

INSURANCE  
DEPARTMENT OF BANKING AND INSURANCE  
OFFICE OF SOLVENCY REGULATION

Surplus Lines  
Exportable List

Adopted Amendment: N.J.A.C. 11:1-34.6

Proposed: October 18, 2004 at 36 N.J.R.4622(a).

Adopted: March 31, 2005 by Donald Bryan, Acting Commissioner, Department of Banking and Insurance

Filed: April 1, 2005 as R. 2005 d. 135, without change.

Authority: N.J.S.A. 17:1-8.1 and 17:22-6.43

Effective Date: May 2, 2005

Expiration Date: January 31, 2006.

**Summary** of Public Comments and Agency Response:

The Department of Banking and Insurance (Department) received timely written comments from Lancer Insurance Company and the Property Casualty Insurers Association of America.

COMMENT: Two commenters objected to the addition of commercial automobile liability insurance for limousines to the exportable list. One commenter believed that the issue wasn't the lack of a sufficient domestic market because there were nine companies actively writing first dollar commercial auto liability and physical damage lines in this State. The commenter stated that it believes that there wasn't a shortage of coverage available in the New Jersey market, but rather a perception that the price was too high.

The commenter stated that for several years this State has done everything it can to strengthen the automobile market and maintain a viable healthy automobile insurance system for the State. The commenter believes that this proposal undermines that effort. The commenter stated that they have been actively writing in the State since 1986 and their estimated 2004 written premium for both personal and commercial lines will be \$44,830,736. The commenter stated that their total limousine writings are projected at \$7,000,000 for 2004. Total writings since 1996 are \$209,000,000 (commercial and personal) with total limousine writings of \$33,000,000. The commenter stated that it has insured over 10,000 New Jersey based limousine vehicles since 1996 with virtually no complaints.

The commenter stated that it has spent several hundred thousand dollars on engineering visits, training seminars, driver training tapes, cameras for the vehicles and subsidies in an effort to bring loss costs down and help the New Jersey operator run a better business. The commenter stated that it regularly provides detailed loss summaries and analysis to its larger owners so that they can determine what is happening and how to fix it.

A second commenter suggested that there is a need for further review of market conditions before the adoption of this proposal. The commenter stated that without further information, adoption of the proposed amendment would be premature and not in the best interest of consumers. The commenter submitted that much of the information provided to the Department at the hearing was inaccurate, based upon information in their records that indicated that nearly 10 companies were writing commercial auto insurance for limousines. The commenter stated that he is also uncertain whether this proposal will provide the relief that the Department, and certainly the New Jersey Limousines Association, expect. The commenter stated that it is important to maintain a balance between companies that are licensed to write

primary commercial policies and surplus lines writers. The commenter stated that the extent and nature of surplus lines coverage is quite different and the exposure to consumers is higher in many cases. The fact that the New Jersey Surplus Lines Association is opposed to these changes is sufficient evidence to take another look at this issue at this time and reconsider the value of making this move. The commenter is also concerned that in reality the New Jersey Limousines Association was calling for changes to the market in an effort to get a better price of their insurance coverage when they called for the higher limits for competitive reasons. The commenter is concerned that while seeking to limit out-of-State competition by passing higher liability limits they are also seeking overall lower insurance costs. The commenter contends that “you can’t have it both ways.”

The second commenter further stated that the cost of insurance has gone up for a number of reasons; however, he has not heard of an availability concern with obtaining insurance in New Jersey. Finally, the second commenter asked the Department to consider the impact this proposal would have on all parties, including consumers, and the need for the existing coverage. The commenter stated that such coverage should not be placed in a non-admitted market strictly to take advantage of a lower rate than that available from the admitted market.

The commenter urged the Department to reconsider the need for this change and convene a new hearing to hear from all parties about this issue and the impact it would have on consumers.

RESPONSE: Pursuant to N.J.S.A. 17:22-6.43, the Commissioner may declare generally eligible for export any class or classes of insurance coverage or risk for which, after a hearing, he or she determines that there exists no reasonable or adequate market among authorized carriers in New Jersey. On December 20, 2003, the Department held its annual Exportable List hearing to

receive testimony and public comment from interested parties that supported the addition or deletion of items on the current Exportable List. Upon review of the relevant information, the Department decided that commercial automobile liability insurance for limousines should be added to the Exportable List. Although the commenters stated that nine or 10 companies are writing commercial auto insurance for limousines, there appears to be an availability problem. The Department determined that there did not exist a reasonable or adequate market among authorized carriers in the State of New Jersey for this particular type of insurance.

Based upon the Department's review of the record and the testimony from the Exportable List Hearing, the Department disagrees with the commenter. The Department is not convinced that the addition of commercial auto liability insurance for limousines to the exportable list will have an adverse impact on coverage availability or pricing of the risk. The Department believes it will however, open the market by making the rating and coverage more competitive. Therefore the Department does not believe that it is necessary to refrain from adopting the proposed amendment to add commercial automobile liability insurance for limousines to the Exportable List. Parties who believe there is an adequate domestic market for this type of insurance may present evidence to that effect at a future Exportable List hearing.

#### Federal Standards Statement

The adopted amendment is not subject to any Federal standards or requirements. Therefore, a Federal standards analysis is not required.

**Full text** of the adoption follows:

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