

INSURANCE
DEPARTMENT OF BANKING AND INSURANCE
OFFICE OF CONSUMER PROTECTION SERVICES

Insurance Producers Standards of Conduct: Commissions and Fees
Fees

Adopted Amendment: N.J.A.C. 11:17B-3.1

Proposed: December 1, 2008 at 40 N.J.R. 6735(a).

Adopted: March 10, 2009 by Steven M. Goldman, Commissioner, Department of
Banking and Insurance

Filed: March 11, 2009 as R. 2009 d. 109, with a technical change not requiring
additional public notice and opportunity for comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 17:1-8.1, 17:1-15e, and 17:22A-26 et seq.

Effective Date: April 6, 2009

Expiration Date: June 21, 2010.

Summary of Public Comments and Agency Responses:

The Department of Banking and Insurance timely received written comments from
the following:

1. DeCotiis, Fitzpatrick, Cole and Wisler (on behalf of an insurance producer);
2. The Professional Insurance Agents of New Jersey; and
3. The Independent Insurance Agents and Brokers of New Jersey.

COMMENT: All of the commenters supported the proposed amendment and generally
believed that it provides agents the ability to charge reasonable and appropriate fees in
circumstances where they provide additional services for their commercial lines
policyholders. One commenter additionally stated that it stands behind upholding the

highest levels of conduct within the industry, and thus encouraged the Department to continue fair, uniform and diligent enforcement of the fee-charging requirements involved in N.J.A.C. 11:17B-3.1.

Another commenter noted that the amendment in N.J.A.C. 11:17B-3.1(a) provides that “subject to (b) through (g) below, insurance producers selling, soliciting, or negotiating commercial lines insurance may charge and receive fees for services rendered from an insured or prospective insured.” The commenter suggested that to remove any ambiguity, the phrase “regardless of whether or not such services were rendered as an insurance producer” be added at the end of the sentence. The commenter believed that this modification is necessary to make clear that a commercial lines producer may receive a service fee both for licensed conduct, that is services rendered as an insurance producer, and for other related conduct that does not otherwise require a producer’s license.

RESPONSE: The Department appreciates the support of its proposal. The Department also does not believe that the change suggested by the commenter is required. To the extent that a producer is performing services not as a licensed insurance producer, such services would not be regulated by the Division of Insurance, and accordingly, would not be subject to N.J.A.C. 11:17B-3.1(b) through (g).

Summary of Agency-Initiated Change:

The Department is changing the word “from” to read “to” in the last sentence of N.J.A.C. 11:17B-3.1(a) as a matter of grammatical form.

Federal Standards Analysis

A Federal standards analysis is not required because the adopted amendments are not subject to any Federal requirements or standards.

Full text of the adoption follows (addition to proposal indicated in boldface with asterisks

thus; deletion from proposal indicated in brackets with asterisks *[thus]*):

SUBCHAPTER 3. FEES

11:17B-3.1 Fees

(a) Insurance producers may charge a fee for services rendered in the sale of personal lines property/casualty or personal lines surplus lines insurance, subject to N.J.A.C. 11:17B-3.2. Insurance producers acting as agents for an insurance company for personal lines insurance shall not charge or receive any fee on a policy to or from a policyholder or insured for services rendered as an insurance producer except for reimbursement of actual out-of-pocket expenses incurred obtaining documents and other materials related to the underwriting process for new automobile applications and subject to the limitations of N.J.A.C. 11:17B-3.2(a)9. Subject to (b) through (g) below, insurance producers selling, soliciting or negotiating commercial lines insurance may charge and receive fees for services rendered *[from]* **to** an insured or prospective insured.

(b) – (g) (No change.)