

CHAPTER 17B
INSURANCE PRODUCER STANDARDS
OF CONDUCT: COMMISSIONS
AND FEES

Authority

N.J.S.A. 17:1-8.1, 17:1-15e, 17:22A-1 et seq.,
17:29B-7 and 17B:30-13 and 15.

Source and Effective Date

R.2000 d.44, effective December 30, 1999.
See: 31 N.J.R. 3583(a), 32 N.J.R. 499(a).

Executive Order No. 66(1978) Expiration Date

Chapter 17B, Insurance Producer Standards of Conduct: Commissions and Fees, expires on December 30, 2004.

Chapter Historical Note

Chapter 17B, Insurance Producer and Limited Insurance Representative Standards of Conduct: Commission and Fees, was adopted as R.1990 d.11, effective January 2, 1990. See: 21 N.J.R. 1317(a), 22 N.J.R. 30(b).

Pursuant to Executive Order No. 66(1978), Chapter 17B, Insurance Producer and Limited Insurance Representative Standards of Conduct: Commission and Fees, was readopted as R.1995 d.60, effective December 30, 1994. See: 26 N.J.R. 4307(a), 27 N.J.R. 562(a).

Pursuant to Executive Order No. 66(1978), Chapter 17A, Insurance Producer and Limited Insurance Representative Standards of Conduct: Commissions and Fees, was readopted as R.2000 d.44, effective December 30, 1999. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. GENERAL REQUIREMENTS

11:17B-1.1 Scope

This chapter applies to all insurance producers selling commercial and/or personal lines insurance, including private passenger automobile and any other policies written

through residual markets pursuant to N.J.S.A. 17:29D-1, life, health, title, property, or casualty insurance, and limited line authorities except as may be otherwise provided in this chapter.

Amended by R.2000 d.44, effective February 7, 2000.

See: 31 N.J.R. 3583(a), 32 N.J.R. 499(a).

Substituted "and any other policies written through residual markets pursuant to N.J.S.A. 17:29D-1" for "policies written through the NJAF-IUA" following "automobile".

Amended by R.2002 d.354, effective November 4, 2002.

See: 34 N.J.R. 2286(a), 34 N.J.R. 2549(b), 34 N.J.R. 3839(a).

Deleted "and limited insurance representatives" following "insurance producers" and inserted "and limited line authorities" following "casualty insurance".

11:17B-1.2 Purpose

(a) The purposes of this chapter are:

1. To clarify those circumstances under which fees can be charged in connection with insurance transactions;
2. To clarify to whom commissions may be paid;
3. To require full disclosure of fees charged in connection with insurance policies;
4. To prohibit the commingling of certain non-insurance fees with charges for insurance premiums; and
5. To prohibit certain abuses which could arise out of the sale of insurance by an insurance producer acting as a motor club representative.

Amended by R.2002 d.354, effective November 4, 2002.

See: 34 N.J.R. 2286(a), 34 N.J.R. 2549(b), 34 N.J.R. 3839(a).

In (a)5, deleted "or limited insurance representative" following "an insurance producer".

11:17B-1.3 Definitions

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

"Brokerage fee" means any money or other consideration, except commissions, charged or received by any person for services rendered as an insurance broker.

"Claim or accident reporting fees" means fees for preparation of proof of loss.

"Commission" means any payment from an insurer that is contingent upon the sale of a policy, contract, or certificate of insurance, or is based on the total premiums produced by the producer or written by the insurer. "Commission" shall not be deemed to include any discount charge or fee charged by a credit card company, bank, or similar entity pursuant to a written agreement between such entity or entities and an insurer or insurance producer, by which the insurer or insurance producer accepts payment for insurance

premiums by credit card, debit card, or direct account deductions in accordance with N.J.A.C. 11:1-24.

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

“Consultant fee” means any charge to a client for services rendered as an insurance consultant as defined at N.J.S.A. 17:22A-28.

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

“Fee” means any money or other consideration, except commissions, paid to or received from any person for service or advice in connection with a policy, contract or certificate of insurance, including, but not limited to, any service fee, motor club fee, consultant fee, brokerage fee or other charge by an insurance producer.

“Insurance agent” means an insurance producer acting as an insurance agent authorized, in writing, by any insurance company to act as its agent to solicit, negotiate or sell insurance contracts on its behalf or to collect insurance premiums and who may be authorized to countersign insurance policies on its behalf.

“Insurance broker” means an insurance producer acting as an insurance broker who, for a commission, brokerage fee, or other consideration, acts or aids in any manner concerning negotiation, solicitation or sale of insurance contracts as the representative of an insured or prospective insured; or a person who places insurance in an insurance company that he does not represent as an agent.

“Insurance consultant” means an insurance producer acting as an insurance consultant as defined at N.J.S.A. 17:22A-28.

“Insurance producer” means a person required to be licensed under the laws of this State to sell, solicit or negotiate insurance.

“Motor club” means any person, firm, association, partnership, corporation or other legal entity, whether or not residing, domiciled, or incorporated in this State, engaged in selling, furnishing or procuring, for a consideration, motor club services. Such services may include, but are not limited to, community traffic safety service, travel and touring service, emergency road service, theft or reward service, map service, towing service, bail bond service, legal fee reimbursement service in the defense of traffic offenses and the participation in an accident and sickness or death insurance benefit program. Motor club services shall not include towing and labor costs or other services included in or added by endorsement to an automobile insurance policy.

“Motor club fee” means any fee charged for a motor club service contract.

“Motor club representative” means a person who solicits the purchase of, or transmits a contract or application for, or aids in any manner in the negotiation, sale, renewal or continuance of, a motor club service contract.

“Motor club service contract” means any agreement whereby a motor club, for a consideration, promises to render, furnish or procure for any person a motor club service.

“Policy” means any contract of insurance and includes, but is not limited to, all policies, contracts, certificates, riders and endorsements which provide insurance coverage.

“Service fee” means a fee charged an insured or prospective insured by an insurance producer for the placement of insurance or financing, credit reporting, obtaining auto operator’s driving records, claim or accident reporting, adjustment of claims, inspection fees, and referral fees.

Amended by R.1998 d.276, effective June 1, 1998.

See: 29 N.J.R. 3588(a), 30 N.J.R. 2003(a).

Rewrote “Commission” definition.

Amended by R.2000 d.44, effective February 7, 2000.

See: 31 N.J.R. 3583(a), 32 N.J.R. 499(a).

Inserted “Commissioner” and “Department”.

Amended by R.2002 d.354, effective November 4, 2002.

See: 34 N.J.R. 2286(a), 34 N.J.R. 2549(b), 34 N.J.R. 3839(a).

In “Commission”, deleted references to limited insurance representatives throughout; in “Consultant fee” and “Insurance consultant”, amended the N.J.S.A. references; rewrote “Insurance agent”, “Insurance broker” and “insurance producer”; deleted “Limited insurance representative”.

Amended by R.2004 d.213, effective June 7, 2004.

See: 35 N.J.R. 5478(a), 36 N.J.R. 2923(a).

In “Fee”, deleted “acting as an insurance broker or an insurance consultant” following “by an insurance producer”; in “Service fee”, substituted “producer” for “broker or insurance consultant” preceding “for the placement”.

11:17B-1.4 Penalties

(a) The Commissioner shall impose penalties for violations of this chapter in accordance with the provisions of N.J.S.A. 17:22A-26 et seq. and any other applicable law.

(b) For the purposes of determining the existence of a violation and assessing a penalty under this chapter, a separate violation shall be deemed to exist, and a separate penalty therefor shall be assessed, for each violation of the provisions of this chapter.

Amended by R.2002 d.354, effective November 4, 2002.

See: 34 N.J.R. 2286(a), 34 N.J.R. 2549(b), 34 N.J.R. 3839(a).

In (a), amended the N.J.S.A. reference.

11:17B-1.5 Severability

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