

**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**

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 88, Office of Insurance Fraud Prosecutor, expires on October 30, 2016. See: 43 N.J.R. 1203(a).

**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

by regular and certified mail, return receipt requested, 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.

(e) Service of an administrative complaint may also be made upon a respondent in a manner provided in R. 4:4-4(a) of the Rules Governing the Courts of the State of New Jersey.

#### **13:88-1.6 Failure to respond to notice**

(a) If a respondent does not deliver to OIFP a written request for a hearing in the form and manner required by N.J.A.C. 13:88-1.8, a final agency order shall be issued imposing the civil and administrative penalty or penalties described in the administrative complaint as well as costs of prosecution, including attorneys fees, and restitution, if awarded.

(b) OIFP shall mail a copy of the final order to the respondent at the address where service was made or at a respondent's last known address.

#### **13:88-1.7 Resolution of administrative complaints by administrative consent order**

(a) In order for a matter set forth in an administrative complaint to be deemed concluded by consent of the respondent to the imposition of the civil and administrative penalty described in the notice, the OIFP may require any or all of the following in an administrative consent order:

1. The payment of a monetary penalty;
2. The restitution of moneys owed to any person;
3. Costs of prosecution, including attorneys fees; and
4. Admissions of material facts, conclusions of law, and such other terms and conditions as the OIFP may deem to be necessary and appropriate under the circumstances.

#### **13:88-1.8 Request for a hearing**

(a) A respondent shall have 20 calendar days from the date of service of an administrative complaint within which to deliver a written request for a hearing to the OIFP.

(b) A request for a hearing shall include:

1. The name, address and daytime telephone number of the respondent;
2. The caption and agency number of the administrative complaint;
3. A statement requesting a hearing;

4. A specific admission, denial, or explanation of each fact alleged in the administrative complaint, or a statement that the respondent is without knowledge of the action(s) complained of. A respondent shall not generally deny all of the allegations but shall make denials as specific denials that meet the substance of the designated allegations of the complaint; and

5. A concise statement of the facts or principles of law claimed to constitute a factual or legal defense.

(c) If a request for a hearing lacks any of the elements in (b) above, the OIFP may deny the request or advise the requester in writing of the deficiencies and provide an additional 10 calendar days from the issuance of the deficiency letter to correct them. If no reply correcting the deficiencies is received by the OIFP within 10 calendar days, the OIFP may deny the request for a hearing and issue a final order without holding a hearing.

(d) Upon receipt of a properly completed request for a hearing, the Fraud Prosecutor or such other OIFP personnel as may be designated by the Attorney General, shall examine the request and may conduct or direct such further proceedings as may be appropriate, including, but not limited to, an interview with the respondent.

(e) Not later than 30 days after the receipt of a properly completed request for a hearing, the Fraud Prosecutor, or such other OIFP personnel as may be designated by the Attorney General, shall advise the respondent of the manner of disposition, which may be as follows:

1. Withdrawal of the administrative complaint with or without prejudice;
2. Resolution by administrative consent order, which may provide for a lesser or different civil and administrative penalty than that originally sought; or
3. A finding that the matter constitutes a contested case, pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. In such case, the OIFP shall transmit the matter to the Office of Administrative Law for a hearing consistent with the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(f) Computation of time shall be in accordance with N.J.A.C. 1:1-1.4.

(g) The burden of proof in a contested case shall rest upon the petitioner and shall be met by a preponderance of the credible evidence.

#### **13:88-1.9 Penalties, restitution and costs**

(a) Civil and administrative penalties may be imposed of not more than \$5,000 for the first violation; \$10,000 for the second violation; and \$15,000 for each subsequent violation of any provision of N.J.S.A. 17:33A-1 et seq. and restitution

may be ordered to any insurance company or other person who has suffered a loss as a result of a violation.

(b) For the purpose of applying N.J.S.A. 17:33A-5, each violation of a provision of N.J.S.A. 17:33A-4 in the course of a single claim or application for insurance constitutes a separate violation of the Fraud Act for which a separate civil and administrative penalty may be imposed in accordance with (a) above.

(c) After a hearing, if requested, as provided in N.J.A.C. 13:88-1.8 and upon finding that a violation has occurred, the Attorney General shall issue a final agency order assessing the costs of prosecution, including attorneys fees, in addition to the penalty referred to in (a) above.

(d) In any matter in which payment of a civil and administrative penalty is ordered, payment of the civil and administrative penalty shall be made not later than 10 days following service of the final agency order. Payment of an assessed civil and administrative penalty shall be by certified check or money order made payable to the Commissioner, New Jersey Department of Banking and Insurance by forwarding same to the OIFP.

(e) In any matter in which payment of the costs of prosecution, including attorneys fees, are ordered, payment thereof shall be made not later than 10 days following service of the final agency order. Payment of the assessed costs of prosecution, including attorneys fees, shall be by certified check or money order made payable to the State of New Jersey, and forwarding same to the OIFP.

(f) In any matter in which payment of restitution is ordered, payment thereof shall be made not later than 10 days following service of the final agency order. Payment of restitution shall be by certified check or money order made payable to the person named in the final agency order by forwarding same to the OIFP.

(g) Any civil and administrative penalty imposed pursuant to N.J.A.C. 13:88-1.6, 1.7 or 1.9 may be collected with costs, including attorneys fees, in a summary proceeding pursuant to the penalty enforcement law, N.J.S.A. 2A:58-10 et seq. Any civil and administrative penalty collected pursuant to this subsection shall be applied in accordance with N.J.S.A. 17:33A-5e.

Amended by R.2009 d.354, effective December 7, 2009.  
See: 41 N.J.R. 2630(a), 41 N.J.R. 4454(a).  
Section was "Service of notice".

### 13:88-1.10 Severability

If any rule, sentence, paragraph or section of these rules, or the application thereof to any persons or circumstances, shall be adjudged by a court of competent jurisdiction to be invalid, or if by legislative action any rule shall lose its force and effect, such judgment or action shall not affect, impair or void the remainder of these rules.

## SUBCHAPTER 2. INSURER REPORTING REQUIREMENTS

### 13:88-2.1 Scope

This subchapter applies to all insurers in the State of New Jersey.

### 13:88-2.2 Definitions

For purposes of this subchapter, the following terms have the following meanings, unless the context clearly indicates otherwise:

"Insurer" means any insurance company as defined in N.J.S.A. 17:33A-3, which writes at least \$2,000,000 in direct automobile insurance premiums in any given calendar year.

"ISO" means the Insurance Services Office, Incorporated.

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

"OIFP database" means that claims information database maintained by the OIFP pursuant to N.J.S.A. 17:33A-22.

"Universal Format" means that particular ISO database format by which insurers electronically transmit automobile insurance claims information to ISO.

### 13:88-2.3 Construction

(a) These rules shall be liberally construed to permit the OIFP to discharge its statutory function.

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

### 13:88-2.4 Claims reporting

(a) Insurers shall report to the OIFP or, in the alternative, to ISO using the ISO Universal Format (incorporated herein by reference in the subchapter Appendix), all motor vehicle losses closed with payment and all motor vehicle losses closed without payment as follows:

1. Information collected during the normal course of business on stolen vehicles including, but not limited to, the owner's name and address, the insured's name and address, policy number, claim number, coverage type, year and make of vehicle, vehicle identification number, date of loss, and location of loss; and

2. Information collected during the normal course of business on automobile accidents including, but not limited to, insured's name and address, policy number, coverage type, claimants' names and addresses, year and make of involved vehicles, the date and location of the accident, persons involved in the accident, alleged injuries, and treat-

ing health care providers. Automobile accident information need not include glass only claims or accident claims for amounts less than \$2,000 if there are neither bodily injury or personal injury protection components of the accident claim.

(b) Each insurer shall notify the OIFP of its intention to comply with this chapter by reporting directly to the OIFP or providing the information through ISO and the ISO Universal Format. Insurers shall also indicate which of the data elements listed in the Appendix they collect during the normal course of business on stolen vehicle and automobile accident claims. Notice need only be made once, unless a carrier changes its method of compliance, in which case it shall submit an updated notice. Any carrier, which newly becomes subject to this reporting requirement, shall submit its notice within 30 days of becoming subject to this chapter. Notice shall be in writing and directed to: All Claims Database Unit, OIFP, PO Box 094, Trenton, NJ 08625-0094.

(c) Once reporting under (a) above has begun, insurers shall submit the data referenced in (a) above within 30 days of the closing of the claim.

(d) Insurers unable to meet the reporting deadlines established in these rules may apply in writing to the OIFP for an extension of the reporting deadlines. The OIFP shall grant reasonable extensions of time for good cause.

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

In the introductory paragraph of (a), substituted "Insurers" for "By June 4, 2005, insurers"; and rewrote (b).

### 13:88-2.5 Insurer cooperation with ISO

Insurers shall cooperate with ISO and shall release information in their possession to ISO upon ISO's reasonable request.

### 13:88-2.6 ISO cooperation with insurers

ISO shall cooperate with insurers in the resolution of errors in reporting motor vehicle loss information required under this subchapter.

### 13:88-2.7 ISO record retention

ISO shall retain all information required to be reported to it under this subchapter for a period of at least seven years from the date of entry into the ISO database.

### 13:88-2.8 Penalties

Failure of an insurer to abide by the requirements of this subchapter may lead to the imposition of sanctions or penalties as provided by law.

### 13:88-2.9 Severability

If any rule, sentence, paragraph or section of these rules, or the application thereof to any persons or circumstances, shall

be adjudged by a court of competent jurisdiction to be invalid, or if by legislative action any rule shall lose its force and effect, such judgment or action shall not affect, impair or void the remainder of these rules.

### 13:88-2.10 Confidentiality

All information and materials accessed by, received by, created by, or maintained by the OIFP pursuant to these rules concerning the possibility of the existence or occurrence of insurance fraud or related to criminal activities are confidential and shall not be subject to public access pursuant to the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

## APPENDIX

### ISO UNIVERSAL FORMAT

ISO Universal Format Field Name

Insurance Company (ISO assigned code)

Policy Number

Policy Type

Claim Number

Date of Loss

Location of Loss Address (incl. State)

First Name (Choose either Role IN, CI)

Last Name (Choose either Role IN, CI)

Business Name (Choose either Role IN, CI)—required if a Business

Address Information

City

State

First Name (Role CL)

Last Name (Role CL)

Address Information

City

State

First Name (Choose Role from ISO Appendix C)

Last Name (Choose Role from ISO Appendix C)

Business Name (Choose Role from ISO Appendix C)

Address Information

City

State

Coverage Type

Loss Type

Alleged Injuries/Property Damage

Vehicle Year

Vehicle Make (Abbrev.)

VIN

Date of Recovery (Theft)

Vehicle Make

Recovery Agency

Condition of Recovered Vehicle (Theft)

VIN

Owner Retaining Salvage Indicator

Date of Salvage

Buyers Business Name OR

Last and First Name (if owner did not retain salvage)

Role in Claim

Role in the Claim; if Service Providers reported with claim, their names, address required

Individual/Business Indicator

Business Name (if a Business)

Last Name

First Name

City

State

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### SUBCHAPTER 3. INSURANCE FRAUD DETECTION REWARD PROGRAM

#### 13:88-3.1 Scope

This subchapter applies to all persons in the State of New Jersey.

#### 13:88-3.2 Definitions

For the purposes of this subchapter, the following terms have the following meanings, unless the context clearly indicates otherwise:

“CLASS” means the Case Screening, Litigation, and Analytical Support Section of the Office of the Insurance Fraud Prosecutor.

“Conviction” means the entry of a judgment of conviction at the time sentence is imposed by the court.

“Value of the fraud” means the direct or indirect gain or advantage realized by the person or entities convicted of insurance fraud, or the direct or indirect gain or advantage that would have been realized by the person or entities convicted of insurance fraud if the fraud had not been detected. The term does not include amounts imposed or collected as interest, penalties and/or fines.

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 “Value of the fraud”, deleted “of the crime” following “convicted” twice.

#### 13:88-3.3 Construction

(a) These rules shall be liberally construed to permit the OIFP to discharge its statutory function.

(b) Upon appropriate notice, these rules may be relaxed for good cause in a particular situation in order to effectuate the purposes of N.J.S.A. 2C:21-4.7. Statutory time limits shall not be relaxed.

#### 13:88-3.4 Fraud reporting procedure

(a) Individuals may report suspected cases of health care claims fraud, insurance fraud or any other criminal offense related to an insurance transaction by one of the following methods:

1. Call the OIFP toll free hotline at 1-877-55 FRAUD (1-877-553-7283) during regular business hours (Monday through Friday 9:00 A.M. to 5:00 P.M.) and speak to a hotline operator;
2. Call the OIFP toll free hotline number at 1-877-55 FRAUD (1-877-553-7283) after regular business hours and leave a detailed message, including a name and phone number at which the caller can be reached;
3. Log onto the OIFP website ([www.njinsurancefraud.org](http://www.njinsurancefraud.org)) and submit an online report;
4. Send an electronic mail message to the OIFP at [njinsurancefraud@njdcj.org](mailto:njinsurancefraud@njdcj.org); or
5. Write directly to the OIFP at the following address: New Jersey Department of Law and Public Safety, Division of Criminal Justice, Office of the Insurance Fraud Prosecutor, PO Box 094, Trenton, NJ 08625-0094, Attention: CLASS.

#### 13:88-3.5 Reward application procedure

(a) A reward for information submitted to the OIFP under N.J.A.C. 13:88-3.4 requires the completion of a reward