

CHAPTER 2

INSURANCE GROUP

Authority

N.J.S.A. 17:1-8.1, 17:1-15e, 17:17-1 et seq., 17B:17-1 et seq.,
34:15-77, and 54:18A-1 et seq.

Source and Effective Date

R.2005 d.350, effective September 21, 2005.
See: 37 N.J.R. 2285(a), 37 N.J.R. 4026(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 2, Insurance Group, expires on March 20, 2011. See: 42 N.J.R. 2199(a).

Chapter Historical Note

Chapter 2, Insurance Group, was adopted and became effective prior to September 1, 1969.

Subchapter 10, Casualty Insurers, Personal Lines Insurance, was adopted as new rules by R.1970 d.71, effective June 26, 1970.

Subchapter 11, Rules Governing Advertisement of Health Insurance, was adopted as new rules by R.1972 d.95, effective May 16, 1972. See: 4 N.J.R. 69(b), 4 N.J.R. 128(d).

Subchapter 12, Mass Marketing of Property and Liability Insurance, was adopted as new rules by R.1974 d.271, effective September 25, 1974. See: 6 N.J.R. 313(d), 6 N.J.R. 408(a).

Subchapter 13, Group Coverage Discontinuance and Replacement, was adopted as new rules by R.1974 d.272, effective February 1, 1975. See: 5 N.J.R. 342(c), 6 N.J.R. 409(a).

Subchapter 17, Unfair Claims Settlement Practices, was adopted as new rules by R.1981 d.407, effective November 2, 1981, operative January 15, 1982. See: 12 N.J.R. 600(f), 13 N.J.R. 774(c), 13 N.J.R. 894(a).

Subchapter 18, Readable Policies, was adopted as new rules by R.1982 d.410, effective November 15, 1982. See: 14 N.J.R. 967(a), 14 N.J.R. 1307(c).

Subchapter 10, Casualty Insurers, Personal Lines Insurance, was repealed by R.1985 d.71, effective February 19, 1985. See: 16 N.J.R. 2920(a), 17 N.J.R. 458(b).

Subchapter 23, Advertisement of Life Insurance and Annuities, was adopted as new rules by R.1985 d.600, effective November 18, 1985. See: 16 N.J.R. 2626(a), 17 N.J.R. 2776(a).

Subchapter 19, Approval of Insurance Schools and Company Training Programs, was adopted as new rules by R.1985 d.608, effective December 2, 1985. See: 16 N.J.R. 2920(b), 17 N.J.R. 2901(b).

Subchapter 1, Educational Requirements for Licensing, was repealed, and Subchapter 19, Approval of Insurance Schools and Company Training Programs, was repealed by R.1989 d.192, effective April 3, 1989. See: 20 N.J.R. 1152(a), 21 N.J.R. 899(b).

Subchapter 26, Annual Audited Financial Reports, was adopted as new rules by R.1989 d.612, effective December 18, 1989. See: 21 N.J.R. 3054(a), 21 N.J.R. 3919(b).

Pursuant to Executive Order No. 66(1978), Chapter 2, Insurance Group, was readopted as R.1991 d.4, effective November 30, 1990, and Subchapter 8, Mid-Term Substitution by Mortgagor of Insurance Policies, was repealed, effective January 7, 1991, by R.1991 d.4. See: 22 N.J.R. 1673(a), 23 N.J.R. 103(a).

Subchapter 32, Custodial Deposits, was adopted as new rules by R.1991 d.14, effective January 7, 1991. See: 22 N.J.R. 2640(a), 23 N.J.R. 105(a).

Subchapter 31, Manner of Determining Premium for Perpetual Homeowners Insurance, was adopted as new rules by R.1991 d.139, effective March 18, 1991. See: 22 N.J.R. 601(a), 23 N.J.R. 860(b).

Subchapter 29, Orderly Withdrawal of Insurance Business, was adopted as new rules by R.1991 d.262, effective May 20, 1991. See: 23 N.J.R. 15(b), 23 N.J.R. 1673(a).

Subchapter 35, Relief from Insurer Obligations Under the Fair Automobile Insurance Reform Act of 1990, was adopted as new rules by R.1991 d.519, effective October 21, 1991. See: 23 N.J.R. 660(a), 23 N.J.R. 3166(a).

Subchapter 27, Determination of Insurers in a Hazardous Financial Condition, was adopted as new rules by R.1992 d.292, effective July 6, 1992. See: 23 N.J.R. 3197(a), 24 N.J.R. 2456(a).

Subchapter 33, Workers' Compensation Self-Insurance, was adopted as new rules 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).

Subchapter 28, Credit for Reinsurance, was adopted as emergency new rules by R.1993 d.448, effective August 16, 1993, expires October 15, 1993. See: 25 N.J.R. 4289(a). The provisions of R.1993 d.448 were readopted as R.1993 d.557, effective October 15, 1993. See: 25 N.J.R. 4289(a), 25 N.J.R. 5184(a).

Subchapter 36, Risk Retention Groups and Purchasing Groups, was adopted as emergency new rules by R.1993 d.449, effective August 16, 1993, expires October 15, 1993. See: 25 N.J.R. 4298(a). The provisions of R.1993 d.449 were readopted as R.1993 d.558, effective October 15, 1993. See: 25 N.J.R. 4298(a), 25 N.J.R. 5197(a).

Subchapter 37, Producer-Controlled Insurers, was adopted as emergency new rules by R.1993 d.450, effective August 16, 1993, expires October 15, 1993. See: 25 N.J.R. 4304(a). The provisions of R.1993 d.450 were readopted as R.1993 d.559, effective October 15, 1993. See: 25 N.J.R. 4304(a), 25 N.J.R. 5202(a).

Subchapter 38, Increase in Property and Casualty Capital and Surplus Requirements, was adopted as emergency new rules by R.1993 d.451, effective August 16, 1993, expires October 15, 1993. See: 25 N.J.R. 4306(a). The provisions of R.1993 d.451 were readopted as R.1993 d.560, effective October 15, 1993. See: 25 N.J.R. 4306(a), 25 N.J.R. 5204(a).

Subchapter 39, Increase in Capital and Surplus Requirements for Life and Health Insurers, was adopted as emergency new rules by R.1993 d.452, effective August 16, 1993, expires October 15, 1993. See: 25 N.J.R. 4309(a). The provisions of R.1993 d.452 were readopted as R.1993 d.561, effective October 15, 1993. See: 25 N.J.R. 4309(a), 25 N.J.R. 5208(a).

Subchapter 40, Life, Health and Annuity Reinsurance Agreements, was adopted as emergency new rules by R.1993 d.453, effective August 16, 1993, expires October 15, 1993. See: 25 N.J.R. 4314(a). The provisions of R.1993 d.453 were readopted as R.1993 d.562, effective October 15, 1993. See: 25 N.J.R. 4314(a), 25 N.J.R. 5212(a).

Subchapter 34, Surplus Lines Insurance: Allocation of Premium Tax and Surcharge, was adopted as new rules by R.1993 d.582, effective November 15, 1993. See: 25 N.J.R. 1826(a), 25 N.J.R. 5194(a).

Petition for Rulemaking. See: 26 N.J.R. 2487(b).

Subchapter 41, Windstorm Market Assistance Program, was adopted as new rules by R.1995 d.53, effective January 17, 1995. See: 26 N.J.R. 4304(a), 27 N.J.R. 364(a).

Subchapter 1, Admission Requirements for Foreign and Alien Life and Health Insurers, was adopted as new rules by R.1995 d.80, effective February 6, 1995. See: 26 N.J.R. 4586(a), 27 N.J.R. 559(a).

Pursuant to Executive Order No. 66(1978), Chapter 2, Insurance Group, was readopted as R.1996 d.3, effective November 30, 1995, with amendments effective January 2, 1996. See: 27 N.J.R. 3278(b), 28 N.J.R. 152(b).

Subchapter 39, Increase in Capital and Surplus Requirements For Life and Health Insurers, was renamed Increase in Capital and Surplus Requirements for Insurers by R.1997 d.186, effective May 5, 1997. See: 29 N.J.R. 404(a), 29 N.J.R. 2175(b).

Pursuant to Executive Order No. 66(1978), Chapter 2, Insurance Group, was readopted as R.2001 d.6, effective November 30, 2000. See: 32 N.J.R. 3530(a), 33 N.J.R. 85(a).

Subchapter 14, Procedures for the Conduct of Voting on a Plan of Reorganization of a Domestic Mutual Life Insurer, was adopted as new rules by R.2001 d.84, effective March 5, 2001. See 32 N.J.R. 4330(a), 33 N.J.R. 802(a).

Subchapter 19, Designation of Third Party for Certain Notifications by Senior Citizen Insureds, was adopted as new rules by R.2002 d.210, effective July 1, 2002. See: 34 N.J.R. 366(a), 34 N.J.R. 2315(a).

Subchapter 42, Homeowners' Insurance: Standard Hurricane Deductibles And Expedited Process for Homeowners' Insurance Changes, was adopted as new rules by R.2003 d.450, effective November 17, 2003. See: 35 N.J.R. 1189(a), 35 N.J.R. 5280(b).

Subchapter 43, Treatment of Allocated Deposit-Type Deferred Contract Funds for Purposes of Calculating the Special Purpose Apportionment and the Fraud Assessment, was adopted as new rules by R. 2004, d.407, effective November 1, 2004. See: 36 N.J.R. 2976(a), 36 N.J.R. 4929(a).

Chapter 2, Insurance Group, was readopted by R.2005 d.350, effective September 21, 2005. As part of R.2005 d.350, Subchapter 38, Temporary Waiver from Increase in Property and Casualty Capital and Surplus Requirements, was repealed, effective October 17, 2005. See: Source and Effective Date. See, also, section annotations.

Subchapter 39, Increase in Capital and Surplus Requirements for Insurers, was renamed Increase in Capital and Surplus Requirements for Insurers and Health Maintenance Organizations by R.2005 d.421, effective December 5, 2005. See: 37 N.J.R. 2992(a), 37 N.J.R. 4556(b).

Subchapter 23A, Military Sales Practices, was adopted as new rules by R.2008 d.67, effective March 17, 2008. See: 39 N.J.R. 4053(a), 40 N.J.R. 1663(b).

Subchapter 26, Annual Audited Financial Reports, was renamed Annual Financial Reporting by R.2010 d.026, effective January 19, 2010. See: 41 N.J.R. 3364(a), 42 N.J.R. 486(b).

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**SUBCHAPTER 1. ADMISSION REQUIREMENTS FOR
FOREIGN AND ALIEN LIFE AND HEALTH
INSURERS**

11:2-1.1 Purpose

This subchapter establishes the procedures, requirements and standards which govern the application of foreign and alien insurers engaged in the business of life and health insurance for a certificate of authority to transact the business of insurance in this State.

11:2-1.2 Scope

This subchapter applies to all foreign and alien insurers that apply for a certificate of authority to transact the business of life and health insurance in this State. The filing requirements contained in this subchapter shall not apply to the continuation, renewal or timely reinstatement of existing certificates of authority except where the Commissioner, pursuant to law, shall otherwise require.

11:2-1.3 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 Department of Banking and Insurance of this State.

“Committee on Admissions” means the advisory committee within the Department appointed by the Commissioner to aid in the review of applications for admission to transact the business of insurance in this State and to render to the Commissioner recommendations as to the disposition of such applications.

“Department” means the Department of Banking and Insurance of this State.

“IRIS” means the NAIC Insurance Regulatory Information System.

“NAIC” means National Association of Insurance Commissioners.

Amended by R.2001 d.6, effective January 2, 2001.

See: 32 N.J.R. 3530(a), 33 N.J.R. 85(a).

Amended “Commissioner” and “Department”.

11:2-1.4 General eligibility requirements

(a) In order for a foreign or alien insurer to be admitted as a life and health insurer in this State, the requirements in this section shall be satisfied in addition to any other requirements in this subchapter or any other provision of law.

1. The applicant shall satisfy the Commissioner that its condition or methods of operation are not such as would render its operation hazardous to the public or its policyholders in this State. In determining whether a hazardous financial condition exists, the factors identified in N.J.A.C.

11:2-27.3 shall be considered. A hazardous financial condition shall exist when those factors indicate, either singly or in combination of two or more, that the financial condition of any applicant which has applied to transact, or is already transacting the business of insurance in any jurisdiction, is considered by the Commissioner to be hazardous to the policyholders, stockholders, claimants, creditors, or the general public. The Commissioner shall further consider any other fact or circumstance that indicates that an insurer’s operations may be hazardous.

2. The applicant shall satisfy at least the minimum capital and surplus requirements of a similar domestic insurer of this State for all lines of insurance that it is authorized to write pursuant to the certificate of authority issued by its place of domicile, whether or not the applicant desires to transact any of those lines of insurance in this State, subject to the following:

i. In determining whether an applicant meets the minimum capital and surplus requirements, the following shall be deducted from unassigned funds:

(1) The statement value of any and all special deposits not held for the protection of all policyholders;

(2) Reserves and losses reinsured with companies not authorized in New Jersey, accredited as reinsurers in New Jersey, or otherwise in compliance with N.J.S.A. 17:51B-1 et seq., net of any offsets;

(3) The statement value for the portion of assets held in excess of investment limitations for life and health insurers pursuant to N.J.S.A. 17B:20-1 et seq.;

(4) Reserve shortfalls caused by the company holding reserves weaker than those mandated by N.J.S.A. 17B:19, or such other standards provided by administrative rule, actuarial guidelines, or determined necessary by actuarial analysis;

(5) The excess of the statement value over the market value of bonds held by the applicant; and

(6) Off balance sheet guarantees and contingent liabilities for which the company has not previously established a liability in an appropriate amount.

ii. Capital and surplus requirements may be reduced to the level required for the kinds of insurance actually being marketed if the applicant:

(1) Does not transact one or more of the kinds of insurance contained in the certificate of authority issued by its state or country of domicile; and

(2) Submits a resolution by its board of directors stating that it will refrain from transacting the kind(s) of insurance permitted by the certificate of authority issued by its state or country of domicile.

3. An applicant which has total adjusted capital of less than its company action level risk-based capital or which has

otherwise triggered a company action level event, as these terms are defined in N.J.A.C. 11:2-39, as of December 31 of the preceding calendar year, shall not be considered for admission until the applicant's status has improved.

4. The applicant shall be deemed to have its application deferred if any one of the following conditions exist:

i. An applicant which has failed four or more IRIS tests shall have its application deferred until it has demonstrated to the Commissioner and its place of domicile that the IRIS test results are not indicative of a financial condition that may be hazardous to the policyholders, stockholders, claimants, creditors or the general public; or

ii. An applicant which has failed to file with the NAIC an annual statement for the prior year shall have its application deferred until it has filed with the NAIC such annual statement.

5. The applicant shall satisfy the following seasoning requirements:

i. Subject to the provisions of this subchapter, no applicant shall be considered for a certificate of authority to transact the business of insurance in this State unless the Commissioner has been furnished with evidence that the applicant has been authorized by its state or country of domicile to engage in the kind(s) of insurance business for which the applicant seeks a certificate of authority, and has in fact been actively, continuously and successfully engaged in such business, without a change in control, for a period of at least five years prior to the date of the application for the New Jersey certificate of authority.

ii. An applicant qualified under (a)5i above shall demonstrate that:

(1) During any three of the last five years, including therein the two most recent years of business operations, it generated a net gain from operations, after Federal taxes, as reported in the annual statement; and

SUBCHAPTER 41. WINDSTORM MARKET ASSISTANCE PROGRAM

11:2-41.1 Purpose and scope

(a) The purpose of this subchapter is to establish a program to ensure that eligible property owners in the coastal areas of the State are able to obtain homeowners' insurance through voluntary market outlets by:

1. Creating an Informal Referral Program ("IRP") by which information is provided to consumers and producers about insurers which are actively writing homeowners' insurance in the coastal areas of the State; and
2. Establishing the framework for a Formal Assistance Program ("FAP") among voluntary market insurers for qualified applicants unable to secure homeowners' coverage through normal market channels or the informal referral program and for the equitable distribution of such risks to insurers that choose to accept risks.

(b) The provisions of this subchapter shall apply to all property and casualty insurers admitted to write homeowners' insurance in this State.

11:2-41.2 Definitions

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

"Coastal area" shall be those areas of the State identified by postal zip code as set forth in Appendix A to this subchapter which is incorporated herein by this reference.

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

"Department" means the New Jersey Department of Banking and Insurance.

"Homeowners' insurance" means the type of personal lines insurance provided against loss to real and personal property as defined in the standard fire policy and extended coverage endorsement thereon, a dwelling policy, the homeowner's multiple peril policy, insurance against the perils of vandalism, malicious mischief, burglary, or theft, or liability insurance, or any combination thereof, delivered or issued for delivery in this State. These policies include, but are not limited to, coverages written under six basic forms as follows:

1. Form 1—Basic, which covers: The dwelling, other structures, and personal property against fire, lightning, the extended coverage perils, vandalism, malicious mischief, theft, and glass breakage. Loss of use and additional coverages listed below are also included in this and each of the homeowners forms.
2. Form 2—Broad, which covers: The perils listed in Form 1 above plus falling objects; weight of ice, snow or

sleet; accidental discharge from a plumbing, heating, air conditioning or sprinkler system or household appliance; tearing, cracking, burning, or bulging of a steam or hot water heating system; freezing of a plumbing, heating, air conditioning or sprinkler system or a household appliance; damage from artificially generated electricity; and volcanic eruption.

3. Form 3—Special, which covers: The dwelling and other structures on an open perils basis. Coverage on personal property applies with respect to the broad named perils insured under Form 2 above, plus the peril of damage by glass or safety glazing material which is part of a building, storm door or storm window.

4. Form 4—Tenants and Renters, which primarily covers: Tenants of a rented premises and provides only personal property coverage (no coverage on dwellings or on other structures) plus a limited amount of coverage on building additions and alterations made by the insured.

5. Form 6—Condominium: This form is designed especially for residential condominium unit owners.

6. Form 8—Modified coverage: This form is designed for homes not considered eligible for replacement cost coverage.

"Insurer" means any person or persons, corporation, association, partnership, company, or other legal entity admitted to transact the business of homeowners' insurance in this State except any residual market mechanism created by or pursuant to statute.

"Qualified applicant" means an applicant for homeowners' insurance whose property is located in the defined coastal area and who has applied for insurance to at least three admitted voluntary market insurers and has been denied coverage.

"Windstorm Market Assistance Program" or "Windstorm MAP" means the program created at N.J.A.C. 11:2-41.3.

Amended by R.2001 d.6, effective January 2, 2001.
See: 32 N.J.R. 3530(a), 33 N.J.R. 85(a).

11:2-41.3 Creation of the Windstorm MAP

(a) There is hereby created in the State of New Jersey a plan for the administration and apportionment of homeowners' insurance for qualified applicants to be known as the New Jersey Windstorm Market Assistance Program.

(b) The Windstorm MAP shall be administered by a governing committee appointed pursuant to this subchapter and a plan of operation approved by the Commissioner.

(c) The administrative offices of the Windstorm MAP shall be located within the State of New Jersey.

(d) All insurers admitted to transact and transacting the business of homeowners' insurance shall be members of the Windstorm MAP.

(e) The Independent Insurance Agents of New Jersey, Professional Insurance Agents of New Jersey and Insurance Brokers Association of New Jersey shall also be participants of the Windstorm MAP.

11:2-41.4 Governing committee

(a) The Windstorm MAP shall be administered by a governing committee of nine voting members.

1. Five members shall be salaried employees of insurers which are members of the Windstorm MAP. No more than one member shall be employed by the same insurer.
2. Three members shall be licensed producers.
3. One member shall be a public representative appointed by the Commissioner who is knowledgeable about homeowners' insurance matters but who is not employed by, or otherwise affiliated with, insurers, insurance producers, or other entities of the insurance industry.
4. The Commissioner, or his or her designated representative, shall be an ex-officio, non-voting member of the governing committee.

(b) The following insurer trade organizations shall each nominate two members to represent insurers:

1. Alliance of American Insurers;
2. American Insurance Association;
3. National Association of Independent Insurers; and
4. New Jersey Association of Mutual Insurance Companies.

(c) The Commissioner shall appoint one member from insurers which are not members of the organizations identified in (b) above. After a Plan of Operation is adopted, such insurers shall nominate two members in accordance with a fair method set forth in the plan of operation.

(d) The following organizations shall each nominate two members:

1. Independent Insurance Agents of New Jersey;
2. Insurance Brokers' Association of New Jersey; and
3. Professional Insurance Agents of New Jersey.

(e) With regard to the nomination of members set forth in (b), (c) and (d) above, in the event the Commissioner fails to appoint either of the nominees, the organization shall nominate another representative.

(f) The initial governing committee appointed pursuant to this subchapter shall serve for staggered terms of one or two years or until successors are appointed. Thereafter, all members of the governing committee shall serve for one year or until a successor is appointed. Each member may designate an alternate.

(g) All meetings of the governing committee shall be conducted in accordance with this subchapter and the plan of operation.

(h) The governing committee shall have the power and duty to:

1. Develop and submit to the Commissioner for approval a plan of operation;
2. Investigate complaints and hear appeals from members or participants about any matter pertaining to the proper administration of the Windstorm MAP;
3. Provide for the establishment of subcommittees, to which may be delegated specific tasks and the authority to act on behalf of the governing committee; and
4. Perform such other functions as may be necessary and proper in accordance with this subchapter and the approved plan of operation.

11:2-41.5 Plan of operation

(a) The plan of operation shall provide for the prompt and efficient administration of the IRP established by the Department, and for the provision of homeowners' insurance to qualified applicants under the FAP. The plan of operation shall provide for the following:

1. The internal organization and proceedings of the governing committee;
2. The coverages to be offered through the Windstorm MAP to qualified applicants;
3. Procedures to distribute on an equitable basis risks qualified for coverage based on the voluntary commitment of insurers to accept risks;
4. Procedures by which insurers may voluntarily agree to participate and to provide coverage through the Windstorm MAP;
5. Procedures to apply for coverage, including disqualifying characteristics;
6. Procedures for handling complaints and appeals to the governing committee;
7. Procedures for the operation of the informal referral program;
8. Procedures for the payment of commissions, where practicable, to licensed insurance producers that recognize the importance of maintaining producer/consumer relationships; and

9. Such other provisions as are deemed necessary by the governing committee for the operation of the Windstorm MAP.

(b) The governing committee shall, within 30 days of the adoption of these rules, submit to the Commissioner, for his or her review and approval, a proposed plan of operation. After approval of the plan, the governing committee may thereafter propose an amendment to the plan of operation at any time for review and approval by the Commissioner. If approved, the Commissioner shall certify approval to the governing committee.

1. If the Commissioner disapproves all or any part of the plan of operation or any amendment, he or she shall return same to the governing committee with a statement that sets forth the reasons for his or her disapproval and may include other recommendations he or she may wish to make.

2. If the governing committee does not submit a plan of operation by February 16, 1995, or a new plan which is acceptable to the Commissioner within 30 days after the disapproval of a proposed plan, the Commissioner may promulgate a plan of operation and certify same to the governing committee, until such time as the governing committee submits its own plan of operation which is acceptable to the Commissioner.

3. The Commissioner may review the plan of operation at any time and may suggest amendments to the governing committee.

11:2-41.6 Informal Referral Program ("IRP")

(a) The IRP shall provide for the distribution to the public of information about insurers offering coverage to qualified applicants that meet current underwriting guidelines.

(b) The governing committee shall provide in the plan of operation for administration of the IRP, which shall include provision for maintaining necessary records in order to confirm the applicant's qualification for the FAP pursuant to N.J.A.C. 11:2-41.7(a)2.

(c) The Windstorm MAP may revise the IRP as necessary to provide maximum assistance to property owners seeking homeowners' insurance in the coastal area; however, only the Department may gather underwriting information from homeowner insurers the Department determines is needed for use in the IRP.

11:2-41.7 Formal Assistance Program ("FAP") application process

(a) Any person applying for homeowners' insurance through the FAP shall demonstrate that he or she is a qualified applicant.

(b) The FAP shall arrange for coverage to qualified applicants to the extent that the Windstorm MAP has capacity

to provide such coverage based upon the participation of insurers.

(c) The governing committee shall establish procedures in the plan of operation with respect to documentation to be provided by the applicant or the producer showing (where applicable) the reasons for termination of previous insurance coverage, including, but not limited to:

1. Previous insurance company name and policy number;
2. Reasons for termination and effective date of termination; and
3. Claim history for the preceding three years.

(d) Those insurers that have agreed to consider risks through the FAP shall provide homeowners' insurance coverage to qualified applicants in accordance with each insurers' voluntary commitment to participate and to provide coverage.

11:2-41.8 Right to petition for appeal to the Commissioner

(a) A member or participant may petition for appeal to the Commissioner from an adverse decision of the governing committee by filing a request in writing within 20 days of the date of receipt of the written decision of the governing committee.

1. The written request to appeal shall set forth the facts upon which it is based and include a copy of the written decision of the governing committee.

2. The Commissioner shall notify the petitioner and the governing committee within 30 days whether the request to appeal shall be granted.

3. Notice from the Commissioner that an appeal has been granted shall also provide a statement about whether the action of the governing committee has been stayed pending the disposition of the appeal.

(b) An appeal to the Commissioner granted pursuant to this rule shall be conducted on the record before the governing committee in accordance with applicable provisions of 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.

11:2-41.9 Reports

Member insurers shall, no less frequently than quarterly, submit reports relative to the amount of homeowners' insurance in force and new business written in a format which shall be prescribed by Order of the Commissioner.

11:2-41.10 Windstorm deductibles

Member insurers that demonstrate pursuant to the provisions of this subchapter proportionate Statewide and coastal area market shares, may file for approval, pursuant to N.J.S.A. 17:29A-1 et seq., amendments to their filed rating systems in order to offer optional and/or mandatory

windstorm deductibles. In determining whether to approve such filings, the Commissioner shall consider the insurer's demonstrated participation in the homeowners' insurance market and whether approval of the filing will contribute to improve availability and affordability of homeowners' insurance in the coastal areas.

APPENDIX A**COASTAL REGION ZIP CODES**

07002	07715	07753	08202	08405	08750
07008	07716	07755	08203	08406	08751
07036	07717	07756	08204	08411	08752
07064	07718	07757	08212	08721	08753
07077	07719	07758	08223	08723	08754
07201	07720	07760	08226	08724	08755
07202	07721	07762	08230	08730	08756
07206	07723	07764	08243	08731	08757
07302	07730	08005	08247	08732	08758
07304	07732	08006	08248	08734	08832
07305	07734	08008	08260	08735	08861
07306	07735	08050	08400	08736	08862
07709	07737	08087	08401	08738	08878
07711	07740	08092	08402	08739	08879
07712	07748		08403	08740	
07713	07750		08404	08742	

**SUBCHAPTER 42. HOMEOWNERS' INSURANCE:
STANDARD HURRICANE DEDUCTIBLES AND
EXPEDITED PROCESS FOR HOMEOWNERS'
INSURANCE RATE CHANGES**

11:2-42.1 Purpose and scope

(a) This subchapter sets forth the expedited process for a homeowner's insurer or rating organization to file changes to its rating system; sets forth the uniform policy language that may be used with respect to hurricane deductibles; and sets forth information that shall be included in notices provided to insureds by insurers regarding hurricane deductibles, pursuant to N.J.S.A. 17:36-5.33 to 5.36.

(b) This subchapter shall apply to all insurers writing or transacting homeowner's insurance in this State, rating organizations, and the FAIR Plan.

(c) These rules shall apply to base rate changes by form, territorial relativities, deductibles, protection/construction class factors, "coverage A" and "coverage C" amount of insurance factors, homeowner's liability rates and associated

liability increased limit factors, minimum premiums, and other factors and credits.

11:2-42.2 Definitions

The following words and terms, as 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 Banking and Insurance.

"Department" means the New Jersey Department of Banking and Insurance.

"Earned premium" or "EP" means direct, earned premium net of dividends paid or incurred.

"FAIR Plan" means the New Jersey Insurance Underwriting Association established pursuant to N.J.S.A. 17:37A-1 et seq.

1. The notice shall comply with the readability standards set forth in N.J.A.C. 11:2-18;
2. A notice shall accompany the issuance of each new policy to which a hurricane deductible applies and each subsequent renewal thereof;
3. Where the deductible that applied in the prior policy term is changed at renewal (for example, a new mandatory hurricane deductible program for the insurer has been approved by the Department during the prior policy term), the policyholder notice shall state that the terms of the policy have been changed. The insurer shall use boldface type or other means to draw the reader's attention to this statement. The policyholder notice shall explain the changes made to the policy;
4. The notice must be specific to the policy and identify whether the hurricane deductible applied to the policy is optional or mandatory. If the notice does not set forth the specific flat dollar or percentage deductible applied to the policy, it shall clearly state that this information can be found on the policy declarations page;
5. The notice shall identify the circumstances and conditions under which the hurricane deductible will apply to the policy as set forth in the policy or endorsement, and shall reference where the deductible provision may be found in the policy or endorsement;
6. The notice shall explain how application of the hurricane deductible will affect settlement of a claim, including the coverages to which the hurricane deductible will

apply, and shall provide a specific example of such a claim settlement;

7. The notice shall explain the relationship between the hurricane deductible and any other deductible that may apply to the policy;

8. The notice shall reference the consumer information brochure required under N.J.S.A. 17:36-5.36 for more detailed information concerning the insurer's hurricane deductible programs; and

9. If applicable, the policyholder notice shall explain how the insured may qualify for a lower hurricane deductible or the elimination of the hurricane deductible. In this case the policyholder notice shall:

- i. Identify the criteria that must be met in order to qualify for a lower deductible or elimination of the hurricane deductible (for example, through the payment of an additional premium and/or implementation of loss mitigation features);
- ii. Where loss mitigation is a condition, provide a general description or summary of the types of loss mitigation measures included in the insurer's hurricane deductible program and any documentation requirements utilized by the insurer; and
- iii. Instruct the insured as to the process that must be followed to pursue any change or elimination of a hurricane deductible for which the insured may qualify. The instructions shall prominently identify any time limitations that may apply to changing or eliminating the hurricane deductible.

APPENDIX

EXHIBIT A

Expedited Homeowners Filings

Company/Group: _____

Company File No.: _____

Section	Item	Page #
11:2-42.3	Filing Requirements	
(a)3	Information required on each page	Yes / No
(a)4	All data reported on direct basis exclusive of reinsurance	Yes / No
(a)5	All data from voluntary market only	Yes / No
(a)6	Most recent AY ends no more than 15 months prior to submission date	Yes / No
(a)7	Three copies of filing submitted	Yes / No
(b)1	<ul style="list-style-type: none"> • Cover letter notifying DOBI of intention to modify rates under expedited approval procedure • Exhibit C, Rate change information • Proposed effective date • Name/Telephone/Address of Company officer to whom inquiries about the filing may be directed 	
(b)2	Exhibit A, this checklist	
(b)3	<ul style="list-style-type: none"> • Manual rating pages • Explanatory memorandum • Company File # • New/Renewal Effective Dates 	

(b)4	Rating Examples
(b)5	Exhibit B, rate change distribution by interval
(b)6	Maximum Increase/Decrease with profile
(b)7	Territorial Definitions
(b)8	Justification for Minimum Premium (if changing)
(b)9	Effects of each change in detail
(b)10	Seven year rate history

11:2-42.4 Premium and Loss Data

All data must be on a direct basis, and must be consistent throughout the filing. All data is to be provided by form by accident year for each of the latest five years.

(b)	NJ Earned Exposures by form and accident year	
(c)1	Earned Premium by form and accident year	
(c)2	On-Level factors	
(c)3	Current Amount factors	
(c)4	Premium Trend factors	
(c)5	Premium Trend period	
(d)1	Incurred Loss and ALAE (separately or combined)	
(d)2	Loss Development Factors—Incurred Loss and ALAE (separately or combined)	
(d)3	Current Cost Factors	
(d)4	Loss Trend Factors	
(d)5	ULAE factor (based on latest three year avg. from IEE Part 3)	
(d)6	Wind & Water Losses (if excluded)	
(d)7	Catastrophe Losses (if excluded)	
(d)8	Hurricane Losses (if excluded)	
(d)9	Excess Losses (if excluded)	
(d)10	Total of (d)6 through 8 does not exceed 20 percent	Yes / No
(d)11	Losses excluded in (d)6 through 9 also excluded from LDFs	Yes / No
(e)	Ultimate Loss + LAE ratio weighted 10/15/20/25/30	

11:2-42.4 Expense Data

(f)1	Commission & Brokerage Expense based on latest three years of NJ Page 14	
(f)2	General & Other Acquisition Expense based on latest three years of IEE Part 3	
(f)3	Taxes, Licenses, and Fees based on latest three years of NJ Page 14	
(f)4	Profit & Contingency Provision (with explanation if five percent)	
(f)5	Investment Income using Cash Flow or State X	
(f)6	Total Expenses are sum of (f)1 through 4 less (f)5	
(g)	Permissible Loss Ratio = 1 Total Expenses	

11:2-42.4 Indications

(h)	Credibility based on 240,000 exposures per form	
(i)	Complement of Credibility	
(j)	Indication by form and overall based on five accident years, separated by categories in 4(a).	
(k)	Territorial Indications (if non-uniform base rate changes proposed)	
(l)	Alternate Methodology (optional)	

11:2-42.5 Limitation on filer's rate request

	Requested increase overall is the lower of indication or five percent	Yes / No
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EXHIBIT B

Size of Rate Change Distribution

Indicate the number of in-force exposures for each category.

Evaluation Date: _____

Overall	Rate Change	In Force Exposures	Distribution
	Above +40%		
	+35% to +40%		
	+30% to +35%		
	+25% to +30%		
	+20% to +25%		
	+15% to +20%		
	+10% to +15%		
	+5% to +10%		
	0% to +5%		
	No Change		
	-5% to 0%		
	-10% to -5%		
	-15% to -10%		
	-20% to -15%		
	Below -20%		
	TOTAL		

EXHIBIT C

Date is as of: _____

Form	In-Force Exposures	Latest Year On-Level Premium	Proposed Percentage Change	Proposed Dollar Effect	Current Average Premium	Proposed Average Premium
HO-1						
HO-2						
Ho-3, 3 w/15						
HO-5						
HO-8						
Total Owners						
HO-4						
HO-6						
Total TN/CO						
Overall HO						

Form	In-Force Exposures	Latest Year On-Level Premium	Proposed Percentage Change	Proposed Dollar Effect	Current Average Premium	Proposed Average Premium
DW						
EC						
Total DW Fire						
MHO						

EXHIBIT D

HURRICANE DEDUCTIBLE

For the premium charged, we will pay only that part of the total of the loss for all Section I Property Coverages that exceeds the Hurricane Deductible noted below:

This deductible applies, as described below, in the event of direct physical loss to property covered under this policy, caused directly or indirectly in the event of a hurricane named by the National Weather Service or its successor from which sustained hurricane force winds of 74 miles per hour or greater have been measured in New Jersey by the National Weather Service (regardless of whether the sustained hurricane force winds reach the risk insured under the policy) and shall replace any other applicable deductible in that event. In no case will this deductible be less than the Section I deductible amount shown in the Declarations.

The duration of the hurricane includes the time period:

1. Beginning 12 hours prior to the first time that sustained hurricane force winds of 74 miles per hour or greater have been measured in New Jersey by the National Weather Service (regardless of whether the sustained hurricane force winds reach the risk insured under the policy).
2. Continuing for the time period during which the hurricane conditions exist anywhere in New Jersey.
3. Ending 12 hours after the last time the hurricane force winds of 74 miles per hour or greater have been measured in New Jersey by the National Weather Service (regardless of whether the sustained hurricane force winds reach the risk insured under the policy).

This deductible applies regardless of any other cause or event contributing concurrently or in any sequence.

The Hurricane Deductible (% or Stated Amount Deductible) shown in the Declarations applies only for loss or damage to covered property caused by wind, wind gusts, hail, rain, tornadoes, or cyclones caused by or resulting from a hurricane. The Hurricane Deductible also applies to any loss or damage to covered property caused by objects driven by wind, if your covered loss occurs during the time period.

The deductible for loss caused by each hurricane occurrence is the amount determined by applying the deductible percentage or Stated Amount Deductible shown in the Declarations to the applicable Coverage A—Dwelling limit shown in the Declarations.

This deductible amount does not apply to loss under Coverage D, Loss of Use. Instead the deductible amount that applies to loss under Coverage D will be the same as the deductible amount that would have been applied to the peril of fire.

Amended by R.2005 d.350, effective October 17, 2005.

See: 37 N.J.R. 2285(a), 37 N.J.R. 4026(a).

Amended by R.2007 d.91, effective April 2, 2007.

See: 38 N.J.R. 4976(b), 39 N.J.R. 1313(a).

In entry (a)2 of Exhibit A, substituted “NAIC Uniform Property and Casualty Transmittal Document” for “Filing Source Document MARS001 and accompanying certification”.

Amended by R.2009 d.190, effective June 15, 2009.

See: 41 N.J.R. 365(a), 41 N.J.R. 2486(a).

In entry 11:2-42.3 of Exhibit A, deleted row (a)2.

SUBCHAPTER 43. TREATMENT OF ALLOCATED DEPOSIT-TYPE DEFERRED ANNUITY CONTRACT FUNDS FOR PURPOSES OF CALCULATING THE SPECIAL PURPOSE APPORTIONMENT AND THE FRAUD ASSESSMENT

11:2-43.1 Purpose and scope

(a) This subchapter sets forth procedures for the treatment of allocated deposit-type funds for purposes of determining an insurer’s annuity premium subject to the special purpose apportionment and the fraud assessment.

(b) This subchapter shall apply to any insurer seeking to exclude allocated deposit-type funds from application of the special purpose apportionment or fraud assessment.

11:2-43.2 Definitions

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

“Allocated deposit-type funds” means funds received by a life insurance company under deferred annuity contracts that have an identifiable life to which the funds are applied and that contain a mortality or morbidity risk.

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

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

“Fraud assessment” means the assessment on companies by the Commissioner pursuant to N.J.S.A. 17:33A-8g.

“Special purpose apportionment” means the apportionment made on companies pursuant to N.J.S.A. 17:1C-19 et seq.

11:2-43.3 Treatment of allocated deposit-type funds for purposes of calculating the special purpose apportionment and the fraud assessment

(a) For purposes of calculating the special purpose apportionment and the fraud assessment, an insurer authorized or admitted to transact annuity business pursuant to Title 17B of the New Jersey Statutes may have excluded from amounts reported as “annuity considerations” in the annual statement filed pursuant to N.J.S.A. 17B:21-1, those amounts that constitute allocated deposit-type funds.

(b) Any insurer seeking to have amounts excluded pursuant to (a) above shall complete and file the certification set forth in the Appendix to this subchapter, incorporated herein by reference. Certifications shall be filed with the insurer’s annual statement filed pursuant to N.J.S.A. 17B:21-1 and shall be deemed to be a part of the insurer’s annual statement.

1. All references in the Appendix to particular lines or columns in the annual statement shall be deemed to refer to the corresponding appropriate line or column in the annual statement in use at the time such statement is filed.

(c) This rule shall not affect the requirements for the reporting of allocated deposit-type funds for purposes of completing applicable financial statements filed pursuant to N.J.S.A. 17B:21-1.

11:2-43.4 Credit

An insurer may file a certification with respect to its annuity business based on the amounts reported on its 2002 Schedule T to seek an adjustment in amounts previously paid. To the extent the certification demonstrates a change in the annuity premium amount to which the special purpose apportionment and the fraud assessment apply, the Department shall recalculate the insurer’s special purpose apportionment and fraud assessment for that year. Any amounts that may be excluded pursuant to this subchapter shall be deducted from the insurer’s premium on which future apportionments and assessments, as applicable, are based. The credit shall be taken over a period of not less than three years. Credit may be taken by an affiliate of the insurer. For good cause shown, the Commissioner may allow the credit to be taken over a period of less than three years. For purposes of this rule, good cause shown shall include, but not be limited to, where the amount of the credit is de minimis with respect to the insurer seeking the credit, where the insurer is or may be placed in a hazardous financial condition, or to preserve the assets of an insurer in rehabilitation, liquidation or administrative supervision.

11:2-43.5 Penalties

Failure to comply with the provisions of this subchapter may result in the imposition of penalties as authorized by law, including, but not limited to, penalties authorized pursuant to N.J.S.A. 17B:21-1 and 17B:21-2.

APPENDIX

CERTIFICATION OF ALLOCATED DEPOSIT-TYPE FUNDS

SPECIAL PURPOSE APPORTIONMENT AND FRAUD ASSESSMENT FOR YEAR ENDED DECEMBER 31, _____

Company Name: _____ Company NAIC No. _____

- 1. Annuity Considerations (State Business Page, Line 2, Column 5) _____
- 2. Allocated Deposit-Type Deferred Annuity Contract Funds Included in Line 1 above _____

- 3. Prior Year Annuity Considerations or Immediate Annuities not included in Line 1 above or not previously included in the assessment base. _____
- 4. Dividends to Policyholders (State Business Page, Line 7.1 + Line 7.3, Column 5) _____
- 5. Net Annuity Considerations Subject to Assessment (Line 1 - Line 2 + Line 3 - Line 4) _____

CERTIFICATION

The undersigned certifies that (s)he is authorized to file this information on behalf of (Company Name) and that the information contained herein is correct to the best of his/her knowledge, information and belief.

(Signature) _____
Type or print name _____
Title _____