

TITLE 11

DEPARTMENT OF BANKING AND INSURANCE

DIVISION OF INSURANCE

CHAPTER 1

ADMINISTRATION

Authority

N.J.S.A. 17:1-8.1 and 17:1-15e.

Source and Effective Date

R.2001 d.75, effective January 31, 2001.
See: 32 N.J.R. 4184(a), 33 N.J.R. 794(a), 33 N.J.R. 1920(a).

Executive Order No. 66(1978) Expiration Date

Chapter 1, Administration, expires on January 31, 2006.

Chapter Historical Note

Chapter 1, Plan of Organization of the Department of Insurance, was adopted as R.1971 d.11, effective January 20, 1971, and codified at N.J.A.C. 11:1 Subchapter 1. Notice was not published in the New Jersey Register.

Subchapter 3, 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 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 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).

Subchapter 4, Unfair Discrimination, was adopted as R.1975 d.128, effective September 1, 1975. See: 7 N.J.R. 168(a), 7 N.J.R. 276(b).

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).

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 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 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 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).

Subchapter 12, Corporate and Partnership Licensee Requirements, was adopted as R.1976 d.412, effective December 16, 1976, operative 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 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 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).

The Executive Order No. 66(1978) 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).

Pursuant to Executive Order No. 66(1978), Subchapter 5, Administrative Orders and Declarations, 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 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 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).

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). 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).

Pursuant to Executive Order No. 66(1978), Subchapter 20, Cancellation and Nonrenewal of Property and Casualty/Liability Insurance Policies, was readopted as R.1985 d.627, effective November 16, 1985. See: 17 N.J.R. 2978(b).

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 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 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 20, Cancellation and Nonrenewal of Property and Casualty/Liability Insurance Policies, was repealed, and Subchapter 20, Cancellation and Nonrenewal of Commercial and Homeowners' Insurance Policies, was adopted as new rules, effective July 7, 1986, with portions operative July 28, 1986, and 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).

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 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 9, Agents for Life Insurance, Health Insurance and Annuity Contracts-Temporary Licensing, Subchapter 14, Insurance Licensees, Subchapter 18, Approval of Business Names, and Subchapter 19, Branch Offices, were repealed by R.1988 d.186, effective April 18, 1988. See: 20 N.J.R. 225(c), 20 N.J.R. 904(b).

Pursuant to Executive Order No. 66(1978), Subchapter 20, Cancellation and Nonrenewal of Commercial and Homeowners' Insurance Policies, and Subchapter 22, Prohibition of Certain Cancellation and

Nonrenewal Activity, were readopted as R.1988 d.341, effective June 24, 1988. See: 20 N.J.R. 1061(a), 20 N.J.R. 1720(a).

Subchapter 10, Admission Requirements for Foreign and Alien Property and Casualty Insurers, was adopted as new rules by R.1989 d.329, effective June 19, 1989. See: 21 N.J.R. 426(a), 21 N.J.R. 1702(a).

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 3, Cancellation for Nonpayment of Premium Where Producer of Record Has Advanced Premium, Subchapter 7, Service and Placement Fees, Subchapter 8, Property-Casualty Agents, and Subchapter 13, Disclosure Agreements for Motor Club Service Contracts Sold in Connection with Automobile Insurance Policies, were repealed by R.1990 d.11, effective January 2, 1990. See: 21 N.J.R. 1317(a), 22 N.J.R. 30(b).

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).

Pursuant to Executive Order No. 66(1978), Chapter 1, Administration, 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 32, Fees was adopted as new rules by R.1991 d.303, effective June 17, 1991, operative July 1, 1991. See: 23 N.J.R. 825(a), 23 N.J.R. 1948(a).

Subchapter 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 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 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 without change 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 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 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 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 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 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 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).

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 26, Annual Publication of Insurer Profitability Information, Subchapter 29, Temporary Certificate of Authority, and Subchapter 33, Public Advocate Reimbursement Disputes, were repealed by R.1996 d.116, effective March 4, 1996. See: 27 N.J.R. 4121(a), 28 N.J.R. 1382(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).

Pursuant to Executive Order No. 66(1978), Chapter 1, Administration, was readopted as R.1996 d.116, effective January 31, 1996. See: 27 N.J.R. 4121(a), 28 N.J.R. 1382(a).

Petition for Rulemaking. See: 29 N.J.R. 707(c), 29 N.J.R. 948(b).

Subchapter 41, Surety Bonds for Contracts Involving the State, Local Contracting Units, Boards of Education, State Colleges and County Colleges, was adopted as R.1996 d.496, effective October 21, 1996. See: 28 N.J.R. 3505(a), 28 N.J.R. 4582(a).

Subchapter 38, Oversight of Firemen's Relief Associations, was adopted as R.1996 d.125, effective March 4, 1996, operative March 4, 1996, except for N.J.A.C. 11:1-38.4 which became operative July 1, 1997. See: 27 N.J.R. 634(a), 28 N.J.R. 1384(a), 29 N.J.R. 425(a).

Subchapter 43, Unusual Hardship For Covered Claims Under The New Jersey Property-Liability Insurance Guaranty Association and New Jersey Surplus Lines Insurance Guaranty Fund, was adopted as R.1997 d.512, effective December 1, 1997. See: 29 N.J.R. 3765(a), 29 N.J.R. 5065(b).

Subchapter 24, Use of Credit Cards, Charge Cards, Debit Cards Or Direct Account Deduction (Alternative Payment Method) To Pay Insurance Premiums, was adopted as R.1998 d.276, effective June 1, 1998. See: 29 N.J.R. 3588(a), 30 N.J.R. 2003(a).

Pursuant to Executive Order No. 66(1978), Chapter 1, Administration, was readopted as R.2001 d.75, effective January 31, 2001. See: 32 N.J.R. 4184(a), 33 N.J.R. 794(a).

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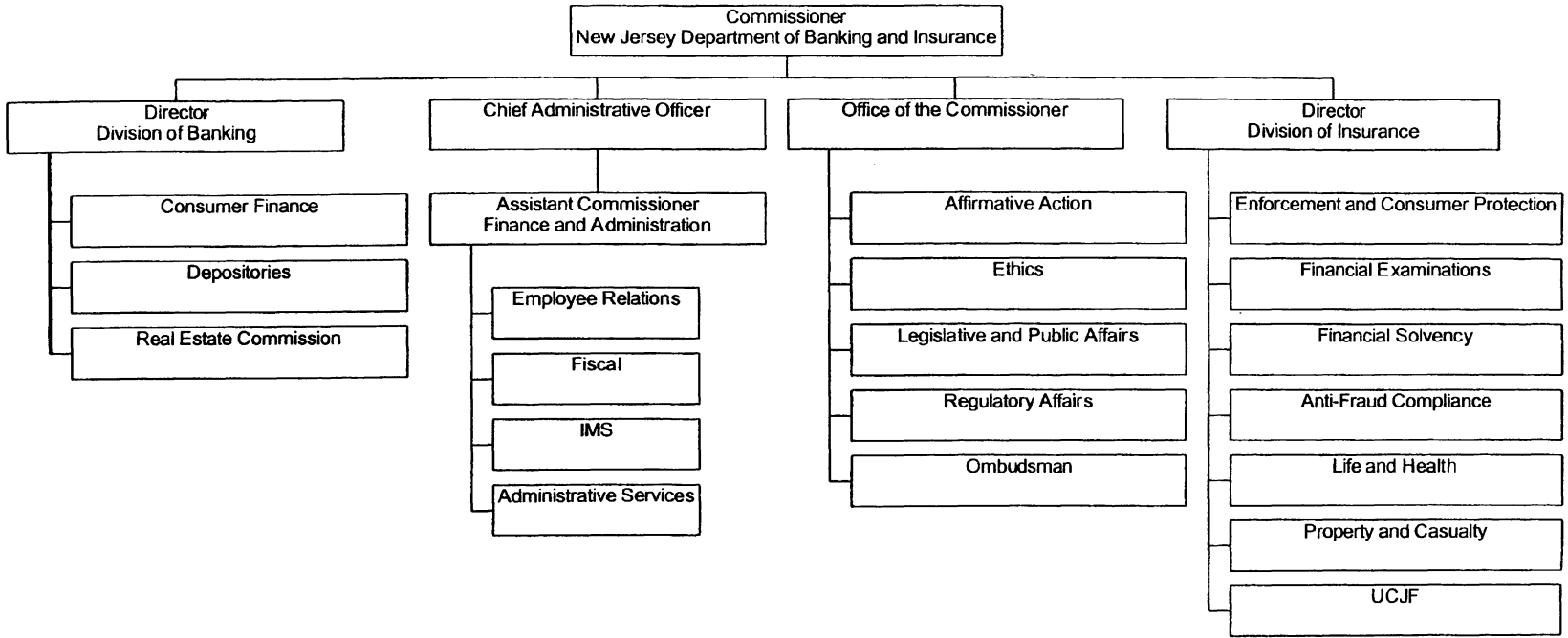
SUBCHAPTER 1. ORGANIZATION

11:1-1.1 Organization

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

(b) The mission of the Department of Banking and Insurance is to regulate the banking, insurance and real estate industries in a professional and timely manner that protects and educates consumers and promotes the growth, financial stability and efficiency of those industries.

NEW JERSEY DEPARTMENT OF BANKING AND INSURANCE



September 7, 2000

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).

11:1-34.2 Definitions

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

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

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

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

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

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

“Health insurance” means a contract or agreement whereby an insurer is obligated to pay or allow a benefit of pecuniary value with respect to the bodily injury, disablement, sickness, death by accident or accidental means of a human being, or because of any expense relating thereto, or because of any expense incurred in prevention of sickness, and includes every risk pertaining to any of the enumerated risks. Health insurance does not include workers’ compensation coverages.

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

“State” means the State of New Jersey.

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

Amended by R.2001 d.75, effective March 5, 2001.
See: 32 N.J.R. 4184(a), 33 N.J.R. 794(a).

11:1-34.3 Exportable list hearing

(a) In the month of November or December of each year, the Commissioner or his or her designee shall hold a hearing, pursuant to N.J.S.A. 17:22-6.43, for the purpose of determining the extent of the existence or a reasonable or adequate market among authorized insurers for certain classes of insurance coverages and risks. Additionally, the hearing shall provide interested parties the opportunity to present relevant information for the Commissioner’s consideration as to why forms disapproved or withdrawn should be approved.

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

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

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

4. The notice shall provide a list of disapproved policy forms or contracts that have been disapproved or withdrawn by the Commissioner since the previous exportable list hearing was held.

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

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

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

Public Notice: Public hearing on the Exportable List.

See: 28 N.J.R. 4680(b).

Public Notice: Public hearing on the Exportable List.

See: 29 N.J.R. 5028(b).

Public Notice: Public hearing on the Exportable List.

See: 30 N.J.R. 4291(b).

Public Notice: Public hearing on the Exportable List.

See: 31 N.J.R. 3860(a).

Public Notice: Public hearing on the Exportable List.

See: 32 N.J.R. 4019(a).

Amended by R.2001 d.75, effective March 5, 2001.

See: 32 N.J.R. 4184(a), 33 N.J.R. 794(a).

Rewrote (a).

Public Notice: Public Hearing on the Exportable List.

See: 34 N.J.R. 315(a), 3994(a).

Public Notice: Public Hearing on the Exportable List.

See: 35 N.J.R. 5446(a).

11:1-34.4 Exportable list hearing record

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

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

11:1-34.5 Promulgation and modification of exportable list

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

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

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

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

11:1-34.6 Exportable list

(a) The exportable list is as follows:

1. Amusement Devices, Parks and Carnivals;
2. Animal Mortality;
3. Armored Cars;
4. Auto Racing and Race Tracks;
5. Day Care Center Liability;
6. Difference In Condition;
7. Environmental Impairment Liability Insurance;
8. Excess and Buffer Liability;
9. Excess Loss and Excess Aggregate for Self-Insurers; Public Liability and Workers' Compensation;
10. Golf Driving Range;
11. Fine Arts Dealers;
12. First Loss and Excess of First Loss Insurance;
13. House Movers and Building Demolition;
14. Kidnapping, Ransom and Extortion Insurance;
15. Manufacturers and Contractors Liability for Floor Waxers, Building Maintenance People, Window Washers and Exterminators;
16. "Large Risks" which means any insured:
 - i. Which procures insurance for any property casualty risk by use of the services of either an employee who is a full-time insurance manager or buyer, or a regularly and continuously retained qualified insurance consultant; and
 - ii. Whose aggregate commercial premiums for insurance (excluding, Life, Health and Accident, Annuities and Workers' Compensation insurance) total at least \$500,000;
17. Motor vehicle coverage as follows:
 - i. Physical Damage Coverage for Limousines; and
 - ii. Physical Damage Coverage for Trucks, including trailers and trailer interchange (over 10,000 pounds) for Non-Fleet (one to five) risks, and commercial fleet (over five) risks irrespective of gross vehicle weight;
18. Mortgage Impairment;
19. Pony Rides/Riding Academies;
20. Physical Damage Coverage for Private Passenger and Commercial Vehicles with an original cost new of \$40,000 or above;
21. Product Liability Products or Products Recall Coverage;
22. Professional Liability insurance as follows:

- i. Errors and Omissions; and
- ii. Professional Liability except:
 - (1) Legal malpractice liability;
 - (2) Medical malpractice liability
 - (A) Hospitals Professional Liability
 - (B) Physicians and Surgeons Professional Liability
 - (C) Dentist Professional Liability
 - (D) Employees Professional Liability
 - (E) Nurses Professional Liability
 - (F) Optometrists Professional Liability
 - (G) Physiotherapists Professional Liability
 - (H) Chiropodists Professional Liability
- 23. Short Term Events;
- 24. Skating Rinks (Roller and Ice) and Skate Board Parks;
- 25. Swim Clubs/Swim Pools;
- 26. Vacant and Unoccupied Building;
- 27. Warehouseman’s Legal Liability;
- 28. Automobile Personal Injury Protection (PIP) coverage in excess of \$250,000;
- 29. Commercial auto liability for taxi cabs; (Eligible Surplus Lines insurer’s certificate of eligibility must state that they are permitted to write this risk.)
- 30. Commercial auto liability for intermediate and long-haul trucking; (Eligible Surplus Lines insurer’s certificate of eligibility must state that they are permitted to write this risk.)
- 31. Liquor Liability;
- 32. Employment Practices Liability; and
- 33. Gap Coverage for Private Passenger and Commercial Automobile.

(b) The following kinds of insurance, if sold by eligible surplus lines insurers, are specifically not eligible for export, since the Department has determined that they are procurable from authorized or admitted insurers after a diligent effort:

- 1. Health insurance, including specific excess or aggregate excess purchased by self-funded health benefit plans, as defined by N.J.S.A. 17B:17-4; and
- 2. Annuities including Funding Agreements or Guaranteed Investment Contracts (GIC’s) as defined by N.J.S.A. 17B:17-5.

(c) Life insurance is specifically not eligible for export pursuant to N.J.S.A. 17:22-6.40 et seq.

(d) The Department shall annually publish a notice in the New Jersey Register, which lists Unauthorized Insurers that qualify as Eligible Surplus Lines Insurers in New Jersey.

Amended by R.1997 d.488, effective November 17, 1997.

See: 29 N.J.R. 1009(b), 29 N.J.R. 5023(a).

Added (a)31 and (a)32.

Amended by R.2001 d.75, effective March 5, 2001.

See: 32 N.J.R. 4184(a), 33 N.J.R. 794(a).

Rewrote (a) and added (d).

Public Notice: Unauthorized insurers qualified as eligible surplus lines insurers.

See: 33 N.J.R. 2349(c).

Public Notice: Unauthorized insurers qualified as eligible surplus lines insurers.

See: 34 N.J.R. 1055(a).

Public Notice: List of Unauthorized Insurers Which Qualify as Eligible New Jersey Surplus Lines Insurers.

See: 36 N.J.R. 2562(a).

APPENDIX A (Reserved)

(RESERVED)

Repealed by R.2001 d.75, effective March 5, 2001.

See: 32 N.J.R. 4184(a), 33 N.J.R. 794(a).

SUBCHAPTER 35. INSURANCE HOLDING COMPANY SYSTEMS

11:1-35.1 Purpose and scope

(a) The purpose of this subchapter is to set forth filing and procedural requirements governing the filing of required information with respect to the acquisition of control of, or merger with, a domestic insurer, and registration and notification requirements for insurers which are members of an insurance holding company system, pursuant to N.J.S.A. 17:27A-1 et seq.

(b) This subchapter shall apply to any person, insurer, subsidiary or insurance holding company system subject to the requirements set forth in N.J.S.A. 17:27A-1 et seq.

11:1-35.2 Definitions

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

“Acquisition” means any agreement, arrangement or activity, the consummation of which results in a person acquiring directly or indirectly the control of another person, and includes, but is not limited to, the acquisition of voting securities, and assets, and bulk reinsurance and mergers.

“Affiliate” means a person that directly, or indirectly through one or more intermediaries, controls, or is con-

trolled by, or is under common control with, the person specified.

“Alien insurer” means an insurer formed under the laws of any country other than the United States, its states, districts, territories, commonwealth and possessions.

“Authorized insurer” means a foreign or alien insurer, duly authorized by a certificate of authority issued by the Commissioner to transact insurance in this State pursuant to N.J.S.A. 17:32-1 et seq. or 17B:23-1 et seq.

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

“Control” is as defined at N.J.S.A. 17:27A-1c.

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

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

“Executive officer” means chief executive officer, chief operating officer, chief financial officer, treasurer, secretary, controller, and any other individual performing functions corresponding to those performed by the foregoing officers under whatever title.

“Foreign insurer” means an insurer formed under the laws of a jurisdiction of the United States other than this State, and shall include an alien insurer except where clearly noted otherwise.

“Insurance holding company system” means two or more affiliated persons, one or more of which is an insurer.

“Insurer” means any person or persons, corporation, partnership, or company authorized by the laws of this State to transact the business of insurance in this State, except that it shall not include agencies, authorities or instrumentalities of the United States, its possessions and territories, the Commonwealth of Puerto Rico, the District of Columbia, or a state or a political subdivision of a state.

“Person” means an individual, a corporation, a partnership, an association, a joint stock company, a trust, an unincorporated organization, any similar entity or any combination of the foregoing acting in concert.

“Principal insurer” means the insurer with the largest amount of direct written premium within the holding company system as shown by the last filed annual statement.

“Subsidiary” of a specified person is an affiliate controlled by such person directly, or indirectly through one or more intermediaries.

“Ultimate controlling person” means that person which is not controlled by any other person.

“Unauthorized insurer” means an insurer that is not an authorized insurer.

“Voting security” includes any security convertible into or evidencing a right to acquire a voting security.

Amended by R.1997 d.12, effective January 6, 1997.

See: 28 N.J.R. 4700(a), 29 N.J.R. 129(b).

Amended “Commissioner” and “Department”.

11:1-44.9 Adjustment of the program

The licensee monitors, evaluates and adjusts, as appropriate, the information security program in light of any relevant changes in technology, the sensitivity of its customer information, internal or external threats to information, and the licensee's own changing business arrangements, such as mergers and acquisitions, alliances and joint ventures, outsourcing arrangements and changes to customer information systems.

11:1-44.10 Violations

Failure to comply with the provisions of this subchapter shall be deemed to constitute a violation of the statutes governing trade practices at N.J.S.A. 17:29B-1 et seq. and 17B:30-1 et seq., as applicable, and shall result in the imposition of penalties as provided in those statutes, N.J.S.A. 17:22A-26 et seq., 17:23A-1 et seq., 17:33-2, and any other provision of law.

11:1-44.11 Effective date

A licensee shall establish and implement an information security program, including appropriate policies and systems pursuant to this subchapter, by October 19, 2004.

SUBCHAPTER 45. NOTICE TO POLICYHOLDERS OF CONSUMER INSURANCE RATE INCREASES

Authority

N.J.S.A. 17:1-8.1, 17:1-15e and 17:29A-53.

Source and Effective Date

R.2003 d.496, effective December 15, 2003.
See: 35 N.J.R. 3517(a), 35 N.J.R. 5595(a).

11:1-45.1 Purpose and scope

(a) This subchapter sets forth the form and manner of notice to be provided to policyholders and the public when an insurer or rating organization files for a consumer insurance rate increase, in accordance with N.J.S.A. 17:29A-53b.

(b) This subchapter shall apply to all insurers and rating organizations that file for a consumer insurance rate increase, as required pursuant to N.J.S.A. 17:29A-53b. This subchapter shall not apply if the proposed rate change pertains to:

1. A prior approval rate filing made pursuant to N.J.S.A. 17:29A-46.6 or 17:36-5.35;
2. Rating system changes made pursuant to N.J.S.A. 17:29A-46.1 et seq.;

3. A rate filing made pursuant to any statutory change in coverage provided under a policy of private passenger automobile insurance; or

4. A rate filing by the New Jersey Personal Automobile Insurance Plan.

11:1-45.2 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.

“Consumer insurance rate increase” means a prior approval rate filing that:

1. For private passenger automobile insurance, would result in an increase in rates for any group of coverages, as defined in N.J.A.C. 11:3-16.2;
2. For homeowners' insurance, would result in an increase in rates for any policy form, that is, owners, tenants, or condominiums;
3. For personal lines property/casualty coverages, other than as set forth in 1 and 2 above, would result in a positive base rate change; and
4. For Medicare Supplemental coverages, would result in an increase for any of the standard coverage plans A through J or for any non-standard policy or certificate form used by the filer.

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

“Insurer” means an entity authorized or admitted to transact insurance in this State pursuant to Titles 17 or 17B of the New Jersey Statutes.

“Medicare supplemental coverage” means coverage under a Medicare supplement policy, as defined in N.J.S.A. 17B:26A-1e.

“Personal lines property/casualty coverages” means insurance issued for personal, family or household purposes, as set forth at N.J.A.C. 11:13-1.2(a)2.

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

“Rating organization” means every person or persons, corporation, partnership, company, society, or association engaged in the business of ratemaking for two or more insurers, and licensed as such pursuant to N.J.S.A. 17:29A-2.

11:1-45.3 Form of notice required

(a) Subject to N.J.A.C. 11:1-45.1(b), insurers shall provide notice, in the form set forth in Exhibit A in the Appendix to this subchapter, incorporated herein by reference, of any filing for a consumer insurance rate increase, as defined in N.J.S.A. 17:29A-53b, filed directly by the insurer or on its behalf by a rating organization. The notice shall be communicated through either regular or electronic mail to the named policyholders who use the products and services subject to the consumer insurance rate increase, and shall be provided within 10 business days of the filing with the Department. In the case of regular mail, the notice shall be sent to the last known address of the named policyholder. The insurer may request policyholders to supply their electronic mail address, if they have one. If the policyholder does not have an electronic mailing address, then the insurer shall use regular mail. Insurers shall, as part of any filing for a consumer insurance rate increase, affirm that they are aware of and will comply with this notice requirement.

(b) Insurers shall not be responsible to assure receipt of the notice by all policyholders, provided the insurer has complied with N.J.A.C. 11:1-45.3. The failure of any policyholders to receive the notice shall not impact the effectiveness of any rate change that may subsequently be approved.

(c) Rating organizations shall publish notice, in the form set forth in Exhibit A in the Appendix to this subchapter, of any filing for a consumer insurance rate increase, in three newspapers of general circulation in this State, and on the rating organization's website, within 10 business days of the filing with the Department.

(d) Nothing in this rule prevents the insurer from supplementing its notice with any other explanatory information that it may wish to supply to its policyholders with respect to the rate increase.

11:1-45.4 Penalties

Failure to comply with this subchapter shall result in the imposition of penalties as authorized by law, including, but not limited to, penalties authorized pursuant to N.J.S.A. 17:33-2.

APPENDIX

Dear Policyholder:

(Salutation may be omitted by rating organizations.)

This is to provide notice as required pursuant to N.J.S.A. 17:29A-53b that (COMPANY NAME) filed on (DATE) with the New Jersey Department of Banking and Insurance a request for a rate increase in the amount ____% for (TYPE OF COVERAGE(S)).

[For PPA only] Under the proposed filing, the average liability-only policy would see a rate change of ____%. The average Full Coverage policy (includes comprehensive and collision coverage) will see a rate change of ____%. The impact of the filing on your rates may vary substantially, depending on the terms of your policy and your individual circumstances.

[For homeowners' only] Under the proposed filing, the average Owners policy (or equivalent term used by the filer) will see a rate change of ____%. The average Tenants policy (or equivalent term used by the filer) will see a rate change of ____%. The average Condominiums policy (or equivalent term used by the filer) will see a rate change of ____%. The impact of the filing on your rates may vary substantially, depending on the terms of your policy and your individual circumstances.

[For Medicare Supplemental coverages only, list the increase for each of the standard plans A through J, and the increase for each non-standard coverage policy or certificate form used by the filer to which a requested rate increase applies]. The impact of the filing on your rates may vary substantially, depending on the terms of your policy and your individual circumstances.

[For all other personal lines property/casualty coverages] Under the proposed filing, the average policy will see a rate change of ____%. The impact of the filing on your rates may vary substantially, depending on the terms of your policy and your individual circumstances.

The request for a rate increase is subject to review and approval by the Department of Banking and Insurance pursuant to law, and the request ultimately may not be approved or may not be approved for the full amount requested. If approved in whole or in part, the rate change will not affect existing policies until they come up for renewal.