

CHAPTER 88**OFFICE OF INSURANCE FRAUD PROSECUTOR****Authority**

N.J.S.A. 2C:21-4.7, 17:33A-1 et seq., 47:1A-1 and 52:14B-1; Executive Reorganization Plan No. 7 (1998); and Executive Order No. 9 (Hughes).

Source and Effective Date

R.2009 d.354, effective October 30, 2009.
See: 41 N.J.R. 2630(a), 41 N.J.R. 4454(a).

Chapter Expiration Date

Chapter 88, Office of Insurance Fraud Prosecutor, expires on October 30, 2014.

Chapter Historical Note

Chapter 88, Office of Insurance Fraud Prosecutor, was adopted as R.2004 d.173, effective May 3, 2004. See: 35 N.J.R. 2572(a), 36 N.J.R. 17(a), 36 N.J.R. 2201(a).

Subchapter 3, Insurance Fraud Detection Reward Program, was adopted as new rules by R.2004 d.262, effective July 6, 2004. See: 36 N.J.R. 917(a), 36 N.J.R. 3297(b).

Subchapter 2, Insurer Reporting Requirements, was adopted as new rules by R.2004 d.445, effective December 6, 2004. See: 36 N.J.R. 1731(a), 36 N.J.R. 5368(a).

Chapter 88, Office of Insurance Fraud Prosecutor, was readopted as R.2009 d.354, effective October 30, 2009. See: Source and Effective Date. See, also, section annotations.

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APPENDIX**SUBCHAPTER 1. ADMINISTRATIVE PROCEDURES AND PENALTIES****13:88-1.1 Purpose and scope**

This subchapter sets forth the procedures that govern the conduct of administrative hearings for imposing civil and administrative penalties for violations of the New Jersey Insurance Fraud Prevention Act, as amended, N.J.S.A. 17:33A-1 et seq. These rules are intended to implement N.J.S.A. 17:33A-5 which allows for the imposition of civil and administrative penalties, costs of prosecution, including attorneys fees, and orders of restitution. These rules do not govern criminal or civil proceedings for violations of the New Jersey Insurance Fraud Prevention Act filed in the Superior Court.

13:88-1.2 Construction

(a) These rules shall be liberally construed to permit the Office of Insurance Fraud Prosecutor to discharge its statutory function.

(b) Upon notice to all parties, these rules may be relaxed for good cause in a particular situation in order to effectuate the purposes of the New Jersey Insurance Fraud Prevention Act. Statutory time limits may not be relaxed.

13:88-1.3 Definitions

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

“Administrative complaint” means a pleading that provides the notice to a person required by N.J.S.A. 17:33A-5c that a civil and administrative penalty is being imposed on the person for a violation of N.J.S.A. 17:33A-1 et seq.

“Administrative consent order” means an offer of settlement in the form of an order in which the OIFP and a person alleged to have violated N.J.S.A. 17:33A-1 et seq. mutually agree to resolve a case.

“Attorney General” means the Attorney General of the State of New Jersey or designated representatives.

“Burden of proof” means the obligation of a party to meet the requirements of a rule of law that a fact be proved.

“Civil and administrative penalty” means a sanction authorized by any statute or administrative rule to be imposed on a person for any act or omission in violation of N.J.S.A. 17:33A-1 et seq., including any monetary penalty and any order to make restitution and to pay the reasonable costs of prosecution, including attorneys fees, of any matter.

“Department” means the New Jersey Department of Law and Public Safety.

“Final agency order” means any and all final orders issued or executed by the Attorney General.

“Hearing” means a proceeding held in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, for the purpose of determining disputed issues of fact, law or disposition.

“Insurance company” or ‘Insurer’ means any entity coming within the definition of insurance company set forth in N.J.S.A. 17:33A-3.

“Notice” means a written communication from the OIFP to an alleged violator of the assessment of a civil and administrative penalty containing those elements set forth in N.J.A.C. 13:88-1.4.

“OIFP” means the Office of Insurance Fraud Prosecutor in the Division of Criminal Justice in the Department of Law and Public Safety.

“Person” means a person as defined in N.J.S.A. 17:33A-3.

“Petitioner” means the State of New Jersey, Office of Insurance Fraud Prosecutor.

“Respondent” means an alleged violator named in a civil and administrative complaint.

Amended by R.2009 d.354, effective December 7, 2009.
See: 41 N.J.R. 2630(a), 41 N.J.R. 4454(a).

In definition “Civil and administrative penalty”, substituted “omission” for “mission”; and in definition “Notice”, updated the N.J.A.C. reference.

13:88-1.4 Notice of the intent to impose civil and administrative penalties

(a) Before a civil and administrative penalty is imposed, the OIFP shall serve the respondent with a notice, in the nature of an administrative complaint, in the manner provided in N.J.A.C. 13:88-1.5. The notice shall include:

1. A reference to the statute, rule, order and/or prohibited conduct under the Insurance Fraud Prevention Act (N.J.S.A. 17:33A-1 et seq.) the respondent violated;

2. A concise statement of the facts providing the basis for the determination of a violation of N.J.S.A. 17:33A-1 et seq.;

3. A statement of the civil and administrative penalty or penalties to be imposed; and

4. A statement advising the respondent of the right to a hearing and the procedure for requesting a hearing.

(b) The administrative complaint may describe more than one violation and more than one specific penalty for each violation. A single form of notice may be used to notify several respondents, provided each person is named and properly served with a copy of the notice in accordance with N.J.A.C. 13:88-1.5.

(c) Prior to issuing an administrative complaint, the OIFP may attempt a mutual resolution of the matter by offering the alleged violator the opportunity to resolve the matter by an administrative consent order. Under these circumstances, an offer of settlement by administrative consent order shall not be deemed to constitute notice of initiation of an action and shall not be available to be presented in evidence in a formal administrative action.

13:88-1.5 Service of notice

(a) If the respondent is an individual, service of the notice of administrative complaint described in N.J.A.C. 13:88-1.4 may be made by delivering a copy of the administrative complaint to the respondent, personally or by leaving a copy thereof at the respondent’s dwelling place or usual place of abode with a competent household member of the age of 14 years or over then residing therein, or by delivering a copy thereof to a person authorized by appointment or by law to receive service of process on the respondent’s behalf.

(b) In lieu of the manner of service set forth in (a) above, service on an individual may be made by mailing the administrative complaint by regular and certified mail, return receipt requested, to the respondent’s last known business or residence mailing address in or outside of this State.

(c) If the respondent is a domestic or foreign corporation, partnership or other business entity, service may be made by delivering a copy of the administrative complaint to either an officer, director, trustee, partner or managing or general agent, or any person authorized by appointment or by law to receive service of process on behalf of the corporation, partnership or other business entity or the person at the registered office or the principal place of business of the corporation, partnership or other business entity in charge thereof. If service cannot be made upon any of the foregoing, then it may be made upon any agent, servant or employee of the corporation acting in the discharge of the duties of the corporation.

(d) In lieu of the manner of service set forth in (c) above, service may be made by mailing the administrative complaint