

## TITLE 11

## DEPARTMENT OF INSURANCE

## CHAPTER 1

## ADMINISTRATION

## Authority

N.J.S.A. 17:1-8.1 and 17:1C-6(e).

## Source and Effective Date

R.1996 d.116, effective January 31, 1996.  
See: 27 N.J.R. 4121(a), 28 N.J.R. 1382(a).

## Executive Order No. 66(1978) Expiration Date

Chapter 1, Administration, expires on January 31, 2001.

## Chapter Historical Note

Chapter 1 was originally filed as the Plan of Organization of the Department of Insurance, effective January 20, 1971 as R.1971 d.11, and codified at Subchapter 1. Notice was not published in the New Jersey Register.

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 3, concerning 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 Subchapter 3 was repealed by R.1990 d.11, effective January 2, 1990. See: 21 N.J.R. 1317(a), 22 N.J.R. 30(b). 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 3 is exempt from expiration under 28 C.F.R. Part 35.

Subchapter 4, Unfair Discrimination, was adopted as R.1975 d.128, concerning sex and/or marital status discrimination, effective September 1, 1975. See: 7 N.J.R. 168(a), 7 N.J.R. 276(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). The 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). Subchapter 5 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 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). Pursuant to Executive Order No. 66(1978), Subchapter 6 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 Subchapter 6, New Jersey Property—Liability Insurance Guaranty Association, was repealed and a new Subchapter 6, New Jersey Property—Liability Insurance Guaranty Association Assessment Premium Surcharge was adopted as new rules by R.1991 d.461,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 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 7, Service and Placement Fees, was repealed by R.1990 d.11, effective January 2, 1990. See: 21 N.J.R. 1317(a), 22 N.J.R. 30(b). 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 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). Section 8.1 of the subchapter was repealed by R.1988 d.186, effective April 18, 1988. See: 20 N.J.R. 225(c), 20 N.J.R. 904(b). Subchapter 8, Property—Casualty Agents, was repealed by R.1990 d.11, effective January 2, 1990. See: 21 N.J.R. 1317(a), 22 N.J.R. 30(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). Subchapter 9, Agents for Life Insurance, Health Insurance and Annuity Contracts—Temporary Licensing, was repealed by R.1988 d.186, effective April 18, 1988. See: 20 N.J.R. 225(c), 20 N.J.R. 904(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 10 was amended by R.1977 d.405, effective October 26, 1977 and R.1978 d.17, effective January 23, 1978. See: 9 N.J.R. 437(a), 9 N.J.R. 536(c); 9 N.J.R. 585(a), 10 N.J.R. 70(a). 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). A new Subchapter 10, Admission Requirements for Foreign and Alien Property and Casualty Insurers, was adopted as R.1989 d.329, effective June 19, 1989. See: 21 N.J.R. 426(a), 21 N.J.R. 1702(a).

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 12, Corporate and Partnership Licensee Requirements, was adopted as R.1976 d.412, effective December 16, 1976 and 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 13, Disclosure Agreements for Motor Club Service Contracts Sold in Connection with Automobile Insurance Policies, was repealed by R.1990 d.11, effective January 2, 1990. See: 21 N.J.R. 1317(a), 22 N.J.R. 30(b).

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 14, Insurance Licensees, was repealed by R.1988 d.186, effective April 18, 1988. See: 20 N.J.R. 225(c), 20 N.J.R. 904(b).

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 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 17 has had no rulemaking activity and remains “Reserved”.

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 18, Approval of Business Names, was repealed by R.1988 d.186, effective April 18, 1988. See: 20 N.J.R. 225(c), 20 N.J.R. 904(b).

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 19, Branch Offices, was repealed by R.1988 d.186, effective April 18, 1988. See: 20 N.J.R. 225(c), 20 N.J.R. 904(b).

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). An emergency amendment was filed

as R.1985 d.626, effective November 15, 1985 (to expire January 14, 1986). See: 17 N.J.R. 2915(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). Subchapter 20, Cancellation and Nonrenewal of Property and Casualty/Liability Insurance Policies, was repealed by R.1986 d.272 and a new Subchapter 20, Cancellation and Nonrenewal of Commercial and Homeowners' Insurance Policies, was adopted effective July 7, 1986 with portions operative July 28, 1986. See: 18 N.J.R. 457(b), 18 N.J.R. 1388(a). Pursuant to Executive Order No. 66(1978), Subchapter 20 was readopted as R.1988 d.341, effective June 24, 1988. See: 20 N.J.R. 1061(a), 20 N.J.R. 1720(a).

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 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 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). Pursuant to Executive Order No. 66(1978), Subchapter 22 was readopted as R.1988 d.341, effective June 24, 1988. See: 20 N.J.R. 1061(a), 20 N.J.R. 1720(a).

Subchapters 23 and 24 have had no rulemaking activity and remain "Reserved".

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 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 26, Annual Publication of Insurer Profitability Information, was repealed by R.1996 d.116, effective March 4, 1996. See: 27 N.J.R. 4121(a), 28 N.J.R. 1382(a).

Subchapter 27 has had no rulemaking activity and remains "Reserved".

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). Subchapter 29, Temporary Certificate of Authority, was repealed by R.1996 d.116, effective March 4, 1996. See: 27 N.J.R. 4121(a), 28 N.J.R. 1382(a).

Subchapter 30 has had no rulemaking activity and remains "Reserved".

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 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 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 33, Public Advocate Reimbursement Disputes, was repealed by R.1996 d.116, effective March 4, 1996. See: 27 N.J.R. 4121(a), 28 N.J.R. 1382(a).

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 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 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 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 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).

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).

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

Pursuant to Executive Order No. 66(1978), Chapter 1 was readopted as R.1996 d.116, effective January 31, 1996. See: Source and Effective Date. See, also, section annotations.

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**SUBCHAPTER 1. ORGANIZATION**

**11:1-1.1 Organization of the Department**

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

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).

(5) Whether the applicant obtains a surety bond or bonds issued by an insurance company or insurance companies approved by the Commissioner and authorized in the State of New Jersey, in an amount to be determined by the Commissioner, with a minimum requirement of \$5,000,000 and issued for a period of time as shall be determined by the Commissioner, but which shall not exceed five years. The Commissioner shall exercise his or her discretion in setting an amount for a surety bond upon consideration of the factors noted in (a)5iii(4)(D) above. This bond shall be prepared in such a way as to meet the requirements of the Department concerning the protection of New Jersey policyholders, claimants and creditors of the applicant insurance company; or

(6) Whether the applicant demonstrates to the Commissioner that a line or lines of insurance in this State for which the applicant is seeking authority is underserved in this State at the time the request for waiver is made. For purposes of this provision "line of insurance" shall be construed to mean a sub-line of business or category of business within the line, and shall not be construed to mean an entire line of business. Any applicant seeking a waiver of the five year seasoning requirement set forth in (a)5i and ii above pursuant to this provision shall submit a written request for such waiver which shall include the following:

(A) Such information and documentation as may be necessary to demonstrate to the Commissioner that there is no reasonable or adequate market among authorized insurers for the type of insurance coverage involved. In making this showing, the applicant shall demonstrate that there is, in fact, a market for the type of coverage involved in the request, that it is presently underserved, and that the applicant will serve that market. A showing that the coverage is presently listed on the Exportable List promulgated by the Commissioner pursuant to N.J.S.A. 17:22-6.43 and N.J.A.C. 11:1-34 shall be deemed to demonstrate that the coverage is presently underserved in this State;

(B) Documentation that the applicant possesses the requisite underwriting, managerial and financial capability and expertise to write the particular business involved in the request, to the extent the original application for admission does not so demonstrate; and

(C) A certification that the applicant acknowledges that if the request is granted and the applicant is admitted to transact business under such waiver, the applicant's authority to transact business shall be limited only to the type of coverage involved in the request, and that the applicant may not write any other business so long as it does not satisfy the seasoning requirements set forth (a)5i

and ii above or any waiver therefrom set forth in (a)5iii (1) through (5) above. This shall not be construed to limit the ability of the applicant to request that the Commissioner remove the restriction upon a showing that it satisfies the seasoning requirements pursuant to (a)5i and ii above, or waiver therefrom set forth in (a)5iii(1) through (5) above, and that it is otherwise qualified to write such business pursuant to law, including, but not limited to, this subchapter.

6. The insurer shall procure a New Jersey Certificate of Authority by establishing compliance with the applicable requirements of N.J.S.A. 17:17-1 et seq. and shall successfully complete an admissions process which shall include a detailed review by the Commissioner of the business affairs and financial condition of the applicant as provided by this subchapter.

(b) An applicant company intending to make a formal application for admission shall first submit a letter of intent which shall consist of the preliminary information set forth in N.J.A.C. 11:1-10.5.

Amended by R.1995 d.347, effective July 3, 1995.  
See: 27 N.J.R. 1737(a), 27 N.J.R. 2582(b).

Added (a)5iii(6).

#### 11:1-10.5 Letter of intent

(a) Prior to the acceptance of a final application for a Certificate of Authority in the State of New Jersey, all foreign and alien insurers engaged in the business of property and casualty insurance who desire to transact the business of insurance in the State of New Jersey shall submit, as a preliminary application, a letter of intent, which shall include the information required in (a)1 through 8 below.

1. The name of the applicant;
2. Where applicable, the name of any person, as defined in this subchapter, or other entity, by whom the applicant is controlled;
3. The applicant's current insurance holding company systems chart;
4. Where applicable, the name of any insurer(s) currently licensed in the State of New Jersey with whom the applicant is affiliated;
5. The type(s) of insurance proposed to be written by the applicant in the State of New Jersey;
6. A certified copy of the applicant's most recent Annual Statement, prepared on the NAIC annual and quarterly statements forms used by New Jersey domestic insurers;
7. A certified copy of the applicant's current Certificate of Authority from its state, district, commonwealth, territory, possession or country of domicile; and

8. The results of the most recent NAIC Insurance Regulatory Information System (IRIS) tests and related communications concerning the applicant, which shall satisfy the requirements of N.J.A.C. 11:1-10.4(a)4i-ii.

#### 11:1-10.6 Final application

(a) After the submission of the letter of intent as required by N.J.A.C. 11:1-10.5, the applicant shall be instructed by the Department to file the following items:

1. A copy of its charter as currently in force, certified by the lawful custodian of the original document;
2. A copy of its bylaws as currently in force, certified by a senior officer of the company;
3. A statement of the company's financial condition as of December 31 of the preceding calendar year, in the NAIC format, signed and sworn to by the president of the company, its corporate secretary and its treasurer;
4. A Certificate of Compliance under the official seal of the commissioner of insurance of the company's domiciliary state or country;
5. A certified copy of a report of the most recent examination of the company's affairs by the department of insurance or its equivalent, of the state or country in which the company is domiciled;
6. An appointment, by the company, of the Commissioner as attorney for service of process;
7. An application for admission, on a form to be prescribed and provided by the Department, including the payment of a non-refundable application fee of \$1,000;
8. A "statement of opinion" by a qualified actuary relating to loss and loss adjustment expense reserves, pursuant to N.J.A.C. 11:1-21;
9. A copy of the applicant's quarterly financial statements for the current year, in the NAIC format, and for such other periods of time as shall be required by the Commissioner;
10. Where applicable, a certified copy of the filing made pursuant to the Holding Company Act of the state, district, territory, commonwealth, possessions or country of domicile, for the last fiscal period, supplemented as necessary to meet the requirements of N.J.S.A. 17:27A-3(a) and (b) and applicable Securities and Exchange Commission filing requirements;
11. A statement of ownership of the applicant. This statement shall include all shareholders of record who control five percent or more of the outstanding shares of the applicant, directly or indirectly;
12. A copy of any agreements by which the right to conduct or influence any of the affairs of the applicant is transferred to others;

13. Any employment or deferred compensation agreements in which any officer, director or shareholder who controls five percent or more of the outstanding shares of the applicant, directly or indirectly, participates;

14. Any tender offer materials (advertisements, invitations, etc.) if any tender offer has been made by the company or its parent to acquire another company within the three years preceding;

15. Modified NAIC biographical affidavits, to be completed by all directors and senior officers on a form prescribed and provided by the Department;

16. A corporate plan of operation consisting of:

i. A schedule listing the following:

(1) All jurisdictions in which the applicant has applied for authorization to transact the business of insurance during the preceding 10 years and the dates and results of such applications;

(2) All jurisdictions from which the applicant has withdrawn during the preceding 10 years, and the reasons for withdrawal; and

(3) All administrative, civil or criminal actions, orders, proceedings and determinations thereof to which the applicant, or its affiliates, or any of its directors or principal officers have been subject, due to an alleged violation of any law governing insurance operations in any jurisdiction during the preceding 10 years. Where the alleged violation is a felony or its equivalent in a jurisdiction which does not use this designation of a crime, such actions, orders, proceedings and determinations shall include violations not related to insurance operations. If a license has been refused, suspended or revoked by any jurisdiction, the applicant shall furnish an explanation and a copy of any orders, proceedings, and determinations related thereto.

ii. A description of the applicant's present business plan or plan(s) for conducting an insurance business, including, but not limited to:

(1) Geographical areas in which business is being written;

(2) The types of insurance to be written;

(3) Marketing methods;

(4) A summary of the methods for establishing premium rates; and

(5) A description of agency systems, including any managing general agency contracts.

iii. A proposed plan for conducting an insurance business in the State of New Jersey, including, but not limited to:

- (1) The geographical area in which business is intended to be done;
- (2) The types of insurance intended to be written;
- (3) Proposed marketing methods;
- (4) Proposed methods for the establishment of premium rates; and
- (5) A three year forecast of anticipated premiums in this State by line of business.

iv. A summary of the applicant's reinsurance program on assumed and ceded business, indicating the name of the reinsurers, retentions, maximum risks, types of contract (such as pro rata), excess of loss, and any other information which may be relevant to this part of the applicant's operation. Additional information may be requested by the Department in order to supplement or clarify information already provided by the applicant;

v. A summary of the applicant's reinsurance assumed program, with retentions, maximum risks, types of business, types of contracts to be issued, and other factors which may, in the opinion of the Department, be relevant to this part of the applicant's operations;

vi. The number and ratio of complaints as defined by the state or country of domicile to the premium volume in the state or country of domicile, for those lines of business in which the state, districts, territories, commonwealth, possessions or country of domicile makes such determinations; and

vii. Copies of all management, exclusive agency, administrative services, or any other operating contracts with affiliates or non-affiliates, where applicable, signed by the parties and certified to by the company secretary and chief operating officer.

17. If a United States Branch, the applicant shall provide the Department with:

- i. A certificate of deposit from its insurance commissioner showing the amount in trust for policyholders;
- ii. A certified copy of power of attorney in favor of its United States manager; and
- iii. A certified copy of a deed of trust to the trustee of the funds of the company.

18. If the applicant is an alien insurer, a statement of trusteed surplus in the United States.

(b) The Department shall evaluate the difference between the admitted value and the actual market value of all bonds held by the company.

(c) Applicants who wish to write or have the authority to write health insurance in the State of New Jersey shall complete and submit a consumer suitability study on a form

prescribed and provided by the Department. This study shall be reviewed and approved by the Department.

(d) Applicants who desire authority to write workers' compensation and employers' liability insurance shall, prior to admission, become members of the Compensation, Rating and Inspection Bureau, located at 60 Park Place, Newark, New Jersey 07102. The Bureau shall be consulted for membership at the point in time when all requirements for admission have been satisfied and the application for admission is actually submitted. The Bureau shall be advised by the Department that the applicant is in the process of filing for admission in the State of New Jersey.

#### 11:1-10.7 Review procedures; appeals

(a) Upon receipt of a final application, the Commissioner shall conduct a thorough background investigation and review which shall include the information contained in N.J.A.C. 11:1-10.4, 10.5 and 10.6, inquiries regarding claims settlement practices and any other information which, in the opinion of the Commissioner, may be necessary to make an appropriate decision on an application.

(b) Applicant companies shall ensure that all filings submitted to the Department are current. Any amendments, changes or replacements to constituent documents on file shall be timely updated.

(c) Applications accepted after the 1st day of December of each year shall have their review deferred until the Annual Statement for the current year is available and received for review. The review of the filings of the prior year shall begin as of the 1st day of April of each year, after the receipt of Annual Statements, which shall be submitted not later than the 1st day of March of each year.

(d) Before a decision on an application is made, the Department may request from an applicant, in writing, any additional information it may require. Failure by an applicant to respond to written inquiries by the Department within 45 days may be considered grounds for rejection of the application.

(e) Application reviews shall be conducted by the Department on a monthly basis. The Committee on Admissions shall make a recommendation to the Commissioner concerning each application which has been reviewed. The Commissioner shall consider the recommendation and make his or her decision on the application within 10 working days from receipt of the recommendation. Written notice of the decision shall be mailed to the applicant by registered mail within 10 working days of the date of the Commissioner's decision.

(f) When the Commissioner rejects an application, the notice of rejection shall include a statement specifying the reasons for the rejection.

1. Such notice shall further inform the applicant of the right to request an informal Departmental review of the rejection within 20 days of receipt of the notice of rejection.

2. Such notice shall further inform the applicant of the right to provide to the Department a written statement, with supporting documentation, if any, disputing with specificity the reasons for rejection within 30 days of the receipt of the notice of rejection.

3. Upon the timely receipt of the request for Departmental review and the written statement of the company, if any, the Department shall promptly review the application, attached documents, department records and the written statement. In appropriate circumstances, the Commissioner may provide the applicant with an opportunity to present its position in person.

4. If, after reviewing the record, the Commissioner determines that the applicant has failed to qualify, the Commissioner shall promptly so inform the applicant.

Amended by R.1990, d.17, effective January 2, 1990.  
See: 21 N.J.R. 3418(a), 22 N.J.R. 30(a).

No right to an appeal is granted statutorily, therefore the reference to the appeal according to the Administrative Procedure Act was removed, no such authorization by rule was intended at (f)4.

#### 11:1-10.8 Requirements upon admission

(a) Applicants contemplating the writing of homeowners or comprehensive personal liability policies in the State of New Jersey shall be required to afford coverage against liability for the payment of any obligation which the policyholder may incur to an injured domestic servant, or household employee, or the dependents thereof, pursuant to the provisions of the Workers' Compensation Law of the State of New Jersey. The Compensation, Rating and Inspection Bureau shall be informed by the Department accordingly.

(b) Applicants who wish to have their Certificate of Authority limited to "reinsurance" only, may disregard the regulatory requirements concerning membership in the Compensation, Rating and Inspection Bureau and the completion of a consumer suitability study for health insurance identified in N.J.A.C. 11:1-10.6(c) and (d).

(c) In clarification of N.J.A.C. 11:2-29.5(a)1i, if an applicant is granted authority to transact private passenger automobile insurance, the approval shall provide that if the applicant (insurer) later seeks to withdraw from transacting such business pursuant to N.J.A.C. 11:2-29, the period of time which such insurer must seek to place its business with a replacement carrier, which shall begin on the date of the Commissioner's approval of the plan of orderly withdrawal, shall be based on the time between the date of issuance of the certificate of authority and the date of the filing of a complete plan of orderly withdrawal as set forth in N.J.A.C. 11:2-29.4, as follows:

1. For insurers authorized to transact business up to two years, the period shall not exceed one year;

2. For insurers authorized to transact business beyond the period in (c)1 above up to four years, the period shall not exceed two years;

3. For insurers authorized to transact business beyond the period set forth in (c)2 above up to five years, the period shall not exceed three years;

4. For insurers authorized to transact business beyond the period set forth in (c)3 above up to six years, the period shall not exceed four years; and

5. For insurers authorized to transact business beyond the period set forth in (c)4 above, the period shall be established by the Commissioner pursuant to N.J.A.C. 11:2-29.5(a)1i, but shall not exceed five years.

(d) The provisions set forth in (c) above shall also apply to any private passenger automobile insurer seeking to withdraw on or after November 20, 1995. However, the provisions set forth in (c) above shall not apply to any insurer authorized or admitted to transact business acting as an approved replacement carrier for an insurer which has withdrawn from transacting private passenger automobile insurance pursuant to N.J.A.C. 11:2-29. If such replacement carrier seeks to withdraw from transacting private passenger automobile insurance, the time period over which such insurer shall be required to seek to place its business with an acceptable replacement carrier shall be governed solely by N.J.A.C. 11:2-29.5(a)1i, without regard to (c) above.

(e) As a condition of approving the application for admission, the Commissioner may limit the applicant's authority to write business, including a limitation on the amount of premium volume the applicant may write, for a period not to exceed five years, consistent with the applicant's corporate business plan of operation submitted pursuant to N.J.A.C. 11:1-10.6(a)16 and other applicable laws. In determining whether to limit the applicant's authority, the Commissioner shall consider all relevant factors, including, but not limited to:

1. The amount of capital and surplus of the applicant;

2. The resources available to service the business to be transacted; and

3. The applicant's proposed marketing methods and resources.

(f) In the case of private passenger automobile insurance, any limitation imposed pursuant to (e) above shall be based solely on a determination that exceeding such limitation would result in the insurer being or becoming in an unsafe or unsound financial condition, as determined consistent with the criteria set forth in N.J.S.A. 17:33B-19 and 17:33B-20.

“Domestic insurer” means an insurer formed under the laws of this State.

“Property and casualty insurance” means all lines of business for which an insurance company may be formed to transact, pursuant to N.J.S.A. 17:17-1, and includes mortgage guarantee insurance and title insurance pursuant to N.J.S.A. 17:46A-1 et seq. and 17:46B-1 et seq., respectively.

#### 11:1-28.4 Types of insurance

(a) The following are the types of insurance which a company may be formed to transact under the stated paragraphs of N.J.S.A. 17:17-1:

1. Paragraph “a” means fire and allied lines, earthquake and growing crops;
2. Paragraph “b” means ocean marine, inland marine, automobile physical damage and aircraft physical damage;
3. Paragraph “e” means worker’s compensation and employer’s liability, automobile liability (bodily injury), automobile liability (property damage) and other liability;
4. Paragraph “f” means boiler and machinery;
5. Paragraph “g” means fidelity and surety;
6. Paragraph “i” means credit;
7. Paragraph “j” means burglary and theft;
8. Paragraph “k” means glass;
9. Paragraph “l” means sprinkler leakage and water damage;
10. Paragraph “m” means livestock;
11. Paragraph “n” means smoke and smudge; and
12. Paragraph “d” means accident and health insurance as defined in N.J.S.A. 17B:17-4.

(b) The following are the miscellaneous coverages allowed under N.J.S.A. 17:17-1, paragraph “o”:

1. All loss to buildings and structures, including consequential loss, and against loss or damage to property of others, caused by an insured;
2. The perils of radioactive contamination and all other perils causing physical loss to nuclear energy installations and facilities including consequential loss; and
3. All other miscellaneous coverage, including, but not limited to, the following:
  - i. Loss or damage to property by epidemic;
  - ii. Loss or damage to property by power failure or mechanical breakdown;
  - iii. Loss or damage to property or any insurable interest therein caused by insects or by radiation resulting from atomic fission;

iv. Engine breakdown;

v. Loss or damage to property of the assured caused by falling of tanks or equipment for protecting property against fire, by explosion other than steam boilers, pipes, engines, motor, and machinery connected therewith (except fire);

vi. Loss resulting from the right to participate in associations or pools, such as NEPIA and NELIA, which associations or pools are authorized to write “All Risks” insurance involving nuclear fuel exposure;

vii. Economic security; and

viii. All other liability not covered under N.J.S.A. 17:17-1(e), including voluntarily assumed liability.

(c) A stock insurance company may be formed to transact solely the following lines of business:

1. Mortgage guarantee insurance, pursuant to N.J.S.A. 17:46A-1 et seq.; and
2. Title insurance, pursuant to N.J.S.A. 17:46B-1 et seq.

#### 11:1-28.5 Feasibility study

(a) In order for an applicant to be granted a certificate of authority to transact property and casualty insurance in this State or, in the case of reciprocal insurance exchanges, to be issued a permit to solicit pursuant to N.J.S.A. 17:50-10, the requirements of this section shall be satisfied in addition to any other requirements in this subchapter or any other provision of law.

(b) Any applicant seeking to obtain a certificate of authority to transact property and casualty insurance in this State or, in the case of reciprocal insurance exchanges, seeking to obtain a permit to solicit pursuant to N.J.S.A. 17:50-10, shall first submit a feasibility study to the Commissioner which shall include, but not be limited to, the following:

1. A detailed plan of operation of the applicant which shall:
  - i. Include and explain its plans of operation;
  - ii. Explain its source of funding;
  - iii. Describe its marketing strategy;
  - iv. Describe its underwriting procedures and guidelines;
  - v. Explain the administrative and legal arrangements to be made for the adjustment of claims and the recovery of salvage and subrogation;
  - vi. Describe its territory of operation;
  - vii. Describe the qualifications of the senior officers of the applicant responsible in the areas of claims, underwriting and investment;

viii. Describe the proposed maximum amount of coverage by line of business;

ix. Describe the proposed retention by line of business;

x. Describe the proposed reinsurance arrangements;

xi. Describe the proposed methods for the handling of consumer complaints;

xii. Include the applicant's proposed organization chart; and

xiii. Describe the proposed dividend policy;

2. A summary of the applicant's initial rating system to the extent its proposed operations are regulated which shall include:

i. Rates by lines of business;

ii. Proposed statistical agents (if any);

iii. Independent filings; and

iv. The rating bureau (if any);

3. A five year projection of the following certified by a qualified actuary and accompanied by a narrative explaining the sources of anticipated premium and all assumptions made in developing the entire projection:

i. Assets, liabilities and surplus and other funds in the format of the Assets page and the Liabilities and Surplus and Other Funds page in the Annual Statement representing the start-up year of the applicant and the five successive year-ends;

ii. Underwriting and investment income in the format of the Underwriting and Investment Exhibit, Statement of Income in the Annual Statement for each of the five years;

iii. The following information by line of business for each of the five years (the line of business classifications shall be those set forth in the Underwriting and Investment Exhibit, Part Two in the Annual Statement):

(1) Premiums earned;

(2) Losses incurred;

(3) Loss expenses incurred; and

(4) Ratios of the sum of the losses and loss expenses to premium earned; and

iv. The projected values required in the Underwriting and Investment Exhibit, Part Four—Expenses in the Annual Statement; and

4. The name of the proposed insurer or reciprocal insurance exchange which shall be reviewed for acceptability by the Commissioner, and if acceptable, shall be reserved for the time that such proposed insurer's or reciprocal insurance exchange's application is pending.

(c) In addition to the requirements in (b) above, the Commissioner may require any additional information he or she deems necessary in order to make an adequate evaluation of the applicant.

(d) Each applicant shall submit a \$1,000 filing fee with the filing of the information required by (b) above to cover the costs of Department review of such information.

(e) Within 60 days from the receipt of a complete feasibility study and filing fee required by (b) and (d) above, the Commissioner shall notify the applicant in writing that he or she either accepts or rejects the applicant's feasibility study. If the Commissioner notifies the applicant that the feasibility study is accepted, the applicant shall comply with the additional information requirements set forth in N.J.A.C. 11:1-28.6.

#### 11:1-28.6 Additional information requirements

(a) After review and acceptance of the feasibility study pursuant to N.J.A.C. 11:1-28.5, an applicant seeking to obtain a certificate of authority or a permit to solicit in the case of reciprocal insurance exchanges, shall submit the following to the Commissioner:

1. The corporation's original certificate of incorporation, which the Department will submit for review and certification by the State Attorney General of New Jersey.

i. A suggested form for the preparation of a certificate of incorporation is appended to this subchapter as Appendix A, which is hereby incorporated by reference as part of these rules.

ii. After approval and certification by the State Attorney General of New Jersey, the corporation shall submit the certificate of incorporation to the county clerk of the county of the corporation's domicile for recording. The corporation shall then file the original recorded certificate of incorporation with the Commissioner.

iii. In the case of proposed reciprocal insurance exchanges, in lieu of the requirements in (a)1i and ii above, the attorney in fact, if a corporation, shall file with the Commissioner a copy of its certificate of incorporation. The attorney in fact shall also file a declaration containing the information required in N.J.S.A. 17:50-3 and an instrument authorizing service of process on the Commissioner, pursuant to N.J.S.A. 17:50-4;

i. The financial condition of the applicant as determined through a review of the information submitted pursuant to this subchapter;

ii. The amount of business to be written in this State;

iii. The lines of business to be written in this State;

iv. The extent to which the lines of business to be written by the applicant and the amount thereof are covered under the Surplus Lines Insurance Guaranty Fund, pursuant to N.J.S.A. 17:22-6.70 et seq.; and

v. Such other factors as the Commissioner deems relevant to determine whether the particular applicant has established satisfactory evidence of financial integrity and the applicant's condition or methods of operation are not such as would render its operation hazardous to the public or policyholders in this State.

(b) The Certificate of Eligibility shall remain continuously in effect unless the Commissioner withdraws eligibility as set forth in N.J.A.C. 11:1-31.6.

#### 11:1-31.6 Withdrawal of eligibility

(a) The Commissioner may withdraw the eligibility of an insurer to insure surplus lines risks in this State if:

1. The insurer fails to file the data required or otherwise comply with the requirements for continued surplus lines eligibility as certified by the insurer in its application for eligibility pursuant to N.J.A.C. 11:1-31.4(a)15;

2. The Commissioner has reason to believe that the eligible surplus lines insurer is insolvent, in an unsound financial condition or no longer in compliance with N.J.S.A. 17:22-6.40 et seq. or this subchapter; or

3. The Commissioner finds, after a hearing thereon in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, of which notice was given to all licensed surplus lines agents, that an eligible surplus lines insurer has willfully violated the laws of this State or does not make reasonably prompt payment of just losses and claims in this State.

(b) The Commissioner shall notify all licensed surplus lines agents in this State of withdrawals of eligibility made pursuant to this section.

(c) Except as otherwise specified by the Commissioner, an insurer whose eligibility has been withdrawn pursuant to (a) above shall be prohibited from writing any new business or renewing existing business, but shall continue to service existing business through expiration of each policy.

#### 11:1-31.7 Failure to comply with subchapter; denial of certificate of eligibility

Failure to submit the information required by this subchapter completely and accurately may result in the denial of a certificate of eligibility to transact business as an eligible surplus lines insurer in this State.

### SUBCHAPTER 32. FEES

#### 11:1-32.1 Purpose and scope

(a) This subchapter sets forth specific fees charged for various services provided by the Department. For services not included in this subchapter, the Department shall charge such other fees as may be provided by applicable statute or rule.

(b) This subchapter applies to insurers licensed to transact business in this State, eligible surplus lines insurers, dental plan organizations, dental service corporations, fraternal benefit societies, reciprocal insurance exchanges, risk retention groups, purchasing groups, and to any other person to whom a service is provided as set forth in this subchapter.

#### 11:1-32.2 Definitions

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

"Annuity" is as defined in N.J.S.A. 17B:17-5.

"Certificate of eligibility" means a certificate issued to an unauthorized insurer by the Commissioner pursuant to N.J.S.A. 17:22-6.45 evidencing that it is an eligible surplus lines insurer in this State.

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

"Complaint" means a written expression by an interested party submitted to the Department expressing a specific grievance with respect to specific conduct or action by an individual insurer.

"Contract on a variable basis" is as defined in N.J.S.A. 17B:28-1.

"Credit health insurance" means insurance on a debtor to provide indemnity for payments becoming due on a specified loan or other credit transaction while the debtor is disabled.

"Credit life insurance" means insurance on the life of a debtor pursuant to or in connection with a specific loan or other transaction.

“Dental plan organization” means any person who undertakes to provide directly or to arrange for or administer one or more dental plans providing dental services pursuant to N.J.S.A. 17:48D-1 et seq.

“Dental service corporation” is as defined in N.J.S.A. 17:48C-2(a).

“Department” means the New Jersey Department of Insurance.

“Domestic insurer” means an insurer formed under the laws of this State pursuant to N.J.S.A. 17:17-1 et seq., 17:46A-1 et seq., 17:46B-1 et seq. and 17B:18-1 et seq.

“Fraternal benefit society” is as defined in N.J.S.A. 17:44A-1.

“Form A filing” means a statement filed by every person who is directly or indirectly the beneficial owner of more than 10 percent of any class of any equity security of a New Jersey stock insurance company or who is a director or officer of such a company, in the acquisition of control or merger with a domestic insurer pursuant to N.J.S.A. 17:27A-1 et seq.

“Health insurance” is as defined in N.J.S.A. 17B:17-4.

“Life and health insurer” means an insurer authorized or admitted pursuant to the provisions in Title 17B of the Revised Statutes to transact solely the business of life insurance, health insurance or annuities in this State.

“Life insurance” is as defined in N.J.S.A. 17B:17-3.

“Private passenger automobile insurance” means direct insurance on private passenger automobiles as defined in N.J.S.A. 39:6A-2.

“Property and casualty insurer” means an insurer authorized or admitted to transact the kinds of insurance specified in N.J.S.A. 17:17-1, 17:46A-2 and 17:46B-1.

“Purchasing group” is as defined in 15 U.S.C. 3901(a)(5).

“Reciprocal insurance exchange” means an individual, partnership, trustee, or corporation authorized to exchange reciprocal or interinsurance contracts pursuant to N.J.S.A. 17:50-1 et seq.

“Risk retention group” is as defined in 15 U.S.C. 3901(a)(4).

“Special risks” is as defined in N.J.S.A. 17:29AA-3.

“Surplus lines insurer” means an unauthorized insurer in which an insurance coverage is placed or may be placed pursuant to N.J.S.A. 17:22-6.40.

### 11:1-32.3 General procedures

(a) All fees set forth in this subchapter, excluding the fees set forth in N.J.A.C. 11:1-32.9, shall be paid at the time of the filing or application or the request for service.

(b) All fees set forth in this subchapter shall be paid by check and made payable to the State Treasurer of New Jersey.

### 11:1-32.4 Fees; general

(a) On filing with the Department any certificate specified in this section by an insurer, fraternal benefit society or dental plan organization authorized to transact business in this State, there shall be paid to the Commissioner fees as follows:

1. Filing a certificate of incorporation of a domestic insurer—\$1,500;
2. Filing a certificate of an increase of capital stock of a domestic insurer—\$250.00;
3. Filing a certificate of consolidation and merger of insurers—\$2,500;
4. For each Form A filing in connection with the acquisition or control of a domestic insurer—\$2,500;
5. Upon the scheduling of a hearing in connection with a Form A filing—\$2,500;
6. Filing a certificate of dissolution of insurer, change of name, change of nature of business, amended certificate of incorporation (other than those authorizing increase in capital stock), decrease of capital stock, or increase or decrease of par value of shares—\$250.00;
7. Processing application and renewal of certificate of authority to transact business as a dental plan organization—\$1,000; and
8. All certificates not otherwise provided for—\$50.00.

(b) The following fees shall be paid for services provided by the Commissioner in addition to those set forth in (a) above as follows:

1. Filing each annual statement of an insurer—\$100.00;
2. Providing certificate of valuation of policies (life and health insurers only)—\$25.00;
3. Providing certificate of the condition or qualification of an insurer—\$25.00; each additional copy for same company—\$5.00;
4. Filing service of lawful process upon the Commissioner as attorney—\$30.00;
5. Providing copy of Statutory Annual Statement pages (11-21)—\$2.00 per page;

6. Certifying copy of any paper filed with the Department—\$5.00; certifying a company document—\$50.00;

7. Providing copy of any paper filed with the Department (except Statutory Annual Statements)—\$.75 each for the first 10 pages; \$.50 each for the next 10 pages; \$.25 per page thereafter;

8. Filing each annual statement of a fraternal benefit society formed pursuant to N.J.S.A. 17:44A-1 et seq.—\$100.00;

9. Filing each annual statement of a dental plan organization—\$100.00;

10. Filing each annual statement of a dental service corporation—\$100.00;

11. Filing an application for a certificate of authority to transact business as a dental service corporation—\$25.00;

12. Processing an application for the issuance of a Certificate of Registration pursuant to N.J.A.C. 11:3-3—\$1,000; processing an application of renewal of Certificate of Registration—\$250.00; and

13. Processing an application for issuance or renewal of a Certificate of Order Granting Exemption from Insuring Liability for Compensation pursuant to N.J.A.C. 11:2-33—\$1,000.

14. Each submission or resubmission for review of payment of an extraordinary dividend or distribution pursuant to N.J.S.A. 17:27A-4—\$1,000; each submission or resubmission for review of payment of an ordinary dividend or distribution pursuant to N.J.S.A. 17:27A-4—\$500.00.

Amended by R.1992 d.371, effective September 21, 1992.  
See: 24 N.J.R. 519(a), 24 N.J.R. 3414(a).

Fee for LAD registration added at (b)12.

Amended by R.1993 d.157, effective April 5, 1993.

See: 24 N.J.R. 1944(a), 24 N.J.R. 2708(b), 25 N.J.R. 1526(a).

Added (b)13.

Emergency Amendment, R.1993 d.445, effective August 16, 1993 (expired October 15, 1993).

See: 25 N.J.R. 4275(a).

Adopted Concurrent Proposal, R.1993 d.554, effective October 15, 1993.

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

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

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

### 11:1-32.5 Fees; life and health insurers

(a) The following fees shall be paid for services provided by the Commissioner regarding submissions by or on behalf of life and health insurers in addition to any other applicable fees imposed by this subchapter:

1. Processing application for a certificate of authority to transact business in this State—\$5,000; application to extend existing authority to other lines of business—\$2,500;

2. Reviewing policies, except for contracts on a variable basis and credit life or health insurance—\$200.00;

3. Reviewing policies for contracts on a variable basis and credit life or health insurance—\$300.00;

4. Reviewing all riders, endorsements and applications, except for contracts on a variable basis and credit life or health insurance—\$50.00;

5. Reviewing riders, endorsements and applications for contracts on a variable basis and credit life or health insurance—\$75.00; and

6. Reviewing rate revisions for health insurance and credit life or health insurance—\$200.00.

### 11:1-32.6 Fees; property and casualty insurers

(a) The following fees shall be paid for services provided by the Commissioner regarding submissions by or on behalf of property and casualty insurers in addition to any other applicable fees imposed by this subchapter as follows:

1. Processing application to extend existing certificate of authority to other lines of business—\$500.00. The Commissioner may waive this fee if the extension of authority is required by statute to permit an insurer to continue to transact a line of business previously authorized;

2. Processing personal lines and commercial lines filings, excluding private passenger automobile insurance filings, as follows:

i. Each policy forms filing submission—\$250.00;

ii. Each rate filing submission—\$250.00;

iii. Each underwriting rules filing submission—\$250.00;

iv. Each combined forms and rate filing submission—\$500.00;

v. Each combined rules and rate filing submission—\$500.00;

vi. Each combined rules and forms filing submission—\$500.00;

vii. Each combined forms, rules and rate filing submission—\$500.00.

3. Reviewing consent to higher rate filings submitted pursuant to N.J.A.C. 11:4-7 and 11:13-5—\$250.00; and

4. Reviewing all submissions and filings relating to special risks—\$250.00.

(b) Error corrections, amendments and additional information which is submitted with respect to a pending filing, shall not be considered a submission for the purposes of (a)2 above.

**11:1-32.7 Fees; surplus lines insurers, risk retention groups and purchasing groups**

(a) The following fees are imposed for services provided by the Commissioner regarding submissions by or on behalf of surplus lines insurers, risk retention groups and purchasing groups:

1. Processing application for a Certificate of Eligibility—\$1,000;
2. Filing each Annual Statement filed by an eligible surplus lines insurer—\$100.00;
3. Filing each Annual Statement filed by a risk retention group—\$100.00; and
4. Registration of new risk retention group or new purchasing group—\$100.00.

**11:1-32.8 Fees; withdrawals, transfer of business**

(a) Upon application of an insurer to withdraw or transfer its business the following fees to be paid:

1. Processing a plan of orderly withdrawal required to be submitted pursuant to N.J.A.C. 11:2-29.4 by an insurer with 1,000 or more policies currently in force—\$10,000;
2. Processing a plan of orderly withdrawal required to be submitted pursuant to N.J.A.C. 11:2-29.4 by an insurer with at least one but no more than 999 policies currently in force—\$5,000;
3. Processing application to transfer business from an insurer in the amount of 1,000 policies or more—\$5,000;
4. Processing application to transfer business from an insurer in an amount of less than 1,000 policies—\$2,500;
5. Processing a plan of orderly withdrawal required to be submitted pursuant to N.J.A.C. 11:2-29.4 by an insurer that has had no policies in force during the three years immediately preceding the date of its application—\$1,000; and
6. Processing application to eliminate a rating system by an insurer that is not required to submit a plan of orderly withdrawal pursuant to N.J.A.C. 11:2-29.4—\$500.00.

**11:1-32.9 Miscellaneous fees**

(a) In addition to any other fees imposed by this subchapter, Subtitle 3 of Title 17 and Title 17B of the Revised Statutes or Title 11 of the New Jersey Administrative Code, all insurers shall pay a maintenance fee within 30 days of receipt of notice that such fee is due calculated as follows:

1. Any insurer which has direct written premiums in this State in an amount less than \$100,000 as of the end of the calendar year immediately preceding the date the fee is due shall pay a fee of \$1,000.

2. Any insurer which has no direct written premiums in this State, but has direct written premiums in one or more jurisdictions as of the end of the calendar year immediately preceding shall pay a fee of \$2,500.

3. Notwithstanding the provisions of (a)1 and 2 above to the contrary, any insurer which is licensed or authorized to transact business in this State on or after January 1, 1991 shall not pay any fee imposed by (a)1 and 2 above for a period of two years from the date of the issuance of a certificate of authority to transact business in this State.

4. Any insurer which has no direct written premiums in this State and all other jurisdictions in which it is authorized to transact business as of the end of the calendar year immediately preceding shall not pay a fee pursuant to (a)1 and 2 above.

(b) In addition to any other fees imposed by this subchapter, Subtitle 3 of Title 17 and Title 17B of the Revised Statutes, and Title 11 of the New Jersey Administrative Code, all insurers shall pay a complaint processing fee within 30 days of the receipt of notice that the fee is due as follows:

1. For an insurer that has less than \$25,000,000 of direct written premiums in this State for the calendar year immediately preceding, a fee of \$50.00 for each consumer complaint submitted to the Department and assigned to that insurer which is in excess of 50 as of the end of the calendar year immediately preceding.
2. For an insurer that has at least \$25,000,000, but not greater than \$250,000,000 of direct written premiums in this State for the calendar year immediately preceding, a fee of \$50.00 for each consumer complaint submitted to the Department and assigned to that insurer which is in excess of 250 as of the end of the calendar year immediately preceding.
3. For an insurer that has in excess of \$250,000,000 of direct written premiums in this State for the calendar year immediately preceding, a fee of \$50.00 for each consumer complaint submitted to the Department and assigned to that insurer which is in excess of 500 as of the end of the calendar year immediately preceding.

**11:1-32.10 Applicability of fees imposed by insurance laws of this State**

(a) The fees set forth in this subchapter supersede fees set forth in N.J.S.A. 17:33-1, 17B:21-7, 17:48-14, 17:44A-34, 17:48C-23, 17:48D-5 and 17:50-4, to the extent such fees are inconsistent with the fees set forth herein. The fees set forth in this subchapter are in addition to the following fees imposed by the laws and regulations of this State:

1. Admission application for foreign or alien insurers (N.J.A.C. 11:1-10.6);

2. Application for formation of a domestic insurer (N.J.A.C. 11:1-28.5);

3. Application and renewal for certificate of self-insurance of motor vehicles (N.J.S.A. 39:6-52, N.J.A.C. 11:3-30);

4. Application for hospital workers' compensation group self-insurance (N.J.A.C. 11:15-1.3);

5. Producer licensing and insurance education program fees (N.J.A.C. 11:17);

6. Custodial deposit fees (N.J.S.A. 17:20-3.1 and 17B:18-39.1, and N.J.A.C. 11:2-32);

7. Health service corporation fees (N.J.S.A. 17:48E-38);

8. Hospital service corporation fees (N.J.S.A. 17:48-14);

9. Medical service corporation fees (N.J.S.A. 17:48A-21);

10. General supervisory fee for dental service corporations (N.J.S.A. 17:48A-23);

11. All fees set forth in N.J.S.A. 17:33-1 and 17B:21-7 to the extent such fees are not inconsistent with the fees set forth in this subchapter; and

12. Any and all fees which may be imposed by the laws and regulations of this State in the future.

(b) Notwithstanding anything in (a) above to the contrary, to the extent that the laws of any other State or foreign country impose fees for services specified in this subchapter upon domestic insurers or reciprocal insurance exchanges which are in excess of the fees set forth in this subchapter, such fee shall be imposed upon the insurer or reciprocal exchange of such other state or foreign country doing business in New Jersey, pursuant to N.J.S.A. 17:32-15 and 17B:23-5, as applicable.

#### 11:1-32.11 Penalties

(a) Failure to pay an applicable filing or application fee at the time of filing or application may result in the filing or application being rejected as incomplete.

(b) Failure to pay the applicable fee at the time of making a request for service may result in the Department's refusal to provide such service.

(c) Failure to pay the fees set forth in N.J.A.C. 11:1-32.9 within 30 days of receipt of notice that the fee is due may result in the imposition of penalties as authorized by law.

#### SUBCHAPTER 33. (RESERVED)

#### SUBCHAPTER 34. SURPLUS LINES: EXPORTABLE LIST

##### 11:1-34.1 Purpose and scope

(a) The purpose of this subchapter is to identify the procedures concerning the creation and modification of an exportable list of certain classes of insurance coverages or risks and to promulgate the list as a rule, in implementation of N.J.S.A. 17:22-6.43.

(b) This subchapter shall apply to all surplus lines insurers and producers. Pursuant to N.J.S.A. 17:22-6.40, this subchapter shall not apply to life insurance companies, which may not become eligible surplus lines insurers.

##### 11:1-34.2 Definitions

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

"Annuity" means a contract not coming within the definition of life insurance as set forth in N.J.S.A. 17B:17-3, or health insurance as set forth in N.J.S.A. 17B:17-4, under which an insurer obligates itself to make periodic payments for a specified period of time, such as for a number of years, or until the happening of an event, or for life, or for a period of time determined by any combination thereof. Such a contract which includes extra benefits of the kinds set forth in N.J.S.A. 17B:17-3 or 17B:17-4 shall nevertheless be deemed to be an annuity if such extra benefits constitute a subsidiary or incidental part of the entire contract.

"Authorized insurer" means a domestic or foreign insurer duly authorized by a Certificate of Authority issued by the Commission to transact the business of insurance in this State.

"Commissioner" means the Commissioner of the Department of Insurance of the State of New Jersey.

"Department" means the Department of Insurance of the State of New Jersey.

"Exportable list" means a list of any class or classes of insurance coverages or risks declared and promulgated by the Commissioner for which there is no reasonable or adequate market among authorized insurers in this State.

"Health insurance" means a contract or agreement whereby an insurer is obligated to pay or allow a benefit of pecuniary value with respect to the bodily injury, disablement, sickness, death by accident or accidental means of a human being, or because of any expense relating thereto, or

because of any expense incurred in prevention of sickness, and includes every risk pertaining to any of the enumerated risks. Health insurance does not include workers' compensation coverages.

"Life insurance" means a policy or contract whereby an insurer is obligated to pay or allow a benefit of pecuniary value with respect to the cessation of human life. Life insurance includes also the granting of endowment benefits and optional modes of settlement of proceeds of life insurance as well as provisions for additional benefits in event of death by accident or accidental means or in event of dismemberment or loss of sight, or safeguarding such insurance against lapse or giving a special surrender value or special benefit or an annuity in the event that the insured shall become totally and permanently disabled, whether such provisions are incorporated in a policy or contract of life insurance or in a policy or contract supplemental thereto. Life insurance does not include workers' compensation coverages.

"State" means the State of New Jersey.

"Surplus lines insurer" means an eligible, unauthorized insurer with which an insurance coverage is placed or may be placed pursuant to N.J.S.A. 17:22-6.40 et seq. (see Appendix A to this subchapter, incorporated herein by reference).

### 11:1-34.3 Exportable list hearing

(a) In the month of November or December of each year, the Department shall hold a hearing, pursuant to N.J.S.A. 17:22-6.43, for the purpose of determining the extent of the existence of a reasonable or adequate market among authorized insurers for certain classes of insurance coverages and risks.

1. This hearing shall be preceded by a notice of hearing published in the New Jersey Register at least 30 days prior to the date of the hearing, which notice shall include information concerning the date by which, and the person to whom, written public comment may be made. Notice shall also be provided to persons who have previously requested receipt of such notice.

2. The notice published in the New Jersey Register and as otherwise provided pursuant to (a)1 above shall also request that persons who wish to testify at the hearing provide the Department with timely notice of this intention, including a brief summary of the subject matter of their testimony.

3. The notice shall indicate whether the hearing shall address the merits of maintaining all items currently on the list, or whether the hearing will consider only specific additions, deletions or clarifications regarding the list.

(b) The hearing shall be conducted by a hearing officer designated by the Commissioner. The length of testimony permitted at the hearing and the receipt of questions from the floor shall be within the discretion of the hearing officer.

(c) Interested parties may present evidence to the Commissioner that the conditions of non-procurability have changed. Evidence of non-procurability should demonstrate that there exists no reasonable or adequate market among authorized insurers.

(d) A transcript of the hearing shall be made and a copy thereof shall be made available to any interested person upon request and payment of an appropriate fee.

### 11:1-34.4 Exportable list hearing record

(a) The record of the hearing shall include the following:

1. Timely-received written public comments;
2. The transcript of the hearing; and
3. Any other information which the hearing officer may deem relevant.

### 11:1-34.5 Promulgation and modification of exportable list

(a) Upon review of the exportable list hearing record, the Commissioner shall, by rule, declare eligible for export generally, and notwithstanding the provisions of N.J.S.A. 17:22-6.43(a), (b) and (c), any class or classes of insurance coverage or risk for which he or she finds there exists no reasonable or adequate market among authorized insurers; provided, however, that if adequate documentary evidence has been presented which satisfies the Commissioner that a reasonable or adequate market does exist among authorized insurers, he or she may, by rule, strike any class or classes of insurance coverage or risks from the exportable list.

(b) The Commissioner may, by rule amending this subchapter, specifically declare ineligible for export any class or classes of insurance coverage or risk which he or she determines to be generally procurable through diligent effort among authorized insurers pursuant to N.J.S.A. 17:22-6.43(a).

(c) When, during the term of a duly promulgated exportable list, the Commissioner determines that changed conditions require a modification of the exportable list, he or she may, after a hearing, by rule, amend the list.

1. Notice of the Commissioner's action shall be provided to all surplus lines agents, eligible surplus lines insurers, authorized insurers and others who have previously requested receipt of such information.

### 11:1-34.6 Exportable list

(a) The exportable list is as follows:

1. Amusement Devices, Parks and Carnivals;