CHAPTER 7

INSURANCE OF MUNICIPAL BONDS, ASSET-BACKED SECURITIES AND CONSUMER DEBT OBLIGATIONS

Authority

N.J.S.A. 17:1-8.1 and 17:1-15e.

Source and Effective Date

R.2003 d.125, effective February 20, 2003.
See: 34 N.J.R. 3674(b), 35 N.J.R. 1430(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 7, Insurance of Municipal Bonds, Asset-Backed Securities and Consumer Debt Obligations, expires on August 18, 2008. See: 40 N.J.R. 1743(a).

Chapter Historical Note

Chapter 7, Insurance of Municipal Bonds, was adopted as R.1975 d.212, effective July 23, 1975. See: 7 N.J.R. 272(b), 7 N.J.R. 370(b). Chapter 7 was amended by R.1987 d.426 and was assigned an expiration date of October 19, 1992. See: 19 N.J.R. 1409(a), 19 N.J.R. 1908(a).

Pursuant to Executive Order No. 66(1978), Chapter 7, Insurance of Municipal Bonds, was readopted as R.1992 d.425, effective September 25, 1992. See: 24 N.J.R. 1958(a), 24 N.J.R. 3729(b).

Pursuant to Executive Order No. 66(1978), Chapter 7, Insurance of Municipal Bonds, was readopted as R.1997 d.445, effective September 25, 1997. See: 29 N.J.R. 3591(a), 29 N.J.R. 4461(a).

Chapter 7, Insurance of Municipal Bonds, was readopted as R.2003 d.125, effective February 20, 2003. See: Source and Effective Date.

Chapter 7, Insurance of Municipal Bonds, was renamed Insurance of Municipal Bonds, Asset-Backed Securities and Consumer Debt Obligations, by R.2008 d.37, effective February 19, 2008. See: 39 N.J.R. 1985(a), 40 N.J.R. 881(a).

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SUBCHAPTER 1. GENERAL PROVISIONS

11:7-1.1 Purpose and scope

(a) This subchapter sets forth requirements for insurers issuing contracts insuring municipal bonds, asset-backed securities and consumer debt obligations in this State.

(b) This subchapter shall apply to all insurers issuing contracts insuring municipal bonds, asset-backed securities or consumer debt obligations in this State.

New Rule, R.2008 d.37, effective February 19, 2008.
See: 39 N.J.R. 1985(a), 40 N.J.R. 881(a).
Former N.J.A.C. 11:7-1.1, Definitions, recodified to N.J.A.C. 11:7-1.2.

11:7-1.2 Definitions

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

"Affiliate" shall have the same meaning as in N.J.S.A. 17:27A-1.

"Average annual debt service" means the amount of insured unpaid principal and interest on an obligation, multiplied by the number of such insured obligations (assuming each obligation represents $1,000 par value), divided by the amount equal to the aggregate life of all such obligations (assuming each obligation represents $1,000 par value). This definition, expressed as a formula in regard to bonds, is as follows:

Average Annual Debt Service = (Total Debt Service x Number of Bonds)/Bond Years

Total Debt Service = Insured Unpaid Principal + Interest

Number of Bonds = (Total Principal Insured)/1,000

Bond Years = (Number of Bonds) x (Term in Years)

Term in Years = Term to maturity based on scheduled amortization, or in the absence of a scheduled amortization in the case of asset-backed securities or other obligations lacking a scheduled amortization, expected amortization, in each case determined as of the date of issuance of the insurance policy based upon the amortization assumptions employed in pricing the insured obligations or otherwise used by the insurer to determine aggregate net liability.

"Consumer debt obligations guaranties" means insurance that indemnifies a purchaser or lender against loss or damage resulting from defaults on a pool of debts owed for extensions of credit (including in respect of installment purchase agreements and leases) to individuals, provided in the normal course of the purchaser's or lender's business.

"Contingency reserve" means an additional premium reserve established for the protection of policyholders covered by policies insuring municipal bonds, asset-backed securities or consumer debt obligations against the effect of excessive losses usually occurring during adverse economic cycles.

"Credit default swap" means an agreement on forms of agreement published from time to time by the International Swap and Derivatives Association, Inc. (360 Madison Avenue – 16th Floor, New York, NY 10017, Phone: 212-910-6000) or otherwise acceptable to the Commissioner, pursuant to which a party agrees to compensate another party in the event of a payment default by, insolvency of, or other adverse credit event in respect of an issuer of a specified security or other obligation; provided that such agreement does not constitute an insurance contract and the making of such credit default swap does not constitute the doing of an insurance business.

"Excess spread" means, with respect to any insured issue of asset-backed securities, the excess of the scheduled cash flow on the underlying assets that is reasonably projected to be available to make debt service payments on the insured securities over the term of the insured securities after payment of the expenses associated with the insured issue, over the scheduled debt service requirements on the insured securities, provided that such excess is held in the same manner as collateral is required to be held as defined below in N.J.A.C. 11:7-1.5.

"Insurable risk" means, with respect to asset-backed securities, that such obligation on an uninsured basis has been determined to be not less than investment grade based solely on the pool of assets backing the insured obligation or securing the insurer, without consideration of the credit-worthiness of the issuer.

"Insurance of municipal bonds" means insurance against financial loss by reason of nonpayment of principal and interest obligations pursuant to the terms of municipal bonds as defined in "municipal bonds" below.

"Investment grade" means that:

1. The obligation or parity obligation of the same issuer has been determined to be in one of the top four generic lettered rating classifications by a securities rating agency designated as a Nationally Recognized Securities Rating Organization by the Securities and Exchange Commission, or in the case of obligations or parity obligations issued outside of the United States, by an affiliate of such a designated securities rating agency;

2. The obligation or parity obligation of the same issuer has been identified in writing by any rating agency set forth in paragraph 1 above to be of investment grade quality; or

3. If the obligation or parity obligation of the same issuer has not been submitted to any rating agency, set forth in paragraph 1 above, the obligation or parity obligation has been determined to be investment grade (as indicated by a rating in category 1 or 2) by the Securities Valuation Office of the National Association of Insurance Commissioners.

"Municipal bonds" means obligations issued by a state, territory or possession of the United States of America, or by any municipality, political subdivision (including but not limited to cities, counties, towns, villages, school districts and special districts for fire prevention, water, sewer, irrigation and other municipal public purposes provided for by law) or by any public agency or instrumentality (such as an authority or commission) of one or more of the foregoing, or obligations issued by any other national government or any state, province, city, town or other political subdivision thereof or any public agency or instrumentality of one or more of the foregoing.

"Reinsurance" means reinsurance in a company that satisfies the criteria under the New Jersey credit for reinsurance requirements set forth in N.J.S.A. 17:51B-1 et seq. and N.J.A.C. 11:2-28, or as to which credit for reinsurance is allowed pursuant to the credit for reinsurance law of the ceding insurer's state or country of domicile, which law is substantially similar to the New Jersey credit for reinsurance requirements.

Recodified from N.J.A.C. 11:7-1.1 and amended by R.2008 d.37, effective February 19, 2008.
See: 39 N.J.R. 1985(a), 40 N.J.R. 881(a).
In the introductory sentence, substituted "subchapter" for "chapter"; added definitions "Affiliate", "Average annual debt service", "Consumer debt obligations guaranties", "Credit default swap", "Express spread", "Insurable risk", "Investment grade" and "Reinsurance"; in definition "Contingency reserve", inserted ", asset-backed securities or consumer debt obligations"; and in definition "Municipal bonds", inserted ", or obligations issued by any other national government or any state, province, city, town or other political subdivision thereof or any public agency or instrumentality of one or more of the foregoing".
Former N.J.A.C. 11:7-1.2, Capital, surplus and contingency reserve requirements, recodified to N.J.A.C. 11:7-1.3.

11:7-1.3 Capital, surplus and contingency reserve requirements

(a) An insurer shall not issue a contract insuring municipal bonds, asset-backed securities or consumer debt obligations unless it is authorized to write the kinds of insurance defined in paragraph (g) of N.J.S.A. 17:17-1, and unless the insurer's license has been amended to indicate that the insurer is authorized to write municipal bond, asset-backed securities or consumer debt obligations insurance under paragraph (g), and further provided that:

1. If it is a stock insurance company, it has a paid-in capital and surplus, or if it is a mutual insurance company, it has a minimum initial surplus, in an amount deemed by the Commissioner to be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs, but in no case shall such amount be less than that prescribed by applicable provisions of the Insurance Law. Such stock or mutual insurer shall at all times maintain a surplus to policyholders or minimum surplus, as the case may be, in an amount at least equal to the minimum prescribed by the stated provisions for the aforementioned class of business and for such other kinds of insurance defined in N.J.S.A. 17:17-1, as it may be authorized to transact;

2. It shall establish a contingency reserve which shall consist of allocations of sums representing 50 percent of the earned premiums on policies insuring municipal bonds. Allocations to such reserve made during each calendar year