

TITLE 11

INSURANCE

CHAPTER 1
ADMINISTRATION

Authority

N.J.S.A. 17:1-8.1, 17:1-15e, 17:17-1 et seq.,
17B:17-1 et seq. and 52:27EE-51.

Source and Effective Date

R.2006 d.307, effective July 30, 2006.
See: 37 N.J.R. 4156(a), 38 N.J.R. 3586(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 1, Administration, expires on January 26, 2014. See: 43 N.J.R. 1566(a).

Subchapter 3 is exempt from expiration under 28 C.F.R. Part 35.

Chapter Historical Note

Chapter 1, Plan of Organization of the Department of Insurance, was adopted as R.1971 d.11, effective January 20, 1971, and codified at N.J.A.C. 11:1 Subchapter 1. Notice was not published in the New Jersey Register.

Subchapter 3, Cancellation for Nonpayment of Premium Where Producer of Record Has Advanced Premium, was adopted as R.1972 d.168, effective August 25, 1972. See: 4 N.J.R. 128(b), 4 N.J.R. 221(b).

Subchapter 2, Filings; Property-Liability, was adopted as R.1973 d.120, effective May 1, 1973. See: 5 N.J.R. 113(a), 5 N.J.R. 190(b).

Subchapter 5, Administrative Orders and Declarations, was adopted as Emergency New Rule, R.1974 d.237, and the Motor Vehicle Liability Security Fund was declared exhausted, effective August 22, 1974. See: 6 N.J.R. 351(d).

Subchapter 4, Unfair Discrimination, was adopted as R.1975 d.128, effective September 1, 1975. See: 7 N.J.R. 168(a), 7 N.J.R. 276(b).

Subchapter 6, New Jersey Property-Liability Insurance Guaranty Association, was adopted as R.1975 d.170, effective July 1, 1975. See: 7 N.J.R. 229(a), 7 N.J.R. 334(b).

Subchapter 10, Insurance Licensing of Financial Institutions, was adopted as R.1976 d.166, effective May 27, 1976. See: 8 N.J.R. 233(a), 8 N.J.R. 300(c).

Subchapter 11, Conduct Constituting Violations by Brokers and Agents, was adopted as R.1976 d.235, effective July 22, 1976. See: 8 N.J.R. 287(e), 8 N.J.R. 398(b).

Subchapter 7, Service and Placement Fees, was adopted as R.1976 d.266, effective August 23, 1976. See: 7 N.J.R. 468(a), 8 N.J.R. 422(b).

Subchapter 8, Property-Casualty Agents, was adopted as R.1976 d.267, effective October 1, 1976. See: 7 N.J.R. 469(a), 8 N.J.R. 423(a).

Subchapter 12, Corporate and Partnership Licensee Requirements, was adopted as R.1976 d.412, effective December 16, 1976, operative March 1, 1977. See: 8 N.J.R. 421(c), 9 N.J.R. 24(b).

Subchapter 13, Disclosure Agreements for Motor Club Service Contracts Sold in Connection with Automobile Insurance Policies, was adopted as R.1982 d.177, effective June 7, 1982, operative August 15, 1982. See: 13 N.J.R. 879(b), 14 N.J.R. 579(a).

Subchapter 14, Insurance Licensees, was adopted as R.1982 d.336, effective October 4, 1982, operative November 19, 1982. See: 14 N.J.R. 748(a), 14 N.J.R. 1099(b).

Subchapter 9, Agents for Life Insurance, Health Insurance and Annuity Contracts-Temporary Licensing, was adopted as R.1983 d.603, effective January 3, 1984. See: 15 N.J.R. 1828(a), 16 N.J.R. 49(c).

The Executive Order No. 66(1978) expiration date of Subchapter 5, Administrative Orders and Declarations, was extended by gubernatorial directive from June 6, 1984 to September 6, 1984. See: 16 N.J.R. 1451(a).

Pursuant to Executive Order No. 66(1978), Subchapter 5, Administrative Orders and Declarations, was readopted as R.1984 d.426, effective October 1, 1984. See: 16 N.J.R. 1689(a), 16 N.J.R. 2677(a), 17 N.J.R. 2566(a).

Subchapter 15, Petitions for Rules, was adopted as R.1984 d.511, effective November 5, 1984. See: 16 N.J.R. 2224(b), 16 N.J.R. 3033(b).

Subchapter 10, Insurance Licensing of Financial Institutions, was repealed by R.1985 d.69, effective February 19, 1985. See: 16 N.J.R. 2919(a), 17 N.J.R. 458(a).

Subchapter 20, Cancellation and Nonrenewal of Property and Casualty/Liability Insurance Policies, was adopted as Emergency New Rule, R.1985 d.507, effective September 17, 1985, to expire November 16, 1985. See: 17 N.J.R. 2460(a). The provisions of R.1985 d.507 were readopted without change as R.1985 d.627 effective November 16, 1985. See: 17 N.J.R. 2978(b). The provisions of R.1985 d.626 were readopted without change as R.1986 d.27, effective January 14, 1986. See: 18 N.J.R. 419(b).

Pursuant to Executive Order No. 66(1978), Subchapter 20, Cancellation and Nonrenewal of Property and Casualty/Liability Insurance Policies, was readopted as R.1985 d.627, effective November 16, 1985. See: 17 N.J.R. 2978(b).

Subchapter 21, Loss Reserve Opinions, was adopted as R.1985 d.711, effective January 21, 1986. See: 17 N.J.R. 2596(a), 18 N.J.R. 196(b).

Subchapter 18, Approval of Business Names, was adopted as R.1986 d.10, effective February 3, 1986. See: 17 N.J.R. 41(a), 18 N.J.R. 278(a).

Subchapter 19, Branch Offices, was adopted as R.1986 d.11, effective February 3, 1986. See: 17 N.J.R. 42(a), 18 N.J.R. 280(a).

Subchapter 20, Cancellation and Nonrenewal of Property and Casualty/Liability Insurance Policies, was repealed, and Subchapter 20, Cancellation and Nonrenewal of Commercial and Homeowners' Insurance Policies, was adopted as new rules, effective July 7, 1986, with portions operative July 28, 1986, and Subchapter 22, Prohibition of Certain Cancellation and Nonrenewal Activity, was adopted as R.1986 d.272, effective July 7, 1986. See: 18 N.J.R. 457(b), 18 N.J.R. 1388(a).

Subchapter 16, Requirements for Filing a Downward Deviation in Currently Approved Rates, was adopted as R.1986 d.478, effective December 15, 1986. See: 18 N.J.R. 1998(a), 18 N.J.R. 2458(a).

Subchapter 25, Official Department Mailing List: Address Information, was adopted as R.1988 d.64, effective February 1, 1988. See: 19 N.J.R. 2236(a), 20 N.J.R. 294(b).

Subchapter 9, Agents for Life Insurance, Health Insurance and Annuity Contracts-Temporary Licensing, Subchapter 14, Insurance Licensees, Subchapter 18, Approval of Business Names, and Subchapter 19, Branch Offices, were repealed by R.1988 d.186, effective April 18, 1988. See: 20 N.J.R. 225(c), 20 N.J.R. 904(b).

Pursuant to Executive Order No. 66(1978), Subchapter 20, Cancellation and Nonrenewal of Commercial and Homeowners' Insurance Policies, and Subchapter 22, Prohibition of Certain Cancellation and Nonrenewal Activity, were readopted as R.1988 d.341, effective June 24, 1988. See: 20 N.J.R. 1061(a), 20 N.J.R. 1720(a).

Subchapter 10, Admission Requirements for Foreign and Alien Property and Casualty Insurers, was adopted as new rules by R.1989 d.329, effective June 19, 1989. See: 21 N.J.R. 426(a), 21 N.J.R. 1702(a).

Subchapter 26, Annual Publication of Insurer Profitability Information, was adopted as R.1989 d.538, effective October 16, 1989. See: 21 N.J.R. 2181(a), 21 N.J.R. 3297(c).

Subchapter 3, Cancellation for Nonpayment of Premium Where Producer of Record Has Advanced Premium, Subchapter 7, Service and Placement Fees, Subchapter 8, Property-Casualty Agents, and Subchapter 13, Disclosure Agreements for Motor Club Service Contracts Sold in Connection with Automobile Insurance Policies, were repealed by R.1990 d.11, effective January 2, 1990. See: 21 N.J.R. 1317(a), 22 N.J.R. 30(b).

Subchapter 28, Formation of a Domestic Property and Casualty Insurance Corporation (Stock or Mutual) or Reciprocal Insurance Exchange, was adopted as R.1990 d.162, effective March 19, 1990. See: 21 N.J.R. 3607(a), 22 N.J.R. 954(b), 22 N.J.R. 1266(a).

Subchapter 29, Temporary Certificate of Authority, was adopted as R.1991 d.15, effective January 7, 1991. See: 22 N.J.R. 2453(a), 23 N.J.R. 100(a).

Pursuant to Executive Order No. 66(1978), Chapter 1, Administration, was readopted as R.1991 d.101, effective January 31, 1991. See: 22 N.J.R. 3686(a), 23 N.J.R. 690(b).

Subchapter 32, Fees was adopted as new rules by R.1991 d.303, effective June 17, 1991, operative July 1, 1991. See: 23 N.J.R. 825(a), 23 N.J.R. 1948(a).

Subchapter 6, New Jersey Property-Liability Insurance Guaranty Association, was repealed, and a new Subchapter 6, New Jersey Property-Liability Insurance Guaranty Association Assessment Premium Surcharge was adopted as new rules by R.1991 d.461, effective September 3, 1991. See: 23 N.J.R. 823(b), 23 N.J.R. 2638(a).

Subchapter 33, Public Advocate Reimbursement Disputes, was adopted as new rules by R.1993 d.179, effective April 19, 1993. See: 24 N.J.R. 2706(a), 25 N.J.R. 1764(c).

Subchapter 35, Insurance Holding Company Systems, was adopted as emergency new rules by R.1993 d.445, effective August 16, 1993, to expire October 15, 1993. See: 25 N.J.R. 4275(a). The provisions of R.1993 d.445 were readopted without change as R.1993 d.554, effective October 15, 1993. See: 25 N.J.R. 4275(a), 25 N.J.R. 5170(b).

Subchapter 36, Examination of Insurers, was adopted as emergency new rules by R.1993 d.446, effective August 16, 1993, to expire October 15, 1993. See: 25 N.J.R. 4284(a). The provisions of R.1993 d.446 were readopted as R.1993 d.555, effective October 15, 1993. See: 25 N.J.R. 4284(a), 25 N.J.R. 5180(a).

Subchapter 3, Disability Discrimination Grievance Procedure, was adopted as new rules by R.1993 d.618, effective December 6, 1993. See: 25 N.J.R. 1327(a), 25 N.J.R. 5666(b).

Subchapter 34, Surplus Lines: Exportable List, was adopted as new rules by R.1994 d.7, effective January 3, 1994. See: 24 N.J.R. 4331(a), 26 N.J.R. 236(b).

Subchapter 31, Surplus Lines Insurer Eligibility, was adopted as new rules by R.1994 d.102, effective February 22, 1994. See: 25 N.J.R. 1819(a), 26 N.J.R. 1096(a).

Subchapter 37, Licensing of Public Adjusters, was adopted as new rules by R.1994 d.207, effective April 18, 1994. See: 25 N.J.R. 5432(a), 26 N.J.R. 327(a), 26 N.J.R. 1711(a).

Subchapter 7, Medical Malpractice Reporting Requirements, was adopted as new rules by R.1994 d.493, effective September 19, 1994. See: 26 N.J.R. 1433(a), 26 N.J.R. 3864(a).

Subchapter 39, Disclosure of Material Transactions, was adopted as new rules by R.1995 d.234, effective May 1, 1995. See: 27 N.J.R. 816(a), 27 N.J.R. 1802(a).

Subchapter 21A, Actuarial Opinion and Memorandum for Life/Health Insurers, was adopted as new rules by R.1995 d.605, effective November 20, 1995. See: 27 N.J.R. 2998(a), 27 N.J.R. 4720(a).

Subchapter 26, Annual Publication of Insurer Profitability Information, Subchapter 29, Temporary Certificate of Authority, and Subchapter 33, Public Advocate Reimbursement Disputes, were repealed by R.1996 d.116, effective March 4, 1996. See: 27 N.J.R. 4121(a), 28 N.J.R. 1382(a).

Subchapter 38, Oversight of Fireman's Relief Associations, was adopted as new rules by R.1996 d.125, effective March 4, 1996, operative March 4, 1996, except for N.J.A.C. 11:1-38.4 which shall be operative January 1, 1997. See: 27 N.J.R. 634(a), 28 N.J.R. 1384(a).

Pursuant to Executive Order No. 66(1978), Chapter 1, Administration, was readopted as R.1996 d.116, effective January 31, 1996. See: 27 N.J.R. 4121(a), 28 N.J.R. 1382(a).

Petition for Rulemaking. See: 29 N.J.R. 707(c), 29 N.J.R. 948(b).

Subchapter 41, Surety Bonds for Contracts Involving the State, Local Contracting Units, Boards of Education, State Colleges and County Colleges, was adopted as R.1996 d.496, effective October 21, 1996. See: 28 N.J.R. 3505(a), 28 N.J.R. 4582(a).

Subchapter 38, Oversight of Firemen's Relief Associations, was adopted as R.1996 d.125, effective March 4, 1996, operative March 4, 1996, except for N.J.A.C. 11:1-38.4 which became operative July 1, 1997. See: 27 N.J.R. 634(a), 28 N.J.R. 1384(a), 29 N.J.R. 425(a).

Subchapter 43, Unusual Hardship For Covered Claims Under The New Jersey Property-Liability Insurance Guaranty Association and New Jersey Surplus Lines Insurance Guaranty Fund, was adopted as R.1997 d.512, effective December 1, 1997. See: 29 N.J.R. 3765(a), 29 N.J.R. 5065(b).

Subchapter 24, Use of Credit Cards, Charge Cards, Debit Cards Or Direct Account Deduction (Alternative Payment Method) To Pay Insurance Premiums, was adopted as R.1998 d.276, effective June 1, 1998. See: 29 N.J.R. 3588(a), 30 N.J.R. 2003(a).

Pursuant to Executive Order No. 66(1978), Chapter 1, Administration, was readopted as R.2001 d.75, effective January 31, 2001. See: 32 N.J.R. 4184(a), 33 N.J.R. 794(a), 33 N.J.R. 1920(a).

Subchapter 33, Surplus Lines Insurance: Procurement Procedure, was adopted as new rules by R.2003 d.37, effective February 3, 2003. See: 34 N.J.R. 641(a), 35 N.J.R. 612(a).

Subchapter 45, Notice to Policyholders of Consumer Insurance Rate Increases, was adopted as new rules by R.2003 d.496, effective December 15, 2003. See: 35 N.J.R. 3517(a), 35 N.J.R. 5595(a).

Subchapter 44, Standards for Safeguarding Customer Information, was adopted as new rules by R.2004 d.148, effective April 19, 2004. See: 35 N.J.R. 5210(a), 36 N.J.R. 1926(a).

Subchapter 46, Stock Workers' Compensation Security Fund, was adopted as new rules by R.2004 d.426, effective November 15, 2004. See: 36 N.J.R. 3476(a), 36 N.J.R. 5129(b).

Subchapter 47, Electronic Transactions, was adopted as new rules by R.2005 d.83, effective March 7, 2005. See: 36 N.J.R. 4207(a), 37 N.J.R. 775(a).

Subchapter 40, Recoupment of Fugitive Recovery Expenses by Surety Companies, was adopted as R.2005 d.247, effective August 1, 2005. See: 37 N.J.R. 198(a), 37 N.J.R. 2882(b).

Chapter 1, Administration, was readopted as R.2006 d.307, effective July 30, 2006. As a part of R.2006 d.307, Subchapter 45, Notice to Policyholders of Consumer Insurance Rate Increases, was renamed Notice to Policyholders of Personal Lines Insurance Rate Increases, effective September 5, 2006. See: Source and Effective Date. See, also, section annotations.

Subchapter 21, Loss Reserve Opinions, was repealed and Subchapter 21, Loss Reserve Opinions, was adopted as new rules by R.2007 d.232, effective August 6, 2007. See: 39 N.J.R. 752(a), 39 N.J.R. 3386(a).

ADMINISTRATION

Subchapter 2A, Personal Lines Filings: Rate Filing Review Procedures, was adopted as new rules by R.2007 d.370, effective December 3, 2007. See: 39 N.J.R. 342(a), 39 N.J.R. 5081(c).

Subchapter 46, Stock Workers' Compensation Security Fund, was renamed Workers' Compensation Security Fund by R.2007 d.365, effective December 3, 2007. See: 39 N.J.R. 3275(a), 39 N.J.R. 5083(a).

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 1, Administration, was scheduled to expire on July 30, 2013. See: 43 N.J.R. 1203(a).

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. ORGANIZATION

- 11:1-1.1 Organization
- 11:1-1.2 Sharing of information with other officials and agencies

SUBCHAPTER 2. FILINGS: PROPERTY AND CASUALTY

- 11:1-2.1 Purpose and scope
- 11:1-2.2 Filing of rates, manual rules, rating plans, policy forms and endorsements
- 11:1-2.3 Filing of changes
- 11:1-2.4 Adoption of rules and forms approved for other filers
- 11:1-2.5 New filings
- 11:1-2.6 Notification
- 11:1-2.7 Penalties

APPENDIX

SUBCHAPTER 2A. PERSONAL LINES FILINGS: RATE FILING REVIEW PROCEDURES

- 11:1-2A.1 Purpose and scope
- 11:1-2A.2 Definitions
- 11:1-2A.3 General filing provisions
- 11:1-2A.4 Procedures for review of personal lines rate filings

SUBCHAPTER 3. DISABILITY DISCRIMINATION GRIEVANCE PROCEDURE

- 11:1-3.1 Definitions
- 11:1-3.2 Purpose
- 11:1-3.3 Required ADA notice
- 11:1-3.4 Designated ADA coordinator
- 11:1-3.5 Grievance procedure
- 11:1-3.6 Grievance contents
- 11:1-3.7 Grievance form
- 11:1-3.8 Investigation

SUBCHAPTER 4. UNFAIR DISCRIMINATION

- 11:1-4.1 (Reserved)
- 11:1-4.2 Sex and/or marital discrimination
- 11:1-4.3 Complications of pregnancy

SUBCHAPTER 5. FIRE AND CASUALTY INSURANCE

- 11:1-5.1 FAIR Plan surcharge
- 11:1-5.2 Notice of cancellation and nonrenewal of fire and casualty coverage
- 11:1-5.3 FAIR Plan short notice cancellation procedures
- 11:1-5.4 Distribution of fire insurance premium tax
- 11:1-5.5 Notice regarding flood damage coverage
- 11:1-5.6 FAIR plan retention level

SUBCHAPTER 6. NEW JERSEY PROPERTY-LIABILITY INSURANCE GUARANTY ASSOCIATION ASSESSMENT PREMIUM SURCHARGE

- 11:1-6.1 Purpose and scope
- 11:1-6.2 Definitions
- 11:1-6.3 Establishment of Association assessment premium surcharge
- 11:1-6.4 Reporting requirements
- 11:1-6.5 Penalties

SUBCHAPTER 7. MEDICAL MALPRACTICE REPORTING REQUIREMENTS

- 11:1-7.1 Purpose and scope
- 11:1-7.2 Definitions
- 11:1-7.3 Medical malpractice reporting requirements
- 11:1-7.4 Confidentiality
- 11:1-7.5 Penalties

SUBCHAPTERS 8 THROUGH 9. (RESERVED)

SUBCHAPTER 10. ADMISSION REQUIREMENTS FOR FOREIGN AND ALIEN PROPERTY AND CASUALTY INSURERS

- 11:1-10.1 Purpose
- 11:1-10.2 Scope
- 11:1-10.3 Definitions
- 11:1-10.4 General eligibility requirements
- 11:1-10.5 Letter of intent
- 11:1-10.6 Final application
- 11:1-10.7 Review procedures; appeals
- 11:1-10.8 Requirements upon admission
- 11:1-10.9 Severability

SUBCHAPTER 11. CONDUCT CONSTITUTING VIOLATIONS BY BROKERS AND AGENTS

- 11:1-11.1 Scope
- 11:1-11.2 Fraudulent, coercive or dishonest practices, or incompetence, untrustworthiness or financial irresponsibility under N.J.S.A. 17:22A-40(8)
- 11:1-11.3 Disciplinary action; restitution

SUBCHAPTER 12. CORPORATE AND PARTNERSHIP LICENSEE REQUIREMENTS

- 11:1-12.1 (Reserved)
- 11:1-12.2 Responsibility of active officers of corporate licensees
- 11:1-12.3 through 11:1-12.4 (Reserved)
- 11:1-12.5 Responsibility of active members of partnership licensee
- 11:1-12.6 (Reserved)

SUBCHAPTERS 13 THROUGH 14. (RESERVED)

SUBCHAPTER 15. PETITIONS FOR RULES; RULEMAKING NOTICE

- 11:1-15.1 Scope
- 11:1-15.2 Procedure for petitioner
- 11:1-15.3 Procedure of the Department
- 11:1-15.4 Rulemaking activity
- 11:1-15.5 Sufficient public interest for the purposes of extending the comment period or granting a public hearing

SUBCHAPTER 16. REQUIREMENTS FOR FILING A DOWNWARD DEVIATION IN CURRENTLY APPROVED RATES

- 11:1-16.1 Purpose and scope
- 11:1-16.2 Filing requirements

SUBCHAPTERS 17 THROUGH 19. (RESERVED)

SUBCHAPTER 20. RENEWAL, CANCELLATION AND NONRENEWAL OF COMMERCIAL AND HOMEOWNERS INSURANCE POLICIES

- 11:1-20.1 Scope
- 11:1-20.2 Renewal, nonrenewal and cancellation notice requirements
- 11:1-20.3 Policy provisions relating to cancellation or nonrenewal
- 11:1-20.4 Cancellation and nonrenewal underwriting guidelines
- 11:1-20.5 Cancellation or nonrenewal based on loss of or reduction in available insurance capacity

- 11:1-20.6 Cancellation and nonrenewal based on changes in statutory or case law
- 11:1-20.7 Cancellation or nonrenewal based on loss of or substantial changes in applicable reinsurance
- 11:1-20.8 Cancellation and nonrenewal based on agency termination
- 11:1-20.9 Policy provisions
- 11:1-20.10 Separability
- 11:1-20.11 Penalties
- 11:1-20.12 (Reserved)

SUBCHAPTER 21. LOSS RESERVE OPINIONS

- 11:1-21.1 Purpose and scope
- 11:1-21.2 Definitions
- 11:1-21.3 Statement of actuarial opinion
- 11:1-21.4 Actuarial opinion summary
- 11:1-21.5 Actuarial report and workpapers
- 11:1-21.6 Confidentiality

SUBCHAPTER 21A. ACTUARIAL OPINION AND MEMORANDUM FOR LIFE/HEALTH INSURERS

- 11:1-21A.1 Purpose and scope
- 11:1-21A.2 Definitions
- 11:1-21A.3 General requirements
- 11:1-21A.4 Statement of actuarial opinion based on an asset adequacy analysis
- 11:1-21A.5 Description of actuarial memorandum including an asset adequacy analysis and regulatory asset adequacy issues summary
- 11:1-21A.6 Penalties
- 11:1-21A.7 through 11:1-21A.9 (Reserved)

APPENDIX

SUBCHAPTER 22. PROHIBITION OF CERTAIN CANCELLATION AND NONRENEWAL ACTIVITY

- 11:1-22.1 Scope; definitions
- 11:1-22.2 Prohibitions
- 11:1-22.3 Confidentiality
- 11:1-22.4 Extension of duration of plan
- 11:1-22.5 Penalties

SUBCHAPTER 23. (RESERVED)

SUBCHAPTER 24. USE OF CREDIT CARDS, CHARGE CARDS, DEBIT CARDS OR DIRECT ACCOUNT DEDUCTION (ALTERNATIVE PAYMENT METHOD) TO PAY INSURANCE PREMIUMS

- 11:1-24.1 Purpose and scope
- 11:1-24.2 Definitions
- 11:1-24.3 Use of credit cards, charge cards, debit cards, and direct account deduction (alternative payment method) for payment of premiums
- 11:1-24.4 Ratemaking
- 11:1-24.5 Cancellation of policy
- 11:1-24.6 Payment of premiums
- 11:1-24.7 Disclosure of optional methods of payment
- 11:1-24.8 Penalties

SUBCHAPTER 25. OFFICIAL DEPARTMENT MAILING AND ELECTRONIC MAILING LISTS: ADDRESS INFORMATION

- 11:1-25.1 Purpose
- 11:1-25.2 Scope
- 11:1-25.3 Official mailing and electronic mailing lists; change in address information
- 11:1-25.4 Foreign insurers—designation of individual for service of process through Commissioner
- 11:1-25.5 Penalties

SUBCHAPTERS 26 THROUGH 27. (RESERVED)

SUBCHAPTER 28. FORMATION OF A DOMESTIC PROPERTY AND CASUALTY INSURANCE CORPORATION (STOCK OR MUTUAL) OR RECIPROCAL INSURANCE EXCHANGE

- 11:1-28.1 Purpose
- 11:1-28.2 Scope
- 11:1-28.3 Definitions
- 11:1-28.4 Types of insurance
- 11:1-28.5 Feasibility study
- 11:1-28.6 Additional information requirements
- 11:1-28.7 Criminal history record check
- 11:1-28.8 Permit to solicit
- 11:1-28.9 Organization examination
- 11:1-28.10 Certificate of authority
- 11:1-28.11 Failure to comply with subchapter; denial of certificate of authority
- 11:1-28.12 Severability

APPENDIX A. FORMAT FOR THE PREPARATION OF A DOMESTIC PROPERTY/LIABILITY INSURANCE COMPANY'S CERTIFICATE OF INCORPORATION

APPENDIX B. BIOGRAPHICAL AFFIDAVIT

APPENDIX C. AFFIDAVIT OF OFFICERS AND DIRECTORS

SUBCHAPTERS 29 THROUGH 30. (RESERVED)

SUBCHAPTER 31. SURPLUS LINES INSURER ELIGIBILITY

- 11:1-31.1 Purpose and scope
- 11:1-31.2 Definitions
- 11:1-31.3 General requirements
- 11:1-31.4 Certificate of eligibility; filing requirements
- 11:1-31.5 Certificate of eligibility; issuance
- 11:1-31.6 Withdrawal of eligibility
- 11:1-31.7 Failure to comply with subchapter; denial of certificate of eligibility

SUBCHAPTER 32. FEES AND SPECIAL PURPOSE APPORTIONMENT

- 11:1-32.1 Purpose and scope
- 11:1-32.2 Definitions
- 11:1-32.3 General procedures
- 11:1-32.4 Fees; general
- 11:1-32.5 Fees; life and health insurance; legal insurance
- 11:1-32.6 Fees; property and casualty insurance
- 11:1-32.7 Fees; surplus lines insurers, risk retention groups and purchasing groups
- 11:1-32.8 Applicability of fees imposed by insurance laws of this State
- 11:1-32.9 Special purpose apportionment; de minimis amounts
- 11:1-32.10 Penalties
- 11:1-32.11 (Reserved)

SUBCHAPTER 33. SURPLUS LINES INSURANCE: PROCUREMENT PROCEDURE

- 11:1-33.1 Purpose and scope
- 11:1-33.2 Definitions
- 11:1-33.3 Surplus lines insurance coverage procurement requirements
- 11:1-33.4 Penalties
- 11:1-33.5 through 11:1-33.9 (Reserved)

APPENDIX

SUBCHAPTER 34. SURPLUS LINES: EXPORTABLE LIST

- 11:1-34.1 Purpose and scope

ADMINISTRATION

- 11:1-34.2 Definitions
- 11:1-34.3 Exportable list hearing
- 11:1-34.4 Exportable list hearing record
- 11:1-34.5 Promulgation and modification of exportable list
- 11:1-34.6 Exportable list

APPENDIX A. (RESERVED)

SUBCHAPTER 35. INSURANCE HOLDING COMPANY SYSTEMS

- 11:1-35.1 Purpose and scope
- 11:1-35.2 Definitions
- 11:1-35.3 Forms; general requirements
- 11:1-35.4 Forms: incorporation by reference, summaries and omissions
- 11:1-35.5 Forms, additional information and exhibits
- 11:1-35.6 Acquisition of control: statement filing; procedures
- 11:1-35.7 Annual registration of insurers
- 11:1-35.8 Alternative and consolidated registrations
- 11:1-35.9 Disclaimers and termination of registration
- 11:1-35.10 Transactions subject to prior notice
- 11:1-35.11 Adequacy of surplus
- 11:1-35.12 Pre-acquisition notification
- 11:1-35.13 Penalties

APPENDIX

SUBCHAPTER 36. EXAMINATION OF INSURERS

- 11:1-36.1 Purpose and scope
- 11:1-36.2 Definitions
- 11:1-36.3 Examination; when deemed complete
- 11:1-36.4 Foreign and alien insurers; filing of examination reports with this State
- 11:1-36.5 Payment of expenses
- 11:1-36.6 Confidentiality
- 11:1-36.7 Penalties

SUBCHAPTER 37. LICENSING OF PUBLIC ADJUSTERS

- 11:1-37.1 Purpose and scope
- 11:1-37.2 Definitions
- 11:1-37.3 General licensing requirements
- 11:1-37.4 Licensing applications and renewals
- 11:1-37.5 Denial of license
- 11:1-37.6 Sublicensees
- 11:1-37.7 Temporary sublicensee
- 11:1-37.8 Licensing examination
- 11:1-37.9 Bond; alternative security
- 11:1-37.10 Administrative reporting requirements
- 11:1-37.11 Escrow or trust accounts
- 11:1-37.12 Minimum recordkeeping requirements
- 11:1-37.13 Right to compensation
- 11:1-37.14 Violations and penalties
- 11:1-37.15 Effect of suspension or revocation of public adjuster license
- 11:1-37.16 Reinstatement after suspension or revocation of a public adjuster license
- 11:1-37.17 Public records
- 11:1-37.18 Fees
- 11:1-37.19 Requests for disclosure of social security numbers

APPENDIX

SUBCHAPTER 38. OVERSIGHT OF FIREMEN'S RELIEF ASSOCIATIONS

- 11:1-38.1 Purpose and scope
- 11:1-38.2 Definitions
- 11:1-38.3 Filing requirements
- 11:1-38.4 (Reserved)
- 11:1-38.5 Payments by insurers to local relief associations
- 11:1-38.6 Penalties

SUBCHAPTER 39. DISCLOSURE OF MATERIAL TRANSACTIONS

- 11:1-39.1 Purpose and scope
- 11:1-39.2 Definitions
- 11:1-39.3 Disclosure of transactions
- 11:1-39.4 Acquisitions and dispositions of assets; reporting requirements
- 11:1-39.5 Nonrenewals, cancellations or revisions of ceded re-insurance agreements; reporting requirements
- 11:1-39.6 Penalties

SUBCHAPTER 40. RECOUPMENT OF FUGITIVE RECOVERY EXPENSES BY SURETY COMPANIES

- 11:1-40.1 Purpose and scope
- 11:1-40.2 Definitions
- 11:1-40.3 Conditions for imposition of fugitive fees
- 11:1-40.4 Records of fugitive fees

SUBCHAPTER 41. SURETY BONDS FOR CONTRACTS INVOLVING THE STATE, LOCAL CONTRACTING UNITS, BOARDS OF EDUCATION, STATE COLLEGES AND COUNTY COLLEGES

- 11:1-41.1 Purpose and scope
- 11:1-41.2 Definitions
- 11:1-41.3 Rating company
- 11:1-41.4 Treasury listed surety companies and alternative requirements to Treasury listing
- 11:1-41.5 Penalties

APPENDIX A

APPENDIX B

SUBCHAPTER 42. (RESERVED)

SUBCHAPTER 43. UNUSUAL HARDSHIP FOR COVERED CLAIMS UNDER THE NEW JERSEY PROPERTY-LIABILITY INSURANCE GUARANTY ASSOCIATION AND NEW JERSEY SURPLUS LINES INSURANCE GUARANTY FUND

- 11:1-43.1 Purpose and scope
- 11:1-43.2 Definitions
- 11:1-43.3 Unusual hardship
- 11:1-43.4 Request for review by the Commissioner
- 11:1-43.5 Confidentiality

SUBCHAPTER 44. STANDARDS FOR SAFEGUARDING CUSTOMER INFORMATION

- 11:1-44.1 Purpose and scope
- 11:1-44.2 Definitions
- 11:1-44.3 Information security program
- 11:1-44.4 Objectives of information security program
- 11:1-44.5 Examples of methods of development and implementation
- 11:1-44.6 Assessment of risk
- 11:1-44.7 Management and control of risk
- 11:1-44.8 Service provider agreements
- 11:1-44.9 Adjustment of the program
- 11:1-44.10 Violations
- 11:1-44.11 Effective date

SUBCHAPTER 45. NOTICE TO POLICYHOLDERS OF PERSONAL LINES INSURANCE RATE INCREASES

- 11:1-45.1 Purpose and scope
- 11:1-45.2 Definitions
- 11:1-45.3 Form of notice required
- 11:1-45.4 Penalties

APPENDIX. EXHIBITS A AND B

SUBCHAPTER 46. WORKERS' COMPENSATION
SECURITY FUND

- 11:1-46.1 Purpose and scope
- 11:1-46.2 Definitions
- 11:1-46.3 Contributions to fund
- 11:1-46.4 Penalties

SUBCHAPTER 47. ELECTRONIC TRANSACTIONS

- 11:1-47.1 Purpose and scope
- 11:1-47.2 Definitions
- 11:1-47.3 Electronic transactions
- 11:1-47.4 Penalties

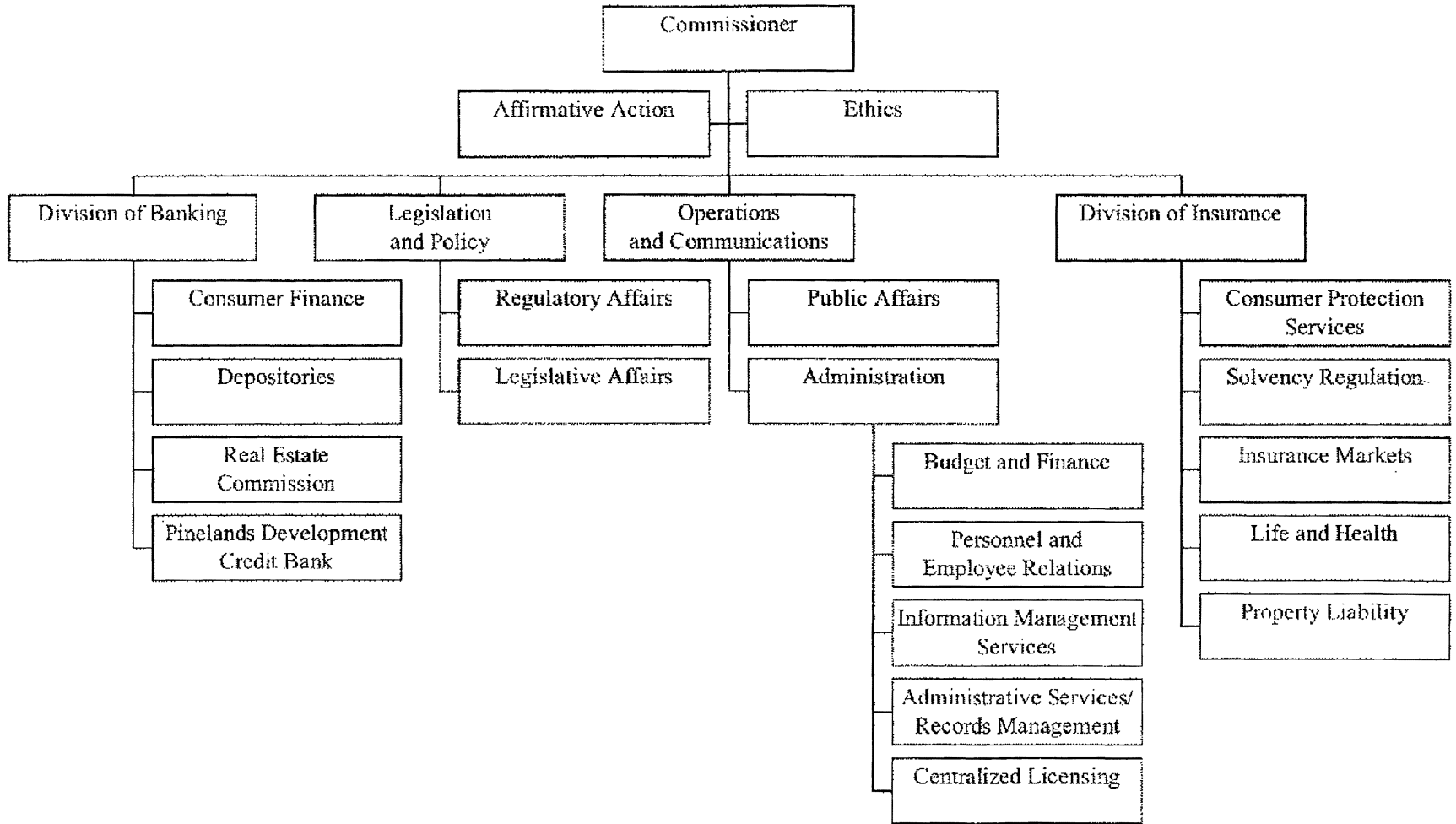
SUBCHAPTER 1. ORGANIZATION

11:1-1.1 Organization

(a) The organization of the Department of Banking and Insurance appears below.

(b) The mission of the Department of Banking and Insurance is to regulate the banking, insurance and real estate industries in a professional and timely manner that protects and educates consumers and promotes the growth, financial stability and efficiency of those industries.

Department of Banking and Insurance
July 26, 2006



Amended by R.1973 d.195, effective July 24, 1973.
 See: 5 N.J.R. 282(c).
 Amended by R.1974 d.89, effective April 9, 1974.
 See: 6 N.J.R. 199(a).
 Amended by R.1988 d.1, effective December 1, 1987.
 See: 20 N.J.R. 99(a).
 New organizational chart.
 Amended by R.1988 d.454, effective August 26, 1988.
 See: 20 N.J.R. 2377(a).
 New organizational chart.
 Amended by R.1991 d.476, effective August 23, 1991.
 See: 23 N.J.R. 2862(c).
 New organizational chart.
 Amended by R.1994 d.557, effective October 17, 1994.
 See: 26 N.J.R. 4405(a).
 Amended by R.1996 d.124, effective February 8, 1996.
 See: 28 N.J.R. 1382(b).
 Amended by R.1996 d.385, effective July 15, 1996.
 See: 28 N.J.R. 3797(a).
 Amended by R.1997 d.395, effective August 25, 1997.
 See: 29 N.J.R. 4137(b).
 Replaced existing organizational chart with new chart.
 Amended by R.2000 d.54, effective January 11, 2000.
 See: 32 N.J.R. 475(a).
 Amended by R.2001 d.75, effective March 5, 2001.
 See: 32 N.J.R. 4184(a), 33 N.J.R. 794(a).
 Replaced existing organizational chart with new chart.
 Amended by R.2003 d.139, effective April 7, 2003.
 See: 34 N.J.R. 4041(a), 35 N.J.R. 1546(a).
 Added (b).
 Amended by R.2005 d.30, effective December 14, 2004.
 See: 37 N.J.R. 255(a).
 Amended organizational chart.
 Amended by R.2006 d.307, effective September 5, 2006.
 See: 37 N.J.R. 4156(a), 38 N.J.R. 3586(a).
 Updated organizational chart.

11:1-1.2 Sharing of information with other officials and agencies

(a) The Commissioner may share any information regarding the financial condition of insurers, including information that is not subject to public inspection or copying pursuant to the Open Public Records Act, N.J.S.A. 47:1A-1 et seq., with the National Association of Insurance Commissioners or any regulatory official of any state or U.S. territory, Federal agency or foreign country, provided that such official or agency is authorized and irrevocably agrees to hold such information confidential to the same extent as is provided under the laws of this State.

(b) The Commissioner may enter into an agreement with the National Association of Insurance Commissioners or any insurance regulator of any state or U.S. territory, Federal agency or foreign country, by which the Commissioner shall hold any information received from such official or agency as confidential and not subject to public inspection or copying pursuant to the Open Public Records Act, N.J.S.A. 47:1A-1 et seq., to the same extent such information is required to be held confidential pursuant to that agency's laws or other requirements.

New Rule, R.1995 d.367, effective July 3, 1995.
 See: 27 N.J.R. 1736(a), 27 N.J.R. 2582(a).
 Recodified from N.J.A.C. 11:1-1.3 by R.2003 d.139, effective April 7, 2003.
 See: 34 N.J.R. 4041(a), 35 N.J.R. 1546(a).
 Amended by R.2006 d.307, effective September 5, 2006.
 See: 37 N.J.R. 4156(a), 38 N.J.R. 3586(a).
 Section was "Sharing of information with other insurance departments". Rewrote (a) and (b).

3. Refer the matter for further deliberations, the nature of which shall be specified to the petitioner and in the notice of action and which shall conclude within 90 days of such referral. Upon conclusion of such further deliberations, the Department shall either deny the petition or grant the petition and initiate a rulemaking proceeding within 90 days.

Amended by R.2003 d.139, effective April 7, 2003.
See: 34 N.J.R. 4041(a), 35 N.J.R. 1546(a).
Rewrote the section.

11:1-15.4 Rulemaking activity

(a) The Department shall provide notice of new rules, amendments, repeals or adoptions by posting these rules on its website at <http://www.state.nj.us/dobi/legsregs.htm> and to the news media maintaining a press office in the State House Complex.

(b) The Department shall post its proposals in the Department's Library, which is located on the 1st Floor, 20 West State Street, Trenton, NJ 08625. The Department shall also distribute its proposals to the Department's list of "interested persons" by e-mail or hard copy. Interested persons are those who have informed the Department in writing that they wish to receive notice of its proposed regulations.

New Rule, R.2003 d.139, effective April 7, 2003.
See: 34 N.J.R. 4041(a), 35 N.J.R. 1546(a).

11:1-15.5 Sufficient public interest for the purposes of extending the comment period or granting a public hearing

(a) In determining whether sufficient public interest has been demonstrated for the purposes of extending the comment period pursuant to N.J.A.C. 1:30-5.4, the Commissioner shall consider the following criteria:

1. Whether comments received indicated a previously unrecognized impact on regulated entities or persons; or
2. Whether comments received raise unanticipated issues related to the notice of proposal.

(b) In determining whether sufficient public interest has been demonstrated for purposes of conducting a public hearing pursuant to N.J.A.C. 1:30-5.5, the Commissioner shall consider the application of an interested person that has been submitted on a form prescribed by the Commissioner. Such application shall be submitted within 60 days following the publication of the notice of proposal in the New Jersey Register.

1. A person interested in having a public hearing held on a notice of proposal shall submit an application on a form prescribed by the Commissioner, to Legislative and Regulatory Affairs, Department of Banking and Insurance, 20 West State Street, PO Box 325, Trenton, NJ 08625-0896. The application shall contain the following information:

- i. The person's name, address, telephone number, agency or association (if applicable);
- ii. The citation and title of the proposed rule and the date the notice of proposal was published in the New Jersey Register; and
- iii. The reasons a public hearing regarding the notice of proposal is considered necessary pursuant to (c) below.

(c) Sufficient public interest for the purpose of holding a public hearing, pursuant to N.J.A.C. 1:30-5.5, shall be demonstrated if upon reviewing the application the Commissioner determines that additional data, findings and/or analysis regarding the notice of proposal are necessary for the Department to review prior to adoption of the proposal in order to ensure that the notice of proposal does not violate the intent of the statutory authority.

(d) A public hearing on a notice of proposal shall be conducted in accordance with the provisions of N.J.A.C. 1:30-5.5.

(e) The recommendations of the hearing officer, and the Commissioner's decision to accept, reject or modify any recommendations shall be summarized and published in the New Jersey Register pursuant to N.J.A.C. 1:30-5.5(g).

New Rule, R.2003 d.139, effective April 7, 2003.
See: 34 N.J.R. 4041(a), 35 N.J.R. 1546(a).

SUBCHAPTER 16. REQUIREMENTS FOR FILING A DOWNWARD DEVIATION IN CURRENTLY APPROVED RATES

11:1-16.1 Purpose and scope

(a) The purpose of this subchapter is to promote competition among insurers for the benefit of the insurance consuming public by permitting insurers subject to N.J.S.A. 17:29A-1 et seq. to effect expeditiously certain decreases in rates currently approved by the Department when, in an insurer's judgment, economic or competitive reasons or conditions warrant such a decrease.

(b) A further purpose is to enable an insurer to return to its previously approved rate level without delay or regulatory review when, in its judgment, the conditions or reasons for the decrease no longer pertain.

(c) This subchapter shall apply to every property and liability insurer which makes its own rates and to every member or subscriber of a rating organization on whose behalf rate filings are made pursuant to the provisions of N.J.S.A. 17:29A-1 et seq. For the purpose of this subchapter, the term "insurer" shall include all such independent insurers and rating organization members or subscribers who are subject to the provisions of N.J.S.A. 17:29A-1 et seq.

11:1-16.2 Filing requirements

(a) Any insurer, subject to the provisions of N.J.S.A. 17:29A-1 et seq., to effect a decrease in rates currently approved by the Commissioner, shall comply with the following filing requirements:

1. The insurer by a rate filing shall notify the Commissioner of Banking and Insurance at least 30 days prior to the date it wants to put into effect a decrease in rates currently approved for it by the Commissioner. In such rate filing, the insurer shall state the basis for the decrease in rates and its agreement that the decrease in rates shall remain in effect for at least six months from the effective date. Within 15 days of receipt of a filing of such a proposed decrease in rates, the Commissioner will notify the insurer of any finding as to the unacceptability of the filing for a decrease in rates. The Commissioner will only find unacceptable a decrease rate filing if, in his or her opinion, the decrease in rates may have a tendency or capacity to imperil the financial condition of the filing insurer.

2. The decrease in rates may be up to 20 percent from the rates currently approved for use by the insurers and must apply to all policyholders either by coverage or line of insurance.

3. After a filing has been in effect for six months or more, an insurer may automatically withdraw its decrease or any portion thereof by so notifying the Commissioner of Banking and Insurance at least 30 days prior to the withdrawal date.

Amended by R.2001 d.75, effective March 5, 2001.
See: 32 N.J.R. 4184(a), 33 N.J.R. 794(a).

In (a)1, inserted "or her" preceding "opinion".
Amended by R.2006 d.307, effective September 5, 2006.
See: 37 N.J.R. 4156(a), 38 N.J.R. 3586(a).

In (a)1, substituted "15 days of receipt of a" for "a 15-day period following the", and inserted "any finding as to".

SUBCHAPTERS 17 THROUGH 19. (RESERVED)

SUBCHAPTER 20. RENEWAL, CANCELLATION AND
NONRENEWAL OF COMMERCIAL AND
HOMEOWNERS INSURANCE POLICIES

11:1-20.1 Scope

(a) This subchapter shall apply to all commercial insurance policies which are in force, issued or renewed on or after November 7, 1986 by companies licensed to do business in this state except workers' compensation insurance, employers liability, fidelity, surety, performance and forgery bonds, ocean marine and aviation insurance and accident and health insurance and any policy written by a surplus lines insurer. With the exception of N.J.A.C. 11:1-20.3 and 11:1-20.4(d),

this subchapter shall not be applicable to multi-state location risks or policies subject to retrospective rating plans.

(b) This subchapter shall also apply to all policies of homeowners' insurance as defined at N.J.A.C. 11:2-41.2 which are in force, issued or renewed on or after January 17, 1995.

(c) These rules are not exclusive, and the Commissioner may also consider other provisions of statutes and regulations to be applicable to the circumstances or situations addressed herein. Policies may provide terms more favorable to policyholders than are required by these rules. The rights provided by these rules are in addition to and do not prejudice any other rights policyholders may have at common law, or under statutes and regulations.

(d) In addition to these rules, the Commissioner may implement a market assistance plan providing for a voluntary group of insurers in order to aid insureds in obtaining commercial insurance coverages specified therein.

Amended by R.1987 d.114, effective February 17, 1987.
See: 18 N.J.R. 2301(b), 19 N.J.R. 359(a).
Amended by R.1995 d.52, effective January 17, 1995.
See: 26 N.J.R. 4303(a), 27 N.J.R. 363(a).
Amended by R.1996 d.116, effective March 4, 1996.
See: 27 N.J.R. 4121(a), 28 N.J.R. 1382(a).

Case Notes

As a surplus lines carrier was exempt under N.J.A.C. 11:1-20.1(a) from N.J.A.C. 11:1-20.2(j)'s automatic-renewal penalty provision, and its use of a required, standard form commercial lines policy, which contained a nonrenewal provision, did not demonstrate its intent to submit voluntarily to the automatic-renewal penalty regulation, its failure to notify an insured of non-renewal did not entitle the insured to continued coverage. *Piermount Iron Works, Inc. v. Evanston Ins. Co.*, 197 N.J. 432, 963 A.2d 818, 2009 N.J. LEXIS 13 (2009).

Cancellation of homeowners' policy was governed by statute and regulation on notice of cancellation and nonrenewal of fire and casualty coverage. *DiGiacomo v. Saladino*, 279 N.J.Super. 96, 652 A.2d 223 (A.D.1995).

Rules upheld as properly adopted on an emergency basis and in compliance with authorizing statutes; constitutional challenges of vagueness, deprivation of private property and impairment of contract denied. In the Matter of N.J.A.C. 11:1-20, 208 N.J.Super. 182, 505 A.2d 177 (App.Div.1986).

11:1-20.2 Renewal, nonrenewal and cancellation notice requirements

(a) No policy shall be nonrenewed upon its expiration date unless a valid written notice or nonrenewal has been mailed or delivered to the insured in accordance with the provisions of this subchapter. For the purpose of this subchapter, policies not having a fixed expiration date shall be deemed to expire annually on the anniversary of their inception.

(b) Subject to N.J.A.C. 11:1-20.2(m) for medical malpractice liability insurance policies, no notice of nonrenewal shall be valid unless it is mailed or delivered by the insurer to the insured not more than 120 days nor less than 30 days prior to the expiration of the policy.

(c) Subject to N.J.A.C. 11:1-20.2(m) for medical malpractice liability insurance policies, with respect to payment of the renewal premium, notice of the amount of the renewal premium and any change in contract terms shall be given to the insured in writing not more than 120 days nor less than 30 days prior to the due date of the premium and shall clearly state the effect of nonpayment of the premium by the due date.

(d) No cancellation, other than a cancellation based upon nonpayment of premium or for moral hazard as defined in (f) below, shall be valid unless notice is mailed or delivered by the insurer to the insured, and to any person entitled to notice under the policy, not more than 120 days nor less than 30 days prior to the effective date of such cancellation except, however, that failure to send such notice to any designated mortgagee or loss payee shall invalidate the cancellation only as to the mortgagee's or loss payee's interest.

(e) A policy shall not be cancelled for nonpayment of premium unless the insurer, at least 10 days prior to the effective cancellation date, has mailed or delivered to the insured notice as required in this subchapter of the amount of premium due and the due date. The notice shall clearly state the effect of nonpayment by the due date. No cancellation for nonpayment of premium shall be effective if payment of the amount due is made prior to the effective date set forth in the notice.

(f) A policy shall not be cancelled for moral hazard unless the insurer, at least 10 days prior to the effective termination date, has mailed or delivered to the insured notice as required in this subchapter and the basis for termination conforms to the following definitions of moral hazard:

1. The risk, danger or probability that the insured will destroy, or permit to be destroyed, the insured property for the purpose of collecting the insurance proceeds. Any change in the circumstances of an insured that will increase the probability of such a destruction may be considered a "moral hazard"; and

2. The substantial risk, danger or probability that the character, circumstances or personal habits of the insured may increase the possibility of loss or liability for which an insurer will be held responsible. Any change in the character or circumstances of an individual, corporate, partnership or other insured that will increase the probability of such a loss or liability may be considered a "moral hazard."

(g) No nonrenewal or cancellation shall be valid unless the notice contains the standard or reason upon which the termination is premised and specifies in detail the factual basis upon which the insurer relies.

(h) All notices of nonrenewal and cancellation, except those for nonpayment of premium, must contain a statement which shall be clearly and prominently set out in boldface type or other manner which draws the reader's attention advising the insured that the insured may file a written com-

plaint about the cancellation or nonrenewal with the New Jersey Department of Banking and Insurance, Division of Enforcement and Consumer Protection, PO Box 325, Trenton, New Jersey 08625-0325. The statement also shall advise the insured to contact the Department of Banking and Insurance immediately, in the event he or she wishes to file a complaint.

(i) No nonrenewal or cancellation shall be valid unless notice thereof is sent;

1. By certified mail; or

2. By first class mail, if at the time of mailing the insurer has obtained from the Post Office Department a date stamped proof of mailing showing the name and address of the insured, and the insurer has retained a duplicate copy of the mailed notice.

(j) For the purposes of this subchapter, if an insurer fails to send a notice of nonrenewal as required by this subchapter or fails to issue and deliver a policy replacing at the end of the policy period a policy previously issued and delivered by the insurer, or fails to issue and deliver a certificate or notice extending the term of a policy beyond its policy period or term, or fails to provide notice of renewal as specified at (c) above, the insured shall be entitled to continue the expiring policy at the same terms and premium until such time as the insurer shall send appropriate notice of termination or renewal under this subchapter. Nothing in this subchapter shall prohibit an insurer from replacing its policy with a policy issued by another insurer with which it is under common management and control, provided the insurer obtains its policyholder's consent to do so and maintains records of such actions.

(k) An insurer shall not be required to provide notice of nonrenewal or cancellation as specified in this subchapter if the insured has replaced coverage elsewhere or has otherwise specifically requested termination. The insurer must, however, maintain in its file properly documented proof that termination was made at the request of the insured. Where the termination request is submitted by the insured's authorized representative, the insurer's file must contain documentation that the authorized representative has been specifically authorized by the insured to convey the termination request to the insurer.

(l) An insurer may in writing delegate to its appointed agent or to another person or legal entity the performance of any or all of the notice functions set forth in this section. However, delegation of these functions by the insurer to any person or entity shall not relieve the insurer of its responsibilities hereunder. No notice, whether provided by the insurer directly or through a person or entity authorized to act on the insurer's behalf, shall be deemed effective unless provided in conformance with the requirements of this section.

(m) Each notice of renewal or nonrenewal by an insurer authorized to transact medical malpractice liability insurance

in this State for a medical malpractice liability policy shall comply with the requirements applicable to such notices set forth in (a) through (l) above, except that such notices shall be mailed or delivered by the insurer to the insured not less than 60 days prior to the expiration of the policy.

Administrative Correction to (i)2.

See: 21 N.J.R. 3919(a).

Amended by R.1987 d.114, effective February 17, 1987.

See: 18 N.J.R. 2301(b), 19 N.J.R. 359(a).

Amended by R.1996 d.116, effective March 4, 1996.

See: 27 N.J.R. 4121(a), 28 N.J.R. 1382(a).

Administrative correction.

See: 29 N.J.R. 1324(a).

In (j), inserted "or renewal" following "... insurer shall send appropriate notice of termination".

Amended by R.2001 d.75, effective March 5, 2001.

See: 32 N.J.R. 4184(a), 33 N.J.R. 794(a).

Amended by R.2005 d.169, effective June 6, 2005.

See: 37 N.J.R. 4871(a), 37 N.J.R. 2040(a).

Inserted reference to Subject to N.J.A.C. 11:1-20.2(m) for medical malpractice liability insurance policies in (b) and (c); added (m).

Amended by R.2006 d.307, effective September 5, 2006.

See: 37 N.J.R. 4156(a), 38 N.J.R. 3586(a).

In (a), inserted "written".

Case Notes

Addition of regulatory exclusion to directors and officers liability policy did not constitute constructive nonrenewal of policy and did not trigger association's right to purchase discovery period. *American Cas. Co. of Reading, Pennsylvania v. Continisio*, C.A.3 (N.J.)1994, 17 F.3d 62.

As a surplus lines carrier was exempt under N.J.A.C. 11:1-20.1(a) from N.J.A.C. 11:1-20.2(j)'s automatic-renewal penalty provision, and its use of a required, standard form commercial lines policy, which contained a nonrenewal provision, did not demonstrate its intent to submit voluntarily to the automatic-renewal penalty regulation, its failure to notify an insured of non-renewal did not entitle the insured to continued coverage. *Piermount Iron Works, Inc. v. Evanston Ins. Co.*, 197 N.J. 432, 963 A.2d 818, 2009 N.J. LEXIS 13 (2009).

Insurer, through subsequent actions or conduct, could waive right to cancel coverage for non-payment of premiums. *Iafelice ex rel. Wright v. Arpino*, 319 N.J.Super. 581, 726 A.2d 275 (N.J.Super.A.D. 1999).

Insurer could not claim indemnification against broker in failing to notify insured of lapse in coverage. *Meric Trucking & Leasing Co. v. Philip Lehman Co., Ltd.*, 247 N.J.Super. 261, 588 A.2d 1285 (A.D.1991).

Thirty day notice requirement was satisfied by notice sent 89 days before expiration. *Meric Trucking & Leasing Co. v. Philip Lehman Co., Ltd.*, 247 N.J.Super. 261, 588 A.2d 1285 (A.D.1991).

11:1-20.3 Policy provisions relating to cancellation or nonrenewal

(a) All commercial insurance policy forms issued or renewed on or after January 6, 1987, and all homeowners' in-

surance policy forms issued on or after March 18, 1995 must contain a provision setting forth the following statement:

Pursuant to New Jersey law, this policy cannot be cancelled or nonrenewed for any underwriting reason or guideline which is arbitrary, capricious or unfairly discriminatory or without adequate prior notice to the insured. The underwriting reasons or guidelines that an insurer can use to cancel or nonrenew this policy are maintained by the insurer in writing and will be furnished to the insured and/or the insured's lawful representative upon written request.

This provision shall not apply to any policy which has been in effect for less than 60 days at the time notice of cancellation is mailed or delivered, unless the policy is a renewal policy.

1. The policy provision language set forth at (a) above is mandatory and, notwithstanding any other law to the contrary, need not be submitted to the Department for approval.

Amended by R.1987 d.114, effective February 17, 1987.

See: 18 N.J.R. 2301(b), 19 N.J.R. 359(a).

Amended by R.1995 d.52, effective January 17, 1995.

See: 26 N.J.R. 4303(a), 27 N.J.R. 363(a).

11:1-20.4 Cancellation and nonrenewal underwriting guidelines

(a) No insurer may cancel or nonrenew a policy based upon underwriting guidelines which are arbitrary, capricious or unfairly discriminatory.

(b) The following guidelines are approved for use by insurers:

1. Nonpayment of premium;
2. Moral hazard, as defined at N.J.A.C. 11:1-20.2(f);
3. Material misrepresentation or nondisclosure to the company of a material fact at the time of acceptance of the risk;
4. Increased hazard or material change in the risk assumed which could not have been reasonably contemplated by the parties at the time of assumption of the risk;
5. Substantial breaches of contractual duties, conditions or warranties that materially affect the nature and/or insurability of the risk;
6. Lack of cooperation from the insured on loss control matters materially affecting insurability of the risk;

7. Fraudulent acts against the company by the insured or its representatives that materially affect the nature of the risk insured;

8. Loss of or reduction in available insurance capacity. For the purposes of this paragraph, loss of or reduction in available insurance capacity shall exist if:

i. An insurance department or court of competent jurisdiction has declared the insurer to be financially impaired or unsound, which shall include such actions as suspension, conservatorship, rehabilitation or liquidation; or

ii. Based upon information set forth in the insurer's annual statements, the insurer has experienced a signif-

icant deterioration in its financial condition during the most recent annual statement period resulting in its designation by the National Association of Insurance Commissioners as being in need of "immediate attention", and the insurer's:

(1) Ratio of net premium to surplus to policyholders has gone above four to one and its surplus to policyholders has fallen below 25 percent of net loss and loss expense reserves; or

(2) Ratio of net premium to surplus to policyholders has increased to at least six to one; or

(3) Ratio of net losses and loss reserves to surplus to policyholders has increased to at least six to one.

9. Material increase in exposure arising out of changes in statutory or case law subsequent to the issuance of the insurance contract or any subsequent renewal thereof;

10. Loss of or substantial changes in applicable reinsurance. For the purposes of this paragraph, loss of or substantial changes in applicable reinsurance shall be deemed to exist if any of the following have occurred;

i. Termination by the reinsurer of treaty or facultative reinsurance affecting the individual risk or line, class or subclass of insurance, as applicable, proposed for cancellation and/or nonrenewal; or

ii. Substantial reductions in the amount of available reinsurance or other changes to such contracts which effectively prohibit the insurer from providing coverage at the same limits and terms as the existing policy; or

iii. Changes in the financial condition of the reinsurer which adversely affect its ability to honor its obligations. A change in the financial condition of the reinsurer shall be evidenced by an order issued by an insurance department or court of competent jurisdiction declaring the insurer to be financially impaired or unsound, which shall include such actions as suspension, conservatorship, rehabilitation or liquidation.

11. Failure by the insured to comply with any Federal, State or local fire, health, safety, building or construction regulation, law or ordinance with respect to an insured risk which substantially increases any hazard insured against within 60 days of written notification of a violation of any such law, regulation or ordinance;

12. Failure by the insured to provide reasonable and necessary underwriting information to the company upon written request therefor and a reasonable opportunity to respond; and

13. Agency termination, provided:

i. The insurer documents that replacement coverage at comparable rates and terms has been provided to the insured, and the insurer has informed the insured, in writing, of his or her right to continue coverage with the insurer; or

ii. The insurer has informed the insured, in writing, of his or her right to continue coverage with the insurer and the insured has agreed, in writing, to the cancellation or nonrenewal based upon the termination of his or her appointed agent.

(c) Only the specific language of the underwriting guidelines as set forth in (b) above is deemed to be approved by the Commissioner for use in the cancellation and nonrenewal of policies which are subject to the provisions of this subchapter.

(d) In addition to the approved guidelines set forth in (b) above, an insurer may use other guidelines for cancellation or

nonrenewal provided such guidelines are not arbitrary, capricious or unfairly discriminatory.

(e) Any underwriting guideline or standard premised on adverse loss experience shall be limited in application to nonrenewals only and shall specifically identify the type of loss experience which supports and justifies the nonrenewal action.

(f) All underwriting guidelines or standards utilized by the insurer for the cancellation or nonrenewal of commercial lines coverages which are subject to the provisions of this subchapter shall be maintained by the insurer in writing and shall indicate the effective date(s) thereof. An insurer's underwriting guidelines shall be made available to the Department upon request.

(g) Only those guidelines which are in effect at the inception date of the original policy or any subsequent renewal of that policy, as applicable, may be utilized by the insurer to cancel or nonrenew during that policy period.

(h) The requirement of (g) above shall not be construed to limit an insurer's ability to modify from time to time its underwriting guidelines; however the modified guidelines only may be applied to policies issued or renewed subsequent to the effective date of such modification.

(i) If the Commissioner finds an underwriting guideline is being utilized by an insurer in an arbitrary, capricious or unfairly discriminatory manner, the Commissioner shall issue a preliminary order prohibiting the use of such a guideline in the proscribed manner and shall require such insurer to rescind any notice of cancellation or nonrenewal based on such application of the underwriting guideline which has not yet become effective pending a hearing. Following the hearing, if the preliminary order is sustained, the Commissioner shall prohibit further application of the guideline in the manner found to be arbitrary, capricious or unfairly discriminatory, except that, if the insurer can demonstrate to the Commissioner that it will be significantly prejudiced by the proscription, the Commissioner shall permit the continued application of that guideline, with respect to policies written prior to the date of preliminary order during a reasonable run-off period to be specified by the Commissioner and not to exceed three years. If the preliminary order is not sustained, coverage which has been extended pending the hearing may be cancelled by the insurer in accordance with the provisions of N.J.A.C. 11:1-20.2.

(j) In the event that the Commissioner shall issue a preliminary order proscribing the manner in which an underwriting guideline is being used by an insurer, pursuant to (i) above, the insurer may request an expedited hearing on the Commissioner's preliminary order.

(k) With respect to retrospectively rated risks and multi-state location risks, insurers shall maintain records of those policies which are either cancelled or nonrenewed and the reasons upon which such termination was based.

(l) Nothing in this section shall prohibit an insurer from cancelling a policy or coverage which has been in effect for less than 60 days at the time notice of cancellation is mailed or delivered. Except as may be otherwise provided by statute, such cancellations shall be subject to the remaining provisions of this subchapter.

Amended by R.1987 d.114, effective February 17, 1987.

See: 18 N.J.R. 2301(b), 19 N.J.R. 359(a).

Petition for Rulemaking.

See: 30 N.J.R. 1330(b), 1637(a).

Petition for Rulemaking: Notice of receipt of petition for rulemaking renewal, cancellation and nonrenewal of commercial and homeowners insurance policies.

See: 37 N.J.R. 4581(b).

Petition for Rulemaking: Department of Banking and Insurance; Division of Insurance; Property and Casualty Division: action on Petition for Rulemaking: renewal, cancellation and non-renewal of commercial and homeowners insurance policies.

See: 38 N.J.R. 1607(a).

Law Review and Journal Commentaries

Insurance. P.R. Chenoweth, 138 N.J.L.J. No. 14, 56 (1994).

Case Notes

Attorney fees were not permitted in physician's suit challenging medical malpractice policy. *Giri v. Medical Inter-Insurance Exchange of New Jersey*, 251 N.J.Super. 148, 597 A.2d 561 (A.D.1991).

designate a qualified actuary to review the opinion and prepare such supporting memorandum as is required for review. The reasonable and necessary expense of the independent review shall be paid by the company but shall be directed and controlled by the Commissioner.

(d) The reviewing actuary shall have the same status as an examiner pursuant to N.J.S.A. 17:23-20 et seq. for purposes of obtaining data from the company and the work papers and documentation of the reviewing actuary shall be retained by the Commissioner. The reviewing actuary shall not be an employee of a consulting firm involved with the preparation of any prior memorandum or opinion for the insurer pursuant to this subchapter for any one of the current year or the preceding three years. Any information provided by the company to the reviewing actuary and included in the work papers shall be considered as material provided by the company to the Commissioner and shall be kept confidential and shall not be subject to public inspection or copying pursuant to the Open Public Records Act, N.J.S.A. 47:1A-1 et seq. However, the memorandum or other material may otherwise be released by the Commissioner with the written consent of the company involved, or to the American Academy of Actuaries upon request stating that the memorandum or other material is required for the purpose of professional disciplinary proceedings and setting forth procedures satisfactory to the Commissioner for preserving the confidentiality of the memorandum or other material. Notwithstanding this subsection, once any portion of the confidential memorandum is cited by the company in its marketing or is cited before any governmental agency other than a state insurance department or is released by the company to the news media, all portions of the memorandum shall no longer be deemed confidential.

(e) The appointed actuary shall prepare a regulatory asset adequacy issues summary, the contents of which are specified in (g) and (h) below. The regulatory asset adequacy issues summary shall be submitted no later than March 15 of the year following the year for which a statement of actuarial opinion based on asset adequacy is required. The regulatory asset adequacy issues summary shall be kept confidential to the same extent and under the same conditions as the actuarial memorandum.

(f) When an actuarial opinion is provided, the memorandum shall demonstrate that the analysis has been done in accordance with the standards for asset adequacy referred to in N.J.A.C. 11:1-21A.3(e) and any additional standards under this subchapter. The memorandum shall specify:

1. For reserves:

i. Product descriptions, including market description, underwriting and other aspects of a risk profile and the specific risks the appointed actuary deems significant;

ii. Source of liability in force;

iii. Reserve method and basis;

iv. Investment reserves;

v. Reinsurance arrangements;

vi. Identification of any explicit or implied guarantees made by the general account in support of benefits provided through a separate account or under a separate account policy or contract and the methods used by the appointed actuary to provide for the guarantees in the asset adequacy analysis; and

vii. Documentation of assumptions to test reserves for (f)1vii(1) through (8) below. The documentation of the assumptions shall be such that an actuary reviewing the actuarial memorandum could form a conclusion as to the reasonableness of the assumptions.

- (1) Lapse rates (both base and excess);
- (2) Interest crediting rate strategy;
- (3) Mortality;
- (4) Policyholder dividend strategy;
- (5) Competitor or market interest rate;
- (6) Annuitization rates;
- (7) Commissions and expenses; and
- (8) Morbidity.

2. For assets:

i. Portfolio descriptions, including a risk profile disclosing the quality, distribution and types of assets;

ii. Investment and disinvestment assumptions;

iii. Source of asset data;

iv. Asset valuation bases; and

v. Documentation of assumptions made for (f)2v(1) through (5) below. The documentation of the assumptions shall be such that an actuary reviewing the actuarial memorandum could form a conclusion as to the reasonableness of the assumptions.

(1) Default costs;

(2) Bond call function;

(3) Mortgage prepayment function;

(4) Determining market value for assets sold due to disinvestment strategy; and

(5) Determining yield on assets acquired through the investment strategy.

3. The analysis basis, including, but not limited to:

i. Methodology;

ii. Rationale for inclusion or exclusion of different blocks of business and how pertinent risks were analyzed;

iii. Rationale for degree of rigor in analyzing different blocks of business (include in the rationale the level of “materiality” that was used in determining how rigorously to analyze different blocks of business);

iv. Criteria for determining asset adequacy (include in the criteria the precise basis for determining if assets are adequate to cover reserves under “moderately adverse conditions” or other conditions as specified in relevant actuarial standards of practice); and

v. Whether the impact of Federal income taxes was considered and the method of treating reinsurance in the asset adequacy analysis;

4. A summary of material changes in methods, procedures or assumptions for the prior year’s asset adequacy analysis;

5. A summary of results; and

6. Conclusion(s).

(g) The regulatory asset adequacy issues summary shall include:

1. Descriptions of the scenarios tested (including whether those scenarios are stochastic or deterministic) and the sensitivity testing done relative to those scenarios. If negative ending surplus results under certain tests in the aggregate, the actuary should describe those tests and the amount of additional reserve as of the valuation date which, if held, would eliminate the negative aggregate surplus values. Ending surplus values shall be determined by either extending the projection period until the in force and associated assets and liabilities at the end of the projection period are immaterial or by adjusting the surplus amount at the end of the projection period by an amount that appropriately estimates the value that can reasonably be expected to arise from the assets and liabilities remaining in force;

2. The extent to which the appointed actuary uses assumptions in the asset adequacy analysis that are materially different than the assumptions used in the previous asset adequacy analysis;

3. The amount of reserves and the identity of the product lines that had been subjected to asset adequacy analysis in the prior opinion but were not subject to analysis for the current opinion;

4. Comments on any interim results that may be of significant concern to the appointed actuary;

5. The methods used by the actuary to recognize the impact of reinsurance on the company’s cash flows, including both assets and liabilities, under each of the scenarios tested;

6. Whether the actuary has been satisfied that all options whether explicit or embedded, in any asset or liability (including, but not limited to, those affecting cash flows embedded in fixed income securities) and equity-like features in any investments, have been appropriately considered in the asset adequacy analysis; and

7. The name of the company for which the regulatory asset adequacy issues summary is being supplied.

(h) The regulatory asset adequacy issues summary shall be signed and dated by the appointed actuary rendering the actuarial opinion.

(i) The memorandum shall include the following statement: “Actuarial methods, considerations and analyses used in the preparation of this memorandum conform to the appropriate Standards of Practice as promulgated by the Actuarial Standards Board, which standards form the basis for this memorandum.”

(j) An appropriate allocation of assets in the amount of the Interest Maintenance Reserve (IMR), whether positive or negative, shall be used in any asset adequacy analysis. Analysis of risks regarding asset default may include an appropriate allocation of assets supporting the Asset Valuation Reserve (AVR); these AVR assets may not be applied for any other risks with respect to reserve adequacy. Analysis of these and other risks may include assets supporting other mandatory or voluntary reserves available to the extent not used for risk analysis and reserve support. The amount of the assets used for the AVR shall be disclosed in the Table of Reserves and Liabilities of the opinion and in the memorandum. The method used for selecting particular assets or allocated portions of assets shall be disclosed in the memorandum.

(k) The appointed actuary shall retain on file, for at least seven years, sufficient documentation so that it will be possible to determine the procedures followed, the analyses performed, the bases for assumptions and the results obtained.

Recodified from N.J.A.C. 11:1-21A.7 and 21A.8 and amended by R.2006 d.146, effective April 17, 2006.

See: 38 N.J.R. 101(a), 38 N.J.R. 1737(a).

Rewrote former N.J.A.C. 11:1-21A.7, Description of actuarial memorandum including an asset adequacy analysis, and former N.J.A.C. 11:1-21A.8, Additional considerations for analysis; former N.J.A.C. 11:1-21A.5, Statement of actuarial opinion not including an asset adequacy analysis, repealed.

11:1-21A.6 Penalties

Failure to comply with the provisions of this subchapter may result in the imposition of penalties as authorized by law.

Recodified from N.J.A.C. 11:1-21A.9 by R.2006 d.146, effective April 17, 2006.

See: 38 N.J.R. 101(a), 38 N.J.R. 1737(a).

Former N.J.A.C. 11:1-21A.6, Statement of actuarial opinion based on an asset adequacy analysis, recodified as N.J.A.C. 11:1-21A.4.

11:1-21A.7 (Reserved)

Recodified as N.J.A.C. 11:1-21A.5 by R.2006 d.146, effective April 17, 2006.

See: 38 N.J.R. 101(a), 38 N.J.R. 1737(a).

Section was "Description of actuarial memorandum including an asset adequacy analysis".

11:1-21A.8 (Reserved)

Recodified as N.J.A.C. 11:1-21A.5 by R.2006 d.146, effective April 17, 2006.

See: 38 N.J.R. 101(a), 38 N.J.R. 1737(a).

Section was "Additional considerations for analysis".

11:1-21A.9 (Reserved)

Recodified as N.J.A.C. 11:1-21A.6 by R.2006 d.146, effective April 17, 2006.

See: 38 N.J.R. 101(a), 38 N.J.R. 1737(a).

Section was "Penalties".

APPENDIX

ASSET ADEQUACY TESTED AMOUNTS RESERVES AND LIABILITIES

Statement Item	Formula Reserves (1)	Additional Actuarial Reserves (a) (2)	Analysis Method (b)	Other Amount (3)	Total Amount (1)+(2)+(3) (4)
Exhibit 8					
A Life Insurance					
B Annuities					
C Supplementary Contracts Involving Life Contingencies					
D Accidental Death Benefit					
E Disability-Active					
F Disability-Disabled					
G Miscellaneous Total (Exhibit 8 Item 1, Page 3)					
Exhibit 9					
A Active Life Reserve					
B Claim Reserve Total (Exhibit 9 Item 2, Page 3)					
Exhibit 10					
Premium and Other Deposit Funds (Column 5, Line 14)					
Guaranteed Interest Contracts (Column 2, Line 14)					
Other (Column 6, Line 14)					
Supplemental Contracts and Annuities Certain (Column 3, Line 14)					
Dividend Accumulations or Refunds (Column 4, Line 14)					
Total Exhibit 10 (Column 1, Line 14)					
Exhibit 11 Part 1					
1 Life (Page 3, Line 4.1)					
2 Health (Page 3, Line 4.2)					
Total Exhibit 11, Part 1					
Separate Accounts (Page 3 of the Annual Statement of the Separate Accounts, Lines 1, 2, 3.1, 3.2, 3.3)					
TOTAL RESERVES					
IMR (General Account, Page ____ Line ____)					
(Separate Accounts, Page ____ Line ____)					
AVR (Page ____ Line ____)		(c)			
Net Deferred and Uncollected Premium					

Notes:

- (a) The additional actuarial reserves are the reserves established under N.J.A.C. 11:1-21A.3(g).
(b) The appointed actuary should indicate the method of analysis, determined in accordance with the standards for asset adequacy analysis referred to in N.J.A.C. 11:21A.3(e), by means of symbols that should be defined in footnotes to the table.
(c) Allocated amount of Asset Valuation Reserve (AVR).

11:1-35.3 Forms; general requirements

(a) All statements required to be filed pursuant to N.J.S.A. 17:27A-2, 17:27A-3, 17:27A-4 and 17:27A-4.1 shall be submitted in accordance with the forms set forth at Exhibits A, B, C, D and E, in the Appendix, incorporated herein by reference, as applicable. The forms shall be considered blank forms which are to be filled in. The statements filed shall contain the numbers and captions of all items, but the text of the items may be omitted provided the answers thereto are prepared in such a manner as to indicate clearly the scope and coverage of the items. All instructions, whether appearing under the items of the form or elsewhere therein, are to be omitted. Unless expressly provided otherwise, if any item is inapplicable or the answer thereto is in the negative, an appropriate statement to that effect shall be made.

(b) Seven complete copies of each Exhibit A statement, and one copy of each Exhibit B, C, D and E, including exhibits and all other papers and documents filed as a part thereof, shall be filed with the Commissioner by personal delivery or mail addressed to:

Holding Company Submissions
Office of Solvency Regulation
New Jersey Department of Banking and Insurance
20 West State Street
PO Box 325
Trenton, NJ 08625-0325

1. A copy of Exhibit C shall be filed in each state in which an insurer is authorized to do business, if the commissioner or other regulatory official of that state has notified the insurer of its request in writing, in which case the insurer shall file such forms within 30 days of receipt of the notice.

2. At least one of the copies shall be manually signed in the manner prescribed on the form. Unsigned copies shall be conformed. If the signature of any person is affixed pursuant to a power of attorney or other similar authority, a copy of the power of attorney or other authority shall also be filed with the statement.

(c) Statements and information required pursuant to Exhibit A shall be in loose-leaf form inserted into standard two-ring or three-ring binders. The loose-leaf sheets used shall be eight and one-half inches wide and 11 inches long and punched for two-ring and three-ring binders as appropriate. In the case of information required pursuant Exhibits A, B, C, D or E, exhibits and financial statements, unless specifically prepared for the filing, may be submitted in their original size. All copies of any statement, financial statements, or exhibits shall be clear, easily readable and suitable for photocopying. Debits in credit categories and credits in debit categories shall be designated so as to be clearly distinguishable as such on photocopies. Statements shall be in the English language and monetary values shall be stated in United States currency. If any exhibit or other paper or document filed with the statement is in a foreign language, it shall be accompanied

by a translation into the English language and any monetary value shown in a foreign currency shall be converted into United States currency.

Amended by R.1993 d.554, effective November 15, 1993.

See: 25 N.J.R. 4275(a), 25 N.J.R. 5170(b).

Amended by R.1997 d.12, effective January 6, 1997.

See: 28 N.J.R. 4700(a), 29 N.J.R. 129(b).

Amended N.J.S.A. and Exhibit references.

Amended by R.2006 d.307, effective September 5, 2006.

See: 37 N.J.R. 4156(a), 38 N.J.R. 3586(a).

In address in (b), substituted "Office of Solvency Regulation" for "Division of Financial Examinations".

11:1-35.4 Forms; incorporation by reference, summaries and omissions

(a) Information required pursuant to any item set forth in Exhibits A, B, D or E may be incorporated by reference in an answer or partial answer to any other item. Information contained in any financial statement, annual report, proxy statement, statement filed with a governmental authority, or any other document may be incorporated by reference in the answer or partial answer to any item of Exhibits A, B, D or E provided such document or paper is filed as an appendix or exhibit to the appropriate Exhibit A, B, D or E. Matter shall not be incorporated by reference in any case where such incorporation would render the statement incomplete, unclear or confusing.

(b) Where an item requires a summary or outline of the provisions of any document, only a brief statement shall be made as to the pertinent provisions of the document. In addition to such statement, the summary or outline may incorporate by reference particular parts of any exhibit or document currently on file with the Commissioner which was filed within three years and may be qualified in its entirety by such reference.

Amended by R.1997 d.12, effective January 6, 1997.

See: 28 N.J.R. 4700(a), 29 N.J.R. 129(b).

Amended Exhibit references.

11:1-35.5 Forms, additional information and exhibits

(a) In addition to the information expressly required to be included in Exhibits A, B, C, D and E, the person making the filing shall include such further material information, if any, as may be necessary to make the information contained therein not misleading, as well as any additional information the Commissioner may specifically request from a particular filer.

(b) The person making the filing may also file such exhibits as it may desire in addition to those expressly required by the statement. Such exhibits shall be so marked as to indicate clearly the subject matters to which they refer. Changes to Exhibits A, B, C, D and E shall include on the top of the cover page the phrase: "Change No. (insert number) to" and shall indicate the date of the change rather than the date of the original filing.

Amended by R.1997 d.12, effective January 6, 1997.
 See: 28 N.J.R. 4700(a), 28 N.J.R. 129(b).
 Amended Exhibit references.

11:1-35.6 Acquisition of control: statement filing; procedures

(a) A person required to file a statement pursuant to N.J.S.A. 17:27A-2 shall furnish the required information set forth in Exhibit A.

(b) The applicant shall advise the Commissioner within two business days of any changes in the facts or information submitted pursuant to (a) above arising subsequent to the date such information was furnished.

(c) If the person being acquired is deemed to be a “domestic insurer” solely because of the provisions of N.J.S.A. 17:27A-2a, the name of the domestic insurer on the cover page shall be indicated as follows:

1. “ABC Insurance Company, a subsidiary of XYZ Holding Company.”

(d) Where a domestic insurer, as defined in N.J.S.A. 17:27A-2a, is being acquired, references to “the insurer” contained in Exhibit A shall refer to both the domestic subsidiary insurer and the person being acquired.

(e) The time frames for the hearing on the proposed acquisition as set forth in N.J.S.A. 17:27A-2d(2) shall not commence until all of the information required to be contained in an acquisition statement as set forth in N.J.S.A. 17:27A-2 and this subchapter has been received by the Commissioner.

(f) Upon the determination that all required information has been filed pursuant to (e) above, the acquiring party shall cause notice of the hearing to be published in not less than two newspapers of general circulation in this State. Such notice shall include, but not be limited to, the name of the acquiring party, the name of the insurer proposed to be acquired, and the time and place for the hearing. Such notice shall be published not later than seven days, nor earlier than 14 days, prior to the scheduled date of the hearing. Notice also shall be posted on the Department’s website.

1. Unless a hearing with live testimony is determined to be necessary as set forth in (g) below, for purposes of this subsection, the scheduled date for a hearing on the papers shall be seven days after the publication of the notice referenced in (f) above.

(g) The hearing required pursuant to N.J.S.A. 17:27A-2d shall be on the documents filed. Notwithstanding the foregoing, the Department shall, however, conduct a public hearing with live testimony on a proposed acquisition at the request of a committee of the Legislature. In addition, the Department may conduct a public hearing with live testimony if it determines that such a hearing is in the interest of the policyholders of the insurer being acquired or of the public.

In making that determination, the Department shall consider the following, whether:

1. The insurer being acquired has policyholders;

2. The applicant is not currently transacting insurance business in this State, either directly or through affiliates;

3. The insurer to be acquired has been found to be in a hazardous financial condition, is under administrative supervision pursuant to N.J.S.A. 17:51A-1 et seq., or is the subject of an order of rehabilitation pursuant to N.J.S.A. 17:30C-1 et seq., or 17B:32-31 et seq.;

4. The coverages or rates for the policyholders of the insurer to be acquired will change or the coverage currently provided will be terminated;

5. The applicant, insurer to be acquired, or an “interested party” as defined in (j) below, has requested a hearing; and

6. A hearing with live testimony is in the best interest of the policy holders of the insurer being acquired or of the public, based on the circumstances of a particular proposed acquisition.

(h) A verbatim transcript of a hearing, if a hearing with live testimony is held pursuant to (g) above shall be made, and the costs thereof shall be borne by the acquiring party. Copies of the transcript may be obtained directly from the stenographic service that created the transcript. In the alternative, a copy will be available for inspection at the Department’s offices. Copies of the transcript shall not be made by the Department.

(i) Until the date notice of the hearing is published pursuant to (f) above, any information received pursuant to N.J.S.A. 17:27A-2b or this subchapter as part of an acquisition of control statement filing shall be confidential and shall not be subject to public inspection or copying pursuant to the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

(j) A person whose interest may be affected by the acquisition of control of the domestic insurer may apply to the Commissioner for leave to seek discovery and to examine and cross-examine witnesses at the hearing. For the purposes of this subsection, a person whose interest may be affected by the acquisition of control means a shareholder, policyholder, claimant or creditor who has an interest that is unique, that is, not already subsumed within the Department’s statutory oversight role as contemplated by N.J.S.A. 17:27A-1 et seq. If the Commissioner finds the person has an interest as set forth in this subsection, the Commissioner shall notify the person and provide a copy of the “Form A” statement filing when it becomes public pursuant to (i) above.

1. All discovery shall be limited to a copy of the “Form A” statement filing, and any documents submitted as part of the filing prior to or during the hearing.