

ADMINISTRATION

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

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

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Amended by R.2006 d.146, effective April 17, 2006.
See: 38 N.J.R. 101(a), 38 N.J.R. 1737(a).

SUBCHAPTER 22. PROHIBITION OF CERTAIN CANCELLATION AND NONRENEWAL ACTIVITY

11:1-22.1 Scope; definitions

(a) This subchapter shall apply to all commercial insurance policies which are in force, issued or renewed on or after the effective date of this subchapter by companies licensed to do business in this State except workers' compensation insurance and forgery bonds, ocean marine and aviation insurance and accident and health insurance and any policy written by a surplus lines insurer. This subchapter shall not be applicable to multi-state location risks.

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

(c) These rules are not exclusive, and the Commissioner may also consider other provisions of statutes and regulations to be applicable to the circumstances or situations addressed herein.

(d) For the purposes of this subchapter, the terms "block" and "class" shall mean any group of insureds, however defined or designated, to which a common plan or program of cancellation or nonrenewal applies. A class may include one or more blocks.

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

11:1-22.2 Prohibitions

(a) The following acts or practices are specifically prohibited with respect to those policies subject to the provisions of this subchapter:

1. Effecting or attempting to effect a mid-term premium increase and/or a reduction in the amount or type of coverage provided under the policy unless prior written approval therefor has been obtained from the Commissioner.

2. Block nonrenewing entire lines or classes of insurance, except pursuant to a plan submitted to the Commissioner at least 60 days in advance of its implementation date which is not disapproved within 30 days after its filing with the Commissioner. For the purpose of this paragraph, the termination or attempted termination of an appointed agent solely to achieve the block nonrenewal of entire lines

or entire classes of insurance shall be deemed a nonrenewal subject to this paragraph.

3. Block cancelling entire lines of insurance or classes of business except pursuant to a plan approved by the Commissioner. For the purposes of this paragraph, the termination or attempted termination of an appointed agent solely to achieve the block cancellation of entire lines of insurance or entire classes of business shall be deemed a cancellation subject to this paragraph.

(b) Notwithstanding (a)2 and (a)3 above, an insurer may cancel or nonrenew a line or class of business where such cancellation or nonrenewal is necessary because of loss or substantial changes in applicable reinsurance by filing a plan with the Commissioner pursuant to the requirements of this subsection. The insurer's plan must be filed with the Commissioner at least 10 days prior to the issuance of any notice of cancellation or nonrenewal.

1. Any such plan shall contain a certification by an elected officer of the company:

- i. That the loss or substantial change in applicable reinsurance or the financial condition of the reinsurer necessitates the cancellation or nonrenewal action;

- ii. That the insurer has made a good faith effort to obtain replacement reinsurance but was unable to do so due to either the unavailability or unaffordability of replacement reinsurance;

- iii. Identifying the category of risks, the total number of risks written by the company in that category, and the number of risks intended to be cancelled or nonrenewed;

- iv. Identifying the total amount of the insurer's net retention for the risks intended to be cancelled or nonrenewed;

- v. Identifying the total amount of risk ceded to each reinsurer and the portion of that total that is no longer available;

- vi. Explaining how the loss of or reduction in reinsurance affects the company's risks throughout the entire line or category or insurance proposed for cancellation and/or nonrenewal;

- vii. Explaining why cancellation and/or nonrenewal is necessary to cure the loss of or reduction in available reinsurance; and

- viii. Explaining how the cancellations or nonrenewals, if approved, will be implemented with respect to individual risks and the steps that will be taken to ensure that the cancellation/nonrenewal decisions will not be applied in an arbitrary, capricious or unfairly discriminatory manner.

2. Any plan for cancellation or nonrenewal due to loss of or substantial changes in applicable reinsurance may be submitted to the Department as provided at (b) above only if the guideline meets the standards set forth at N.J.A.C. 11:1-20.4(b)10. A plan for termination based on any other guideline for loss of or substantial changes in available reinsurance must be submitted to the Department for approval as specified at N.J.A.C. 11:1-22.2(a)2 or 3, as applicable.

(c) Notwithstanding (a)2 and (a)3 above, an insurer may cancel or nonrenew a line or class of insurance based upon a material increase in exposure arising out of changes in statutory or case law subsequent to the issuance of the insurance contract or loss of or reduction in available insurance capacity by filing a plan with the Commissioner pursuant to the requirements of this subsection. The insurer's plan must be filed with the Commissioner at least 10 days prior to the issuance of any notice of cancellation or nonrenewal.

1. Any plan for cancellation or nonrenewal due to loss of or reduction in available insurance capacity may be submitted to the Department as provided at (c) above, only if the guideline meets the standards set forth at N.J.A.C. 11:1-20.4(b)8. A plan for termination based on any other guideline for loss of or reduction in available insurance capacity must be submitted to the Department for approval as specified at N.J.A.C. 11:1-22.2(a)2 or 3, as applicable.

(d) Notwithstanding (a)2 and (a)3 above, an insurer may nonrenew a line or class of insurance based upon agency termination by filing a plan with the Commissioner pursuant to the requirements of this subsection. The insurer's plan must be filed with the Commissioner at least 10 days prior to the issuance of any notice of nonrenewal.

1. Any plan for nonrenewal due to agency termination may be submitted to the Department as provided at (d) above only if the guideline meets the standards at N.J.A.C. 11:1-20.4(b)13. A plan for nonrenewal based on any other guideline for agency termination must be submitted to the Department for approval as specified at N.J.A.C. 11:1-22.2(a)2.

Amended by R.1987 d.114, effective February 17, 1987.
See: 18 N.J.R. 2301(b), 19 N.J.R. 359(a).

Case Notes

Rule proposal cited in action contesting validity of rules governing policy cancellation and nonrenewal. In the Matter of N.J.A.C. 11:1-22, 208 N.J.Super. 182, 505 A.2d 177 (App.Div.1986).

11:1-22.3 Penalties

(a) In addition to any other penalty authorized by law, the Commissioner may, after notice and a hearing, impose penalties as prescribed by N.J.S.A. 17:29A-1 et seq., 17:29AA-1 et seq., 17:29B-7 and 11, 17:30C-1 et seq., 17:32-1 et seq. and 17:33-2.

(b) As an alternative or in addition to the penalties set forth in (a) above, the Commissioner, where he deems such action will further the purposes of this subchapter, may require immediate reinstatement without lapse of any policy which has been nonrenewed or cancelled in violation of the provisions of this subchapter.

1. The Commissioner shall not order any reinstatement more than one year after the effective date of the nonrenewal or cancellation, provided, however, that the one year period shall be tolled during the course of any administrative proceedings initiated by the Department and any subsequent judicial review of those proceedings.

2. Nothing herein shall be deemed to create any right or cause of action on behalf of any insured to enforce the penalties set forth in this subsection.

Amended by R.1987 d.113, effective February 17, 1987.
See: 18 N.J.R. 2301(b), 19 N.J.R. 359(a).

11:1-22.4 (Reserved)

SUBCHAPTER 23. (RESERVED)

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

11:1-24.1 Purpose and scope

(a) The purpose of this subchapter is to regulate the use of credit cards, charge cards, debit cards or direct account deduction by insurers, insurance producers and limited insurance representatives and to provide standards concerning the use of such means to pay for insurance premiums when an insurer or insurance producer has entered into a contract with a bank, credit card company, or financial institution to accept credit cards, charge cards, debit cards or direct account deduction to facilitate the payment of insurance premiums. This subchapter implements the provisions of N.J.S.A. 17:29B-1 et seq. and 17B:30-1 et seq. to prevent unfair and deceptive practices in the use of these means to pay insurance premiums.

(b) This subchapter shall apply to any insurer or insurance producer that enters into a contract with a bank, credit card company, or other financial institution to accept credit cards, charge cards, debit cards, or direct account deduction as a method of payment of an insurance premium. This subchapter shall apply to all kinds of insurance.

(c) The provisions of this subchapter are in addition to any other applicable requirements of Federal and State law and apply to the extent that they are not inconsistent therewith.

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

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

In (a) and (b), substituted “or insurance producer” for “, insurance producer or limited insurance representative”.

11:1-24.2 Definitions

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

“Alternative payment method” means the payment of insurance premiums by credit card, charge card, debit card or direct account deduction.

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

“Credit card” or “charge card” means those cards issued by or through banks, other financial entities or nonfinancial entities, that enable holders of the card to purchase goods or services on credit from entities that agree with the issuer to honor that card.

“Credit card company” means such entities that enter into contractual arrangements with vendors, including providers of services, whereby the vendor agrees to accept as a method for payment of goods purchased or services rendered a credit card issued by the entity to the purchaser of such goods or services.

“Debit card” means those cards issued by or through banks, other financial entities, or nonfinancial entities, that enable holders of the card to purchase goods or services by automatic deductions from a holder’s account from entities that agree with the issuer to honor that card.

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

“Direct account deduction” means an arrangement whereby the insurer, insurance producer or limited insurance representative has entered into an agreement for processing services involving a bank or financial institution for the automatic deduction of insurance premiums from an account of the insured designated by the insured for that purpose.

“Insurance producer” is as defined in N.J.S.A. 17:22A-28.

“Insurer” means a corporation, association, partnership, company, fraternal benefit society, eligible surplus lines insurer, reciprocal exchange, interinsurer, Lloyd’s insurer, risk retention group, purchasing group, any corporation or organization authorized pursuant to Part 9 of Subtitle 3 of Title 17 of the New Jersey Statutes, and any other person or legal entity engaged in business pursuant to Title 17 or 17B of the New Jersey Statutes.

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

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

Rewrote definition “Insurance producer”; and deleted definition “Limited insurance representative”.

11:1-24.3 Use of credit cards, charge cards, debit cards, and direct account deduction (alternative payment method) for payment of premiums

(a) The use of an alternative payment method by an insurer or insurance producer shall be optional and shall be permitted as long as the insurance laws of this State and other applicable provisions of law are not violated.

(b) Any insurer or insurance producer that agrees to allow the use of any one alternative payment method, or a combination of them, in the payment of insurance premiums for a particular product or products of insurance shall make that service available to all existing and prospective insureds who are invited to purchase the product being offered, and shall not limit the use of such payment option only to certain entities or persons among those being offered the same product.

(c) Insurers or insurance producers that offer the use of an alternative payment method as an option for payment of premium for a product or products shall make this option available for the payment of all subsequent installments of the premium; provided, however, that an insurer or insurance producer may discontinue the use of payment by that alternative method generally as a means of the payment of premiums, or for a particular credit card, charge card or debit card, if the insurer or insurance producer notifies the insured of the discontinuation at least 60 days prior thereto, or in individual cases in accordance with the insurer’s rating system established pursuant to applicable law.

(d) An insurer or insurance producer shall not be permitted to require payment of insurance premiums by an alternative payment method only, except where such payment is part of the insurance marketing plan for that line or program (for example, offering life or health insurance to cardholders of a particular credit card or charge card with payments charged to that card).

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

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

Substituted “or insurance producer” for “, insurance producer or limited insurance representative” throughout; and in (c), substituted “or insurance producers” for “, insurance producers and limited insurance representatives”.

11:1-24.4 Ratemaking

No premium shall differentiate in rates on the basis of payment by one of the alternative methods set forth in this subchapter or payment by means other than one of these methods, except in accordance with the insurer’s rating system, or as otherwise authorized pursuant to N.J.S.A. 17B:30-14d and e.