.10 Balloon coverage
- 11:2-3.11 Prohibited provisions of credit insurance policies
- 11:2-3.12 Delivery of policy; procedures
- 11:2-3.13 Application or notice of proposed insurance
- 11:2-3.14 Filing
- 11:2-3.15 Group policy; delivery
- 11:2-3.16 Disapproval by Commissioner
- 11:2-3.17 Standards for premium rates
- 11:2-3.18 Joint credit accident and health insurance
- 11:2-3.19 Maximum payments by debtors
- 11:2-3.20 Refunds
- 11:2-3.21 Maintenance of statistics
- 11:2-3.22 Issuance of policies
- 11:2-3.23 Payment of claims
- 11:2-3.24 Existing insurance; choice of insurer
- 11:2-3.25 Separability
- 11:2-3.26 Effect on previously filed forms and rates

APPENDIX. CREDIT ACCIDENT AND HEALTH INSURANCE

SUBCHAPTER 4. ELECTRONIC DATA PROCESSING EQUIPMENT

- 11:2-4.1 Cost of equipment as admitted asset

SUBCHAPTER 5. PROXIES, CONSENTS AND AUTHORIZATIONS

- 11:2-5.1 Applicability
- 11:2-5.2 Solicitation; prohibition

- 11:2-5.3 Disclosure of equivalent information
- 11:2-5.4 Definitions
- 11:2-5.5 Information to be furnished to stockholders
- 11:2-5.6 Proxy requirements
- 11:2-5.7 Material required to be filed
- 11:2-5.8 False or misleading statements
- 11:2-5.9 Undated or postdated proxy; prohibition
- 11:2-5.10 Election contests; special provisions

SUBCHAPTER 6. INFORMATION REQUIRED IN PROXY STATEMENT, GENERALLY

- 11:2-6.1 Revocability of proxy
- 11:2-6.2 Dissenters' rights of appraisal
- 11:2-6.3 Solicitation by management
- 11:2-6.4 Solicitation by nonmanagement
- 11:2-6.5 Solicitation by specially engaged employees or paid solicitors
- 11:2-6.6 Disclosure of interests of solicitors
- 11:2-6.7 Stocks and principal stockholders
- 11:2-6.8 Nominees and directors
- 11:2-6.9 Remuneration and other transactions with management and others
- 11:2-6.10 Bonus, profit sharing and other remuneration plans
- 11:2-6.11 Pension and retirement plan
- 11:2-6.12 Options, warrants or rights
- 11:2-6.13 Authorization or issuance of stock
- 11:2-6.14 Mergers, consolidations, acquisitions and similar matters
- 11:2-6.15 Restatement of accounts
- 11:2-6.16 Matters not required to be submitted
- 11:2-6.17 Amendment of charter, bylaws or other documents

SUBCHAPTER 7. INFORMATION REQUIRED BY PARTICIPANTS IN PROXY SOLICITATION IN ELECTION CONTESTS

- 11:2-7.1 Required information

SUBCHAPTER 8. (RESERVED)

SUBCHAPTER 9. INSIDER TRADING OF DOMESTIC STOCK INSURANCE COMPANY EQUITY SECURITIES

- 11:2-9.1 Definitions
- 11:2-9.2 Transactions exempted from the operation of N.J.S.A. 17:17B-2
- 11:2-9.3 Filing of statements under N.J.S.A. 17:17B-1
- 11:2-9.4 Ownership of more than 10 percent of an equity security under N.J.S.A. 17:17B-1
- 11:2-9.5 Disclaimer of beneficial ownership under N.J.S.A. 17:17B-1
- 11:2-9.6 Exemptions from N.J.S.A. 17:17B-1 and 2
- 11:2-9.7 Exemption from Act of securities purchased or sold by odd-lot dealers
- 11:2-9.8 Transferable options, puts, calls, spreads and straddles
- 11:2-9.9 Ownership of securities held in trust
- 11:2-9.10 Exemption from N.J.S.A. 17:17B-1; small transactions
- 11:2-9.11 Exemption from N.J.S.A. 17:17B-2 of transactions which need not be reported under N.J.S.A. 17:17B-1
- 11:2-9.12 Exemption from N.J.S.A. 17:17B-2—certain transactions effected in connection with a distribution
- 11:2-9.13 Exemption from N.J.S.A. 17:17B-2—acquisitions of shares of stock and stock options under certain stock bonus, stock option or similar plans
- 11:2-9.14 Exemption from N.J.S.A. 17:17B-2—certain transactions in which securities are received by redeeming other securities
- 11:2-9.15 Exemption of long-term profits incident to sales within six months of exercise of an option
- 11:2-9.16 Exemption from N.J.S.A. 17:17B-2—certain acquisitions and dispositions of securities pursuant to merger or consolidations
- 11:2-9.17 Exemption from N.J.S.A. 17:17B-2—certain securities received upon surrender of similar equity securities

INSURANCE GROUP

- 11:2-9.18 Exemption from N.J.S.A. 17:17B-2—certain transactions involving exchange of similar securities
- 11:2-9.19 Exemption from N.J.S.A. 17:17B-3—certain securities
- 11:2-9.20 Exemption from N.J.S.A. 17:17B-3—certain transactions effected in connection with a distribution
- 11:2-9.21 Exemption from N.J.S.A. 17:17B-3—sales of securities to be acquired
- 11:2-9.22 Arbitrage transactions under N.J.S.A. 17:17B-5
- 11:2-9.23 Instructions for Form A
- 11:2-9.24 Form A
- 11:2-9.25 Instructions for Form B
- 11:2-9.26 Form B

SUBCHAPTER 10. (RESERVED)

SUBCHAPTER 11. RULES GOVERNING ADVERTISEMENT OF HEALTH INSURANCE

- 11:2-11.1 Purpose, general provisions and definitions
- 11:2-11.2 Advertisements in general
- 11:2-11.3 Advertisements of benefits payable, losses covered or premiums payable
- 11:2-11.4 Necessity for disclosing policy provisions relating to renewability, cancellability and termination
- 11:2-11.5 Method of disclosure of required information
- 11:2-11.6 Endorsements by third parties
- 11:2-11.7 Use of statistics
- 11:2-11.8 Inspection of policy
- 11:2-11.9 Identification of plan or number of policies
- 11:2-11.10 Disparaging comparisons and statements
- 11:2-11.11 Jurisdictional licensing
- 11:2-11.12 Identity of insurer
- 11:2-11.13 Group or quasi-group implications
- 11:2-11.14 Introductory, initial or special offers
- 11:2-11.15 (Reserved)
- 11:2-11.16 Service facilities
- 11:2-11.17 Statements about an insurer
- 11:2-11.18 Insurers' responsibility and control; advertising file; certificate of compliance
- 11:2-11.19 Penalties
- 11:2-11.20 Prior regulation superseded
- 11:2-11.21 Effective date
- 11:2-11.22 Severability

SUBCHAPTER 12. MASS MARKETING OF PROPERTY AND LIABILITY INSURANCE

- 11:2-12.1 Introduction
- 11:2-12.2 Definitions
- 11:2-12.3 Applicability
- 11:2-12.4 Fictitious arrangement prohibited
- 11:2-12.5 Premiums and policy forms
- 11:2-12.6 Statistics
- 11:2-12.7 Producers
- 11:2-12.8 Compulsory participation prohibited
- 11:2-12.9 Tie-in sales prohibited
- 11:2-12.10 Disclosure required
- 11:2-12.11 Underwriting standards
- 11:2-12.12 Cancellation and nonrenewal
- 11:2-12.13 Compulsory facilities
- 11:2-12.14 Eligibility
- 11:2-12.15 Severability

SUBCHAPTER 13. GROUP COVERAGE DISCONTINUANCE AND REPLACEMENT

- 11:2-13.1 Purpose and scope
- 11:2-13.2 Definitions
- 11:2-13.3 Effective date of discontinuance for nonpayment of premium or subscription charges
- 11:2-13.4 Requirements for notice of discontinuance
- 11:2-13.5 Extension of benefits
- 11:2-13.6 Replacement carrier coverage
- 11:2-13.7 Noncompliance
- 11:2-13.8 through 11:2-13.9 (Reserved)

SUBCHAPTER 14. (RESERVED)

SUBCHAPTER 15. INSOLVENT INSURERS

- 11:2-15.1 Cancellation of property and liability policies

SUBCHAPTER 16. GUARANTEED ARREST BOND CERTIFICATES OF AUTOMOBILE CLUB UNDERTAKING

- 11:2-16.1 General provisions

SUBCHAPTER 17. UNFAIR CLAIMS SETTLEMENT PRACTICES

- 11:2-17.1 Purpose
- 11:2-17.2 Scope
- 11:2-17.3 Definitions
- 11:2-17.4 Miscellaneous rules
- 11:2-17.5 Misrepresentation of policy provisions
- 11:2-17.6 Rules for replying to pertinent communications
- 11:2-17.7 Rules for prompt investigation and settlement of claims
- 11:2-17.8 Rules for fair and equitable settlements and reasonable explanations applicable to all insurance
- 11:2-17.9 Rules for fair and equitable settlements applicable to life and health
- 11:2-17.10 Rules for fair and equitable settlements applicable to property and liability insurance
- 11:2-17.11 Written notice by insurer of payment of claims
- 11:2-17.12 Examinations
- 11:2-17.13 Special claims reports
- 11:2-17.14 Separability
- 11:2-17.15 Penalties

SUBCHAPTER 18. READABLE POLICIES

- 11:2-18.1 Purpose
- 11:2-18.2 Scope
- 11:2-18.3 Definitions
- 11:2-18.4 Minimum readability standards
- 11:2-18.5 Procedures for requesting an opinion of compliance with the Plain Language Law
- 11:2-18.6 Enforcement
- 11:2-18.7 Separability

EXHIBIT A REQUEST FOR OPINION AS TO COMPLIANCE WITH PLAIN LANGUAGE LAW

EXHIBIT B AFFIDAVIT OF COMPLIANCE

SUBCHAPTERS 19 THROUGH 22. (RESERVED)

SUBCHAPTER 23. ADVERTISEMENT OF LIFE INSURANCE AND ANNUITIES

- 11:2-23.1 Purpose
- 11:2-23.2 Applicability
- 11:2-23.3 Definitions
- 11:2-23.4 Form and content of advertisements in general
- 11:2-23.5 Disclosure requirements
- 11:2-23.6 Identification of insurer, plan and number of policies
- 11:2-23.7 Jurisdictional licensing and status of insurer; statements about the insurer
- 11:2-23.8 Insurers' responsibility and control; advertising file; certificate of compliance
- 11:2-23.9 Failure to comply
- 11:2-23.10 Severability

SUBCHAPTERS 24 THROUGH 25. (RESERVED)

SUBCHAPTER 26. ANNUAL AUDITED FINANCIAL REPORTS

- 11:2-26.1 Purpose
- 11:2-26.2 Scope
- 11:2-26.3 Definitions
- 11:2-26.4 Filing of annual audited financial reports; extensions
- 11:2-26.5 Contents of annual audited financial report

- 11:2-26.6 Qualifications of independent certified public accountants
- 11:2-26.7 Certification by independent certified public accountant
- 11:2-26.8 Consolidated or combined audits
- 11:2-26.9 Scope of examination and report
- 11:2-26.10 Notification of adverse financial condition
- 11:2-26.11 Report on significant deficiencies in internal controls
- 11:2-26.12 Accountant's letter of qualifications
- 11:2-26.13 Availability and maintenance of workpapers
- 11:2-26.14 Exemptions
- 11:2-26.15 Alien insurers
- 11:2-26.16 Confidentiality of documents
- 11:2-26.17 Penalties
- 11:2-26.18 Severability

SUBCHAPTER 27. DETERMINATION OF INSURERS IN A HAZARDOUS FINANCIAL CONDITION

- 11:2-27.1 Purpose and scope
- 11:2-27.2 Definitions
- 11:2-27.3 Determination of hazardous financial condition; factors
- 11:2-27.4 Determination of hazardous financial condition; corrective action

SUBCHAPTER 28. CREDIT FOR REINSURANCE

- 11:2-28.1 Purpose and scope
- 11:2-28.2 Definitions
- 11:2-28.3 Reinsurer licensed in New Jersey
- 11:2-28.4 Reinsurer accredited in New Jersey
- 11:2-28.5 Reinsurer domiciled and licensed in another state or jurisdiction which employs substantially similar standards to this subchapter
- 11:2-28.6 Reinsurer maintaining trust funds
- 11:2-28.7 Credit for reinsurance required by law
- 11:2-28.8 Reduction from liability for reinsurance ceded to an unauthorized assuming insurer
- 11:2-28.9 Trust agreements qualified pursuant to N.J.A.C. 11:2-28.8
- 11:2-28.10 Letters of credit qualified pursuant to N.J.A.C. 11:2-28.8
- 11:2-28.11 Other security
- 11:2-28.12 Reinsurance contract
- 11:2-28.13 Contracts affected

APPENDIX

SUBCHAPTER 29. ORDERLY WITHDRAWAL OF INSURANCE BUSINESS

- 11:2-29.1 Purpose and scope
- 11:2-29.2 Definitions
- 11:2-29.3 General provisions
- 11:2-29.4 Elements of proposed plan of orderly withdrawal
- 11:2-29.5 Replacement; non-renewal
- 11:2-29.6 Confidentiality of plan of orderly withdrawal
- 11:2-29.7 Fines and penalties
- 11:2-29.8 Severability

SUBCHAPTER 30. (RESERVED)

SUBCHAPTER 31. MANNER OF DETERMINING PREMIUM FOR PERPETUAL HOMEOWNERS INSURANCE

- 11:2-31.1 Purpose
- 11:2-31.2 Scope
- 11:2-31.3 Definitions
- 11:2-31.4 Determination of premium
- 11:2-31.5 Data filed; examination
- 11:2-31.6 Penalties

SUBCHAPTER 32. CUSTODIAL DEPOSITS

- 11:2-32.1 Purpose and scope
- 11:2-32.2 Definitions
- 11:2-32.3 Deposits with custodian; establishment of fees
- 11:2-32.4 Compliance dates
- 11:2-32.5 Penalties

SUBCHAPTER 33. WORKERS' COMPENSATION SELF-INSURANCE

- 11:2-33.1 Purpose and scope
- 11:2-33.2 Definitions
- 11:2-33.3 Exemption from insuring compensation liability; filing requirements
- 11:2-33.4 Renewals
- 11:2-33.5 Confidentiality
- 11:2-33.6 Cancellation of exemption
- 11:2-33.7 Failure to comply with subchapter; denial of exemption
- 11:2-33.8 Severability

APPENDIX. EXHIBIT A THROUGH EXHIBIT E

SUBCHAPTER 34. SURPLUS LINES INSURANCE: ALLOCATION OF PREMIUM TAX AND SURCHARGE

- 11:2-34.1 Purpose and scope
- 11:2-34.2 Definitions
- 11:2-34.3 Allocation of premium tax and surcharge
- 11:2-34.4 Duty to file allocation form
- 11:2-34.5 Duty to keep records
- 11:2-34.6 Penalties

APPENDIX. SURPLUS LINES PREMIUM TAX AND ALLOCATION SCHEDULE

SUBCHAPTER 35. RELIEF FROM INSURER OBLIGATIONS UNDER THE FAIR AUTOMOBILE INSURANCE REFORM ACT OF 1990

- 11:2-35.1 Purpose and scope
- 11:2-35.2 Definitions
- 11:2-35.3 Application procedures and filing format
- 11:2-35.4 Informational filing requirements
- 11:2-35.5 Relief
- 11:2-35.6 Hearings

SUBCHAPTER 36. RISK RETENTION GROUPS AND PURCHASING GROUPS

- 11:2-36.1 Purpose and scope
- 11:2-36.2 Definitions
- 11:2-36.3 Risk retention group registration requirements
- 11:2-36.4 Additional risk retention groups requirements
- 11:2-36.5 Notice and registration requirements of purchasing groups
- 11:2-36.6 Surplus lines coverage
- 11:2-36.7 Fines and Penalties

APPENDIX A

APPENDIX B

APPENDIX C

APPENDIX D

SUBCHAPTER 37. PRODUCER-CONTROLLED INSURERS

- 11:2-37.1 Purpose
- 11:2-37.2 Scope
- 11:2-37.3 Definitions
- 11:2-37.4 Filing of Producer-Controlled Insurer Information Report
- 11:2-37.5 Contents of the Producer-Controlled Insurer Information Report
- 11:2-37.6 Confidentiality of documents
- 11:2-37.7 Penalties

APPENDIX A

SUBCHAPTER 38. TEMPORARY WAIVER FROM INCREASE IN PROPERTY AND CASUALTY CAPITAL AND SURPLUS REQUIREMENTS

- 11:2-38.1 Purpose and scope

- 11:2-38.2 Definitions
- 11:2-38.3 Requests for temporary waiver of capital and surplus requirements
- 11:2-38.4 Fines and penalties
- 11:2-38.5 through 11:2-38.6 (Reserved)

SUBCHAPTER 39. INCREASE IN CAPITAL AND SURPLUS REQUIREMENTS FOR INSURERS

- 11:2-39.1 Purpose and scope
- 11:2-39.2 Definitions
- 11:2-39.3 RBC reports
- 11:2-39.4 Company action level event
- 11:2-39.5 Regulatory action level event
- 11:2-39.6 Authorized control level event
- 11:2-39.7 Mandatory control level event
- 11:2-39.8 Filings of RBC Plans
- 11:2-39.9 Hearings
- 11:2-39.10 Confidentiality and prohibition on announcements
- 11:2-39.11 Supplemental provisions
- 11:2-39.12 Foreign insurers
- 11:2-39.13 Severability clause
- 11:2-39.14 Notices
- 11:2-39.15 Phase-in provision

SUBCHAPTER 40. LIFE, HEALTH AND ANNUITY REINSURANCE AGREEMENTS

- 11:2-40.1 Purpose and scope
- 11:2-40.2 Definitions
- 11:2-40.3 Reinsurance agreements
- 11:2-40.4 Agreements or conditions precluding reduction of liability or inclusion as an asset
- 11:2-40.5 Exceptions to agreements or conditions precluding reduction of liability or inclusion as an asset
- 11:2-40.6 Additional standards
- 11:2-40.7 Penalties
- 11:2-40.8 Severability

APPENDIX

SUBCHAPTER 41. WINDSTORM MARKET ASSISTANCE PROGRAM

- 11:2-41.1 Purpose and scope
- 11:2-41.2 Definitions
- 11:2-41.3 Creation of the Windstorm MAP
- 11:2-41.4 Governing committee
- 11:2-41.5 Plan of operation
- 11:2-41.6 Informal Referral Program ("IRP")
- 11:2-41.7 Formal Assistance Program ("FAP") application process
- 11:2-41.8 Right to petition for appeal to the Commissioner
- 11:2-41.9 Reports
- 11:2-41.10 Windstorm deductibles

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 circum-

stance 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. The applicant shall be deemed ineligible if any one of the following conditions exist:

i. An applicant which has received from the NAIC a "first priority" designation for the calendar year next preceding its application date shall not be considered for admission until such designation has been removed by the NAIC;

ii. An applicant which is a member of an insurance holding company system, where its parent or subsidiary has received from the NAIC a "first priority" designation, shall not be considered for admission until such designation has been removed by the NAIC; or

iii. 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 been identified as "second or third priority" and/or 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:

(3) In the case of an individual who was totally disabled, and in the case of a type of coverage for which N.J.A.C. 11:2-13.5 requires an extension or accrued liability, the end of any period of extension or accrued liability which is required of the prior carrier by N.J.A.C. 11:2-13.5, or if the prior carrier's policy or contract is not subject to that section, would have been required of that carrier had its policy or contract been subject to N.J.A.C. 11:2-13.5 at the time the prior plan was discontinued and replaced by the succeeding carrier's plan.

3. Except with respect to policies and contracts providing group medical insurance, in the case of a preexisting conditions limitation included in the succeeding carrier's plan, the level of benefits or coverage applicable to preexisting conditions of persons becoming covered by the succeeding carrier's plan in accordance with this subsection during the period of time this limitation applies under the new plan shall be the lesser of:

i. The benefits or coverage of the new plan determined without application of the preexisting conditions limitation; and

ii. The benefits or coverage of the prior plan.

4. With respect to group medical insurance, any preexisting condition limitation or exclusion in the succeeding carrier's plan applicable to persons becoming covered by the succeeding carrier's plan shall be reduced or eliminated for each person separately on the basis of each person's creditable coverage pursuant to N.J.S.A. 17B:27A-54 et seq.

5. The succeeding carrier, in applying any deductibles or waiting periods in its plan, shall give credit for the satisfaction or partial satisfaction of the same or similar provisions under a prior plan providing similar benefits. Except as it relates to HMOs, the definition of waiting period includes, but is not limited to, the period of time required to be satisfied before maternity benefits or coverage becomes available. The aggregate period of time to be applied may be the greater of that required by either the prior plan or the succeeding plan. But in any event, the aggregate period of time will be satisfied by taking into consideration the full portion of the waiting period satisfied under the prior plan. In the case of deductible provisions, the credit shall apply for the same or overlapping benefit periods and shall be given for expenses actually incurred and applied against the deductible provisions of the prior carrier's plan during the 90 days preceding the effective date of the succeeding carrier's plan, but only to the extent these expenses are recognized under the terms of the succeeding carrier's plan and are subject to a similar deductible provision.

6. Notwithstanding (c) above, policies and contracts providing group medical insurance shall not contain a separate waiting period for maternity benefits, and pregnancy shall not be treated as a preexisting condition.

7. In any situation where a determination of the prior carrier's benefit or coverage is required by the succeeding carrier, at the succeeding carrier's request the prior carrier shall furnish a statement of the benefits or coverage available or pertinent information sufficient to permit verification of the benefit or coverage or the determination itself by the succeeding carrier. For the purpose of this section, benefits or coverage of the prior plan shall be determined in accordance with all the definitions, conditions, covered expenses and services and supplies provisions of the prior plan rather than those of the succeeding plan. The benefit or coverage determination shall be made as if coverage had not been replaced by the succeeding carrier.

As amended, R.1975 d.109, eff. April 24, 1975.

See: 7 N.J.R. 114(b), 7 N.J.R. 276(a).

Amended by R.1999 d.134, effective April 19, 1999.

See: 30 N.J.R. 3356(a), 31 N.J.R. 1101(a).

Rewrote (a) and (c); and in (b), inserted “, contractholder” following “policyholder”, and substituted “self-funds” for “self-insures” following “carrier.”

11:2-13.7 Noncompliance

Noncomplying policy forms shall be deemed withdrawn on October 19, 1999.

Recodified from N.J.A.C. 11:2-13.9 and amended by R.1999 d.134, effective April 19, 1999.

See: 30 N.J.R. 3356(a), 31 N.J.R. 1101(a).

Rewrote the section. Former N.J.A.C. 11:2-13.7, Provisions as favorable, repealed.

11:2-13.8 (Reserved)

Repealed by R.1999 d.134, effective April 19, 1999.

See: 30 N.J.R. 3356(a), 31 N.J.R. 1101(a).

Section was “Separability of provisions”.

11:2-13.9 (Reserved)

Recodified to N.J.A.C. 11:2-13.7 by R.1999 d.134, effective April 19, 1999.

See: 30 N.J.R. 3356(a), 31 N.J.R. 1101(a).

SUBCHAPTER 14. (RESERVED)

SUBCHAPTER 15. INSOLVENT INSURERS

11:2-15.1 Cancellation of property and liability policies

Whenever an insurer is declared insolvent by a court of competent jurisdiction, or its business is suspended under the laws of its state of incorporation, or its certificate of authority is revoked by this State, the company's insurance policies shall be deemed cancelled by said insurer if the policy is terminated at the request of the policyholder. The insurer thereupon shall be obligated to return the unearned premiums including the unearned commissions to the policyholder.

R.1974 d.190, effective July 16, 1974.
See: 6 N.J.R. 323(a).

SUBCHAPTER 16. GUARANTEED ARREST BOND CERTIFICATES OF AUTOMOBILE CLUB UNDERTAKING

11:2-16.1 General provisions

(a) Whenever a domestic or foreign surety company which has qualified to transact surety business in this State, in any year, becomes surety in an amount not to exceed \$500.00 with respect to any guaranteed arrest bond certificates issued in such year by an automobile club or association by filing with the Commissioner of Banking and Insurance an undertaking thus to become surety, such undertaking shall state:

1. The name and address of the automobile club or clubs or automobile association or associations with respect to guaranteed arrest bond certificates of which the surety company undertakes to be surety;

2. The unqualified obligation of the surety company to pay the fine or forfeiture in an amount not to exceed \$500.00 of any person who, after posting a guaranteed arrest bond certificate with respect to which the surety company has undertaken to be surety, failed to make the appearance for which the guaranteed arrest bond certificate was posted.

(b) Such finding shall be filed with the Commissioner 10 days prior to its effective date. If such undertaking is terminated, the Commissioner shall be notified as promptly as possible but not later than the effective date of such termination.

R.1974 d.282, effective October 11, 1974.
See: 6 N.J.R. 322(a), 6 N.J.R. 437(a).
Amended by R.1991 d.4, effective January 7, 1991.
See: 22 N.J.R. 1673(a), 23 N.J.R. 103(a).
Increased maximums in (a) from \$200.00 to \$500.00.
Amended by R.2001 d.6, effective January 2, 2001.
See: 32 N.J.R. 3530(a), 33 N.J.R. 85(a).

In (a), added "Banking and" in reference to the Commissioner; in (b), deleted "of Insurance"; and deleted (c).

SUBCHAPTER 17. UNFAIR CLAIMS SETTLEMENT PRACTICES

11:2-17.1 Purpose

N.J.S.A. 17:29B-4(9) and 17B:30-13.1 prohibit insurers from engaging in unfair claims settlement practices. The purpose of this subchapter is to promote the fair and equitable treatment of claimants by defining certain minimum standards for the settlement of claims which, if violated with such frequency as to indicate a general business practice, would constitute unfair claims settlement practices in the business of insurance.

Case Notes

Immunity provided to New Jersey Full Insurance Underwriting Association servicing carriers for judgments arising from policy claims does not extend to acts outside scope of duties under contract that rise to level of bad faith. *Miglicio v. HCM Claim Management Corp.*, 288 N.J.Super. 331, 672 A.2d 266 (L.1995).

11:2-17.2 Scope

This subchapter applies to all persons and all policies except the following: ocean marine, fidelity and surety, boiler and machinery and workers' compensation. It shall also not apply to commercial property and liability policies for which the annual premium is more than \$10,000 and where the claim is made by the commercial insured. This subchapter is not exclusive, and other acts, not herein specified, may also be found to constitute unfair claims settlement practices. This subchapter is not intended to supersede any other rule or regulation.

11:2-17.3 Definitions

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

"After market part" means sheet metal or plastic parts which constitute the exterior of an automobile, including inner and outer panels, manufactured by any manufacturer other than the original manufacturer of the part. Examples of after market parts include, but are not limited to, the following: doors, hoods, fenders, trunk lids, grills and bumper components.

"Catastrophe" means a calamity or other disastrous event that causes widespread losses resulting in excessive claims volume.

"Claimant" means either a first party claimant, a third party claimant, or both and includes such claimant's designated legal representative and includes a member of the claimant's immediate family designated by the claimant.

"Claims settlement" means all the activities of an insurer relating directly or indirectly to the determination of the extent of liabilities due or potentially due under coverages afforded by the policy, and which result in a claim payment or acceptance, compromise or rejection.

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

"Department" means the Department of Banking and Insurance.

"First party claimant" means an individual, corporation, association, partnership, or other legal entity asserting a right to payment under an insurance policy or insurance contract arising out of the occurrence of the contingency or less covered by such policy or contract.