

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 Subchapter 3 was repealed by R.1990 d.11, effective January 2, 1990.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 Subchapter 6, New Jersey Property—Liability Insurance Guaranty Association, was repealed and a new Subchapter 6, New Jersey Property—Liability Insurance Guaranty Association Assessment Premium Surcharge was adopted as new rules by R.1991 d.461,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 and Special Purpose Apportionment, 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). Originally entitled Fees, the heading for subchapter 32 was amended to read as it now appears by R.1996 d.484, effective October 7, 1996. See: 28 N.J.R. 3223(a), 28 N.J.R. 4482.

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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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).

APPENDIX A

APPENDIX B

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).

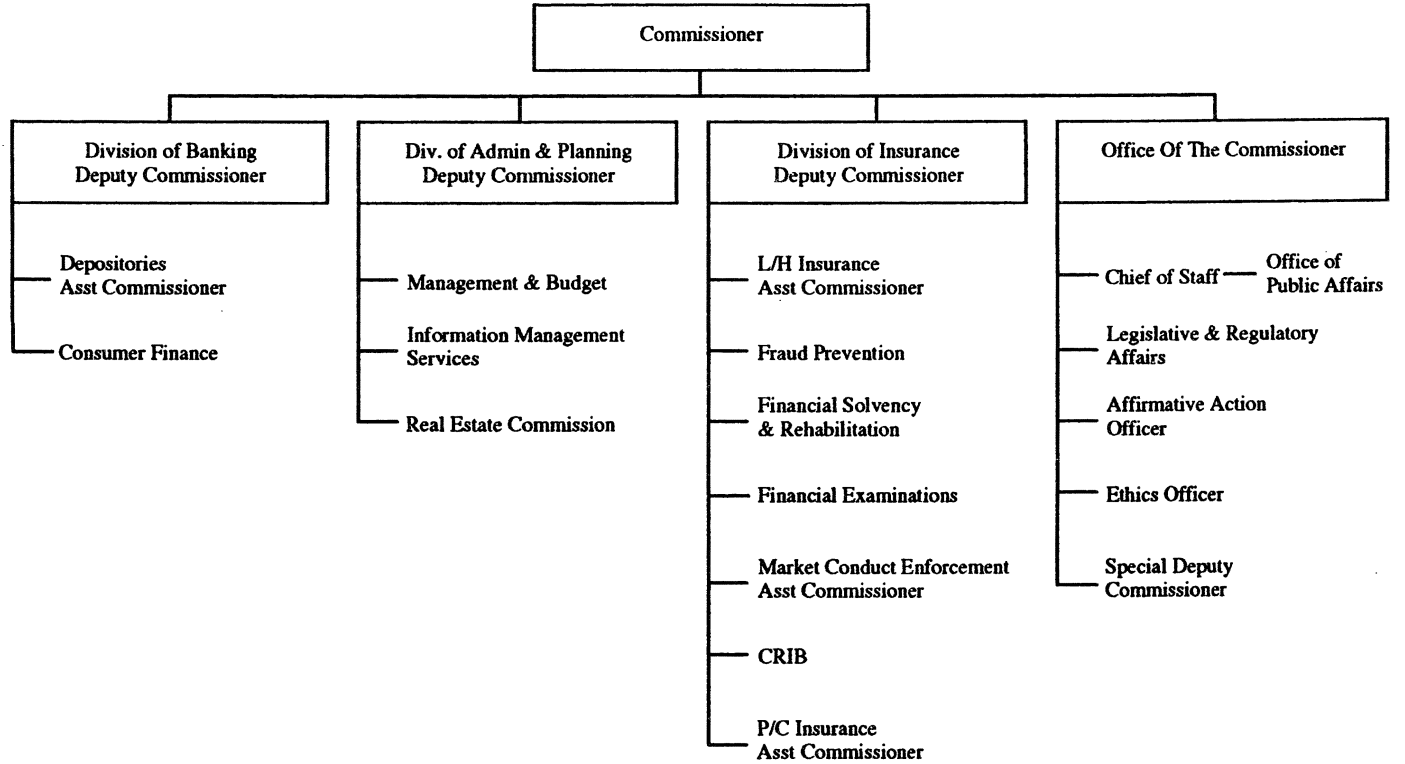
SUBCHAPTER 1. ORGANIZATION

11:1-1.1 Organization of the Department

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

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).

DEPARTMENT OF BANKING & INSURANCE



11:1-38.6 Penalties

Failure to comply with this subchapter may result in the imposition of penalties as authorized or required by law, including, but not limited to, withholding of monies otherwise distributable from the State Association or any local relief association pursuant to N.J.S.A. 54:17-5.

SUBCHAPTER 39. DISCLOSURE OF MATERIAL TRANSACTIONS
11:1-39.1 Purpose and scope

(a) This subchapter requires that information be filed with the Commissioner by domestic insurers, fraternal benefit societies, dental plan organizations, hospital service corporations, medical service corporations, dental service corporations, and health service corporations regarding certain acquisitions and dispositions of assets, and nonrenewals, cancellations or revisions of ceded reinsurance agreements, and sets forth the specific information to be filed.

(b) This subchapter shall apply to all of the entities set forth in (a) above domiciled in this State.

11:1-39.2 Definitions

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

“Commissioner” means the Commissioner of the New Jersey Department of Insurance.

“Department” means the New Jersey Department of Insurance.

“Insurer” means: any corporation, association, partnership, reciprocal exchange, interinsurer, Lloyd’s insurer, fraternal benefit society, or other person engaged in the business of insurance pursuant to subtitle 3 of Title 17 of the Revised Statutes or subtitle 3 of Title 17B of the Revised Statutes; any hospital service corporation operating pursuant to N.J.S.A. 17:48-1 et seq.; any medical service corporation operating pursuant to N.J.S.A. 17:48A-1 et seq.; any dental service corporation operating pursuant to N.J.S.A. 17:48C-1 et seq.; any dental plan organization operating pursuant to N.J.S.A. 17:48D-1 et seq.; and any health service corporation operating pursuant to N.J.S.A. 17:48E-1 et seq.

“NAIC” means the National Association of Insurance Commissioners.

11:1-39.3 Disclosure of transactions

(a) Every insurer domiciled in this State shall file a report with the Commissioner disclosing material acquisitions and

dispositions of assets, or material nonrenewals, cancellations or revisions of ceded reinsurance agreements, unless such acquisitions and dispositions of assets or material nonrenewals, cancellations or revisions of ceded reinsurance agreements have been submitted to the Commissioner for review, approval or information purposes pursuant to other provisions of the Title 17 or Title 17B of the Revised Statutes, Title 11 of the New Jersey Administrative Code, or other requirements.

(b) The report required in (a) above shall be filed within 15 days after the end of the calendar month in which any of the transactions set forth in (a) above occur.

(c) One complete copy of the report, including any exhibits or other attachments filed as part thereof, shall be separately filed with the Department and the NAIC.

1. Filings with the Department shall be mailed to the following address:

New Jersey Department of Insurance
Division of Financial Examinations
Attention: Disclosure of Transactions
20 West State Street
CN 325
Trenton, NJ 08625

2. Filings with the NAIC shall be made in the same manner as filings of financial statements with the NAIC.

(d) All reports obtained by or disclosed to the Commissioner pursuant to this subchapter shall be given confidential treatment and shall not be subject to subpoena and shall not be made public by the Commissioner, the NAIC, or any other person, except to insurance departments of other states, without the prior written consent of the insurer to which it pertains unless the Commissioner, after giving the insurer who would be affected thereby, notice and an opportunity to be heard, determines that the interest of policyholders, shareholders or the public will be served by the publication thereof, in which event the Commissioner may publish all or any part thereof in such manner as he or she may deem appropriate.

(e) This subchapter shall not be construed as limiting the Commissioner’s authority to require any insurer to file any specific information or documents pursuant to law, including, but not limited to, copies of any reinsurance agreements.

11:1-39.4 Acquisitions and dispositions of assets; reporting requirements

(a) Acquisitions or dispositions of assets are not required to be reported, as otherwise required pursuant to N.J.A.C. 11:1-39.3, if the acquisitions or dispositions are not material.

1. For purposes of this subchapter, a material acquisition (or the aggregate of any series of related acquisitions during any 30 day period) or disposition (or the aggregate of any series of related dispositions during any 30 day period) is one that is non-recurring and not in the ordinary course of business and involves more than five percent of the reporting insurer's total admitted assets as reported in its most recent statutory annual statement filed with the Department.

(b) Asset acquisitions subject to this subchapter include every purchase, lease, exchange, merger, consolidation, succession, or other acquisition other than the construction or development of real property by or for the reporting insurer or the acquisition of materials for such purpose.

(c) Asset dispositions subject to this subchapter include every sale, lease, exchange, merger, consolidation, mortgage, hypothecation, assignment (whether for the benefit of creditors or otherwise), abandonment, destruction, or other disposition.

(d) The following shall be disclosed and provided in any report of a material acquisition or disposition of assets required to be filed pursuant to this subchapter:

1. The date of transaction;
2. The manner of acquisition or disposition;
3. A description of the assets involved;
4. The nature and amount of the consideration given or received;

5. The purpose of, or reason for, the transaction;
6. The manner by which the amount of consideration was determined;
7. The gain or loss recognized or realized as a result of the transaction;
8. The name(s) of the person(s) from whom the assets were acquired or to whom they were disposed; and
9. A copy of all documents related to the acquisition or disposition (for example, purchase agreement, lease agreement, etc.).

(e) Insurers shall report material acquisitions and dispositions on a non-consolidated basis unless the insurer is part of a consolidated group of insurers which utilizes a pooling arrangement or 100 percent reinsurance agreement that affects the solvency and integrity of the insurer's reserves and such insurer ceded substantially all of its direct and assumed business to the pool. An insurer is deemed to have ceded substantially all of its direct and assumed business to a pool if the insurer has less than \$1,000,000 total direct plus assumed written premiums during a calendar year that are not subject to a pooling arrangement and the net income of the business not subject to the pooling arrangement represents less than five percent of the insurer's capital and surplus.

11:1-39.5 Nonrenewals, cancellations or revisions of ceded reinsurance agreements; reporting requirements

(a) Nonrenewals, cancellations or revisions of ceded reinsurance agreements are not required to be reported, as otherwise required pursuant to N.J.A.C. 11:1-39.3, if the nonrenewals, cancellations or revisions are not material.

1. For purposes of this subchapter, a material nonrenewal, cancellation or revision is one that affects:
 - i. As respects property and casualty business, including accident and health business written by a property and casualty insurer:
 - (1) More than 50 percent of the insurer's total ceded written premiums; or
 - (2) More than 50 percent of the insurer's total ceded indemnity and loss adjustment reserves;
 - ii. As respects life, annuity and accident and health business, more than 50 percent of the total reserve credit taken for business ceded, on an annualized basis, as indicated in the insurer's most recent annual statement; and
 - iii. As respects both property and casualty, and life, annuity, and accident and health business, either of the following events:

(1) An authorized reinsurer representing more than 10 percent of a total cession is replaced by one or more unauthorized reinsurers; or

(2) Previously established collateral requirements have been reduced or waived as respects one or more unauthorized reinsurers representing collectively more than 10 percent of a total cession.

(b) No filing pursuant to (a) above shall be required if:

1. As respects property and casualty business, including accident and health business written by a property and casualty insurer, the insurer's total ceded written premium represents, on an annualized basis, less than 10 percent of its total written premium for direct and assumed business; or

2. As respects life, annuity, and accident and health business, the total reserve credit taken for business ceded represents, on an annualized basis, less than 10 percent of the statutory reserve requirement prior to any cession.

(c) The following shall be disclosed and provided in any report of a material nonrenewal, cancellation or revision of ceded reinsurance agreements required to be filed pursuant to this subchapter:

1. The effective date of the nonrenewal, cancellation or revision;
2. A description of the transaction with an identification of the initiator thereof;
3. The purpose of, or reason for, the transactions;
4. If applicable, the identity of the replacement reinsurers; and
5. A copy of the revised provisions of the reinsurance agreement.

(d) Insurers shall report all material nonrenewals, cancellations or revisions of ceded reinsurance agreements on a non-consolidated basis unless the insurer is part of a consolidated group of insurers which utilizes a pooling arrangement or 100 percent reinsurance agreement that affects the solvency and integrity of the insurer's reserves and the insurer ceded substantially all of its direct and assumed business to the pool. An insurer is deemed to have ceded substantially all of its direct and assumed business to a pool if the insurer has less than \$1,000,000 total direct plus assumed written premiums during a calendar year that are not subject to a pooling arrangement and the net income of the business not subject to the pooling arrangement represents less than five percent of the insurer's capital and surplus.

11:1-39.6 Penalties

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

SUBCHAPTER 40. (RESERVED)

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

Authority

N.J.S.A. 17:1-8.1, 17:1-15e, and P.L. 1995, c.384.

Source and Effective Date

R.1996 d.496, effective October 21, 1996.
See: 28 N.J.R. 3505(a), 28 N.J.R. 4582(a).

11:1-41.1 Purpose and scope

(a) This subchapter implements the Commissioner's responsibilities pursuant to P.L. 1995, c.384, which statute provides standards for acceptable sureties providing payment and performance bonds for contractors on public works projects. This subchapter sets forth the rating companies that may be considered by contracting officers for purposes of determining whether a surety company may be utilized to provide payment and performance bonds for a public works project pursuant to P.L. 1995, c.384. This subchapter also sets forth the standards for a surety company which does not hold a certificate of authority issued by the United States Secretary of the Treasury to be deemed acceptable by contracting officers to provide payment and performance bonds for a public works project pursuant to P.L. 1995, c.384.

(b) This subchapter shall apply to all surety companies seeking to provide payment and performance bond coverage on a public works project at the expense of the State, contracting unit (as defined in N.J.S.A. 40A:11-2), school district, State college or county college, subject to P.L. 1995, c.384.

11:1-41.2 Definitions

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

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

"Department" means the New Jersey Department of Insurance.

"NAIC" means the National Association of Insurance Commissioners.

"Treasury listed" means a surety that holds a current certificate of authority issued by the United States Secretary of the Treasury pursuant to 31 U.S.C. § 9305, that is valid in New Jersey as listed annually in the United States Treasury Circular 570.

"Surety" means an insurer authorized or admitted to transact fidelity and surety business in this State pursuant to N.J.S.A. 17:17-10 or 17:32-1 et seq., as applicable.

11:1-41.3 Rating company

(a) The following rating companies are nationally recognized as providing ratings regarding the claims paying ability of insurers and may be used to determine whether a surety company is acceptable to provide payment and performance bonds pursuant to P.L. 1995, c.384:

1. A.M. Best Company;
2. Standard and Poor's Insurance Rating Services;
3. Moody's Investors Service, Inc.;
4. Duff and Phelps Credit Rating Company;
5. Weiss Ratings, Inc.; and
6. Fitch Investors Service, L.P.

(b) The three highest rating categories for each of the rating companies in (a) above are set forth in Appendix A to this subchapter incorporated herein by reference.

11:1-41.4 Treasury listed surety companies and alternative requirements to Treasury listing

(a) A surety company which is Treasury listed seeking to provide payment or performance bonds as required by P.L. 1995, c.384 may request to be listed by the Department as an acceptable surety for provision of bonds on public works contracts by filing a certification to that effect in the format of Appendix B to this subchapter incorporated herein by reference.

(b) A surety company that is not Treasury listed seeking to provide payment or performance bonds as required pursuant to P.L. 1995, c.384 may request to be listed by the Department as an acceptable surety for provision of bonds on public works contracts by filing a certification in the format of Appendix B to this subchapter incorporated herein by reference, that the surety satisfies the following requirements:

1. The surety shall be authorized or admitted to transact fidelity and surety in this State pursuant to N.J.S.A. 17:17-10 or 17:32-1 et seq., as applicable;

2. The surety shall not have been found to be in a hazardous financial condition by the Commissioner, its domiciliary jurisdiction, and all jurisdictions in which it is licensed, as determined pursuant to N.J.A.C. 11:2-27 or such equivalent requirements in other jurisdictions in which the surety is domicile and admitted;

3. The surety's net premium written to surplus as to policyholders shall not exceed a 3:1 premium to surplus ratio, and loss and loss adjustment expense reserve liability to surplus shall not exceed a 4:1 ratio as of the date of its most recently filed annual statement;

4. The surety shall satisfy, at a minimum, the statutorily prescribed minimum capital and surplus or net cash asset requirements for all lines of insurance that it is authorized to write pursuant to the certificate of authority issued by its domiciliary jurisdiction and all states in which it is licensed to transact business;

5. The surety shall not have received from the NAIC a "first priority" designation for the calendar year ending December 31 immediately preceding its application date;

6. If the surety is a member of an insurance holding company system, its parent or subsidiary shall not have received from the NAIC a "first priority" designation; and

7. The surety shall not have been identified as "second or third priority" and/or failed four or more Insurance Regulatory Information System (IRIS) tests, unless the applicant demonstrates to the Commissioner and its domiciliary jurisdiction that these IRIS test results and/or "priority" identification are not indicative of the applicant being in a hazardous financial condition.

(c) The Department shall publish in the New Jersey Register a list of surety companies that satisfy the requirements set forth in (a) and (b) above in or about September of each year.

(d) A surety seeking to continue to be listed by the Department as having satisfied the requirements set forth in (b) above shall file with the Department a certification in the format of Appendix B to this subchapter no later than August 1 of each year.

(e) Applications and renewal applications to be listed by the Department shall be sent to:

New Jersey Department of Insurance
 Attention: Surety Company List
 20 West State Street
 CN 325
 Trenton, NJ 08625-0325

11:1-41.5 Penalties

Failure to comply with the provisions of the subchapter shall result in the imposition of penalties as provided by law.

APPENDIX A

<u>Rating Company</u>	<u>Three Highest Rating Categories</u>	<u>Ratings Within Three Highest Categories</u>
A.M. Best Company	Best's Ratings: 1. Superior 2. Excellent 3. Very Good ----OR----	A + + , A + A , A - B + + , B +
	Financial Performance Rating: 1. Strong 2. Above average 3. Average	9 , 8 7 , 6 5
Standard & Poor's	1. Superior 2. Excellent Financial Security 3. Good Financial Security	AAA AA + , AA , AA - A + , A , A -
Moody's	1. Exceptional 2. Excellent 3. Good	Aaa Aa1 , Aa2 , Aa3 A1 , A2 , A3
Duff and Phelps Credit Rating Company	1. Highest claims paying ability 2. Very high claims paying ability 3. High claims paying ability	AAA AA + , AA , AA - A + , A , A -
Weiss	1. Excellent 2. Good 3. Fair	A + , A , A - B + , B , B - C + , C , C - (also includes the above ratings with "s" prefix)
Fitch	1. Extremely strong 2. Very strong 3. Strong	AAA AA A

APPENDIX B

REQUEST FOR LISTING BY NEW JERSEY DEPARTMENT OF INSURANCE AS ACCEPTABLE SURETY FOR PROVISION OF BONDS ON PUBLIC CONTRACTS PURSUANT TO P.L. 1995, C.384

COMPANY NAME _____
 ADDRESS _____
 TELEPHONE NO. _____
 COMPANY NAIC NUMBER _____
 GROUP NAME _____
 GROUP NAIC NUMBER _____

I, _____, hereby file this certification on
 (Name and Title)

behalf of _____ in connection with this
(Name of Surety)
company's application to be listed by New Jersey Department of Insurance for purposes of providing payment and performance bonds pursuant to P.L. 1995, c.384. I further certify that I am authorized to execute this certified statement on behalf of _____
(Name of Surety)

PART I

1. The above-referenced surety is listed in the most recent United States Treasury Circular 570 issued July 1 of each year. Yes ___ No ___

If yes, go to Part III; if no, complete Part II.

PART II

1. The above-referenced surety is currently licensed to transact business in the following jurisdictions for the following lines:

<u>Jurisdiction</u>	<u>Line</u>
_____	_____
_____	_____

(Attach additional sheets if necessary)

2. The above-referenced surety's capital and surplus or net cash assets, as of December 31 immediately preceding is \$_____, as reported in the statutory annual statement for that year. This amount satisfies the statutorily prescribed minimum capital and surplus or net cash asset requirements for all lines of insurance that the surety is authorized to write pursuant to the certificate of authority issued by its domiciliary jurisdiction and all states in which it is licensed to transact business. Yes ___ No ___

3. The above-referenced surety been found to be in a hazardous financial condition by the Commissioner, its domiciliary jurisdiction, or any jurisdiction in which it is licensed, as determined pursuant to N.J.A.C. 11:2-27 or such other equivalent requirements in other jurisdictions in which the surety is licensed. Yes ___ No ___

If yes, indicate jurisdiction(s) and details regarding such finding below.

4. The above-referenced surety's premium to surplus ratio as of December 31 immediately preceding is _____ and loss and loss adjustment expense reserve liability to surplus ratio for that period is _____, as reported in the statutory annual statement for that period.

5. The above-referenced surety received from the NAIC a "first priority" designation for the calendar year ending December 31 immediately preceding its application date. Yes ___ No ___

6. If the above-referenced surety is a member of an insurance holding company system, its parent or subsidiary has received from the NAIC a "first priority" designation. Yes ___ No ___

7. The above-referenced surety has been identified as "second or third priority" and/or has failed four or more IRIS tests. Yes ___ No ___

If yes, provide an explanation that demonstrates that such results are not indicative that the surety is in a hazardous financial condition.

PART III

Dated and signed this ___ day of _____. I hereby certify that the foregoing statements are true and correct to the best of my knowledge and belief. I further certify that I am aware that the New Jersey Department of Insurance will rely on this certification in connection with its determination whether the surety satisfies the requirements set forth in N.J.A.C. 11:1-41 for purposes of providing payment and performance bonds pursuant to P.L. 1995, c.384.

I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

(Signature of Affiant)

Administrative correction.
See: 29 N.J.R. 425(b).