

Administration of P.L. 2001 c. 237
("40 States" Policy Form Filing)
NJDOBI Report Pursuant to NJSA 17B:25-18.4.f.(3)

For Submission To:
The Governor and the Legislature

Background

PL 2001, c. 237, codified as NJSA 17B:25-18.4 and 18.5, and commonly known as the "40 States Law", provides that an insurer authorized to do business in New Jersey may file with the Commissioner of Banking and Insurance ("Commissioner") and make available for sale and use in New Jersey, subject to certification that the same form (except for non-material state-specific variations) is available for sale and use in 40 states. The law also provides for penalties to insurers that submit an improper certification, directs the adoption of regulations to implement the section, and requires the submission of an annual report on the administration of the law. Finally, the law provides for penalties against any officer or employee of the Department of Insurance who threatens to retaliate against anyone seeking to enforce their rights, or lodge a complaint, against such officer or employee.

Implementing regulations, NJAC 11:4-40A.1 et. seq., were adopted by the Department on April 7, 2003. Although some forms were acknowledged (allowed to be used) prior to the adoption of these rules, the 40 states process became more functional and routine after the adoption of the rules.

40 States Filings in 2009

A total of **778** forms of the **1059** forms received for action under this law were acknowledged (approved) in 2009 using 40 states (NJSA 17B:25-18.4). **550** of these forms were non-variable individual life or annuity forms, and **228** of the forms were variable individual life or annuity forms. The remaining **281** of these forms were not acknowledged because the filing did not meet the requirements of NJAC 11:4-40A.

Available for review at the Department is a 40 States Annual Report, which provides a 2009 summary of the 40 States Filings by Category of forms (Individual Non-Variable, Group Life, Fraternal Benefit Society, Variable), followed by a detailed breakdown by insurer.

To place 40 States filings in perspective, the Department received a total of **3,372** forms (non-40 States and 40 States) in 2009 of which only **1059** forms were received for action under the 40 States law. Of this total, **736** received were 40 States non-variable individual life or annuity forms and **323** of the forms were 40 States variable individual life or annuity forms.

Of the 3,372 total forms, 2,548 were non-variable individual life or annuity forms resulting in **40 states filings being** about **28%** of this sub-total. There were 824 total forms for variable life and annuities resulting in **40 States filings being** about **39%** of the total for variable life and annuities.

40 States Filings in Previous Years

Available for review at the Department is a 40 States Annual Report Recap, which provides an historical Recap of 40 States filings submitted to the Department since Year 2006.

There are a number of reasons that forms continue to be submitted as “file for approval” rather than 40 states.

- Some companies are not licensed in 40 states, and so cannot take advantage of the 40 states process.
- Some forms may be subject to significant state by state variation, and so do not meet the requirement of being essentially the same in 40 states.
- And, some companies probably welcome the additional degree of review on forms filed for approval.

Positive Impact

The 40 states law has had a generally positive impact on the review of policy forms in New Jersey. First, as intended by the law, complying forms submitted using the 40 states process are available for sale sooner, and with less administrative cost and effort on the part of the company. Review of these forms takes fewer Department resources compared to file for approval forms. The Department is able to compare provisions in policy forms that are generally accepted in other states to our required language. In some cases, the Department has revised file-for –approval requirements as a result of this knowledge from other states.

Negative Impact

The 40 states law does not allow for resubmission. Therefore, any deficiencies in the filings must be submitted anew resulting in redundancy and delay.

Also, the 40 states law requires the Department to review the filings within a 30 day Deemer period instead of the normal 60 days. This requirement places additional burden on the Department, when the filings do not comply with all general requirements. In such cases, it may take up to 2 weeks for the filing to reach the analyst’s desk for review. Beginning January 1, 2010, when 40 States filings are mandated issued via SERFF, our triaging process should be more efficient.

	"Exhibit B"									
	40 States Annual Report Recap									
	2009	2009	2008	2008	2007	2007	2006	2006		
Individual Life										
Acknowledged	550		540		433		293			
Disapproved		186		280		231		178		
Group Life										
Acknowledged	0		0		0		0			
Disapproved		0		3		3		0		0
Fraternal Benefit Society										
Acknowledged	0		0		11		0			
Disapproved		0		0		0		0		0
Variable Contracts										
Acknowledged	228		335		228		145			
Disapproved		95		150		183		94		
Total	778	281	875	433	672	417	438	272		
Annual Grand Total		1059		1308		1089		710		