

**INSURANCE
DEPARTMENT OF BANKING AND INSURANCE
DIVISION OF INSURANCE**

Producer Licensing

Proposed Readoption with Amendments: N.J.A.C. 11:17

Authorized by: Holly C. Bakke, Commissioner, Department of Banking and Insurance.

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

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2003-192

Submit comments by July 18, 2003 to:

Douglas Wheeler, Assistant Commissioner
Department of Banking and Insurance
Legislative and Regulatory Affairs
20 West State Street
PO Box 325
Trenton, NJ 08625-0325
(FAX) (609) 292-0896
Email: Legsregs@dobi.state.nj.us

The agency proposal follows:

Summary

On August 15, 2001, the New Jersey Legislature enacted the New Jersey Insurance Producer Licensing Act of 2001 (the "Act"), P.L. 2001, c. 210. The Act's stated purpose is to govern the qualifications and procedures for the licensing of insurance producers, simplify and organize the statutory law to improve efficiency, permit the use of new technology and reduce costs associated with the issuance and renewal of producer licenses. Regulations pursuant to the Act were proposed on July 1,

2002 and adopted on November 4, 2002. See 34 N.J.R. 2286(a) and 3839(a). The resulting revised chapter, N.J.A.C. 11:17, Producer Licensing, expires October 12, 2003, pursuant to N.J.S.A. 52:14B-5.1c. The Department has reviewed the chapter as revised in November 2002, and has determined that the chapter will continue to serve the Act's stated purpose and is therefore proposing re-adoption of that Chapter.

Subchapter 1 sets forth the purpose and scope of the chapter and the definitions of certain words and terms that appear in the chapter.

Subchapter 2 contains licensing rules regarding terms of licenses, license authorities, temporary work authorities, license renewal, additional authorities; legal and business names, addresses, branch offices, business relationships, continuation of business of a producer who becomes disabled, dies or enters the Armed Forces, licensing information requirements, fees, denial of license, surrender and cancellation of license, reinstatement after surrender, license records, and requests for disclosure of social security numbers.

N.J.A.C. 11:17-2.8 is amended to provide that licensees with authority in only ticket insurance, group mortgage cancellation insurance, legal insurance, credit insurance, or self-storage personal property insurance are not required to register their branch offices. In addition, N.J.A.C. 11:17-2.12(d) is added to provide that a license will not be deemed issued or renewed if payment of the license fee is subsequently dishonored. It further provides that the Department will provide notice of the dishonor and the status of the license or renewal.

Subchapter 3 sets forth the requirements with regard to insurance education programs, insurance education providers, prelicensing education, state licensing

examination, continuing education and professional designations recognized by the Department. It also contains provisions for penalties for insurance education providers.

Numerous comments were received during the comment period following the July 1, 2002 proposal, which suggested revisions to Subchapter 3, including some substantive changes which could not be effectuated without reproposal. Some of those suggested changes are being proposed as amendments now, including amendments which concern the qualifications of insurance education instructors. Two amendments ease the experience requirements for insurance education instructors. As adopted, N.J.A.C. 11:17-3.2(a)3 required that instructors have five years' experience in insurance practice, insurance education or the equivalent, in the authority or authorities for which the instructor is teaching. While retaining the overall five year total requirement for prelicensing education instructors, one amendment proposes to lessen the experience needed in the particular authority to be taught to three years for prelicensing education instructors. Another amendment provides that continuing education instructors shall have three years experience in the subject area for which instruction is provided. This amendment recognizes that some continuing education courses include content that is not specifically related to one insurance line or authority.

Another amendment, at N.J.A.C. 11:17-3.2(a)4, permits insurance education providers to use substitute teachers, special lecturers or guest speakers to provide instruction, so long as the insurance education provider fulfills all applicable recordkeeping and reporting requirements. For prelicensing education, the use of these instructors will be limited to 25 percent of the total class hours.

N.J.A.C. 11:17-3.6 is amended to clarify that six credits of continuing education in fraud and ethics is required, and that these six credits are part of the total of 24 credits required in the authorities for which the producer is licensed.

Subchapter 4 and Subchapter 5 are revised.

Subchapter 6 sets forth the procedures for the regulation of certain persons, firms, associations or corporations who act as managing general agents on behalf of insurers. Its sections address purpose and scope, definitions of terms used within the subchapter, requirements for managing general agents and insurers who appoint managing general agents, filing requirements, claim processing requirements, record maintenance and penalties.

Subchapter 7 sets forth the procedures for the regulation of certain persons, firms, associations or corporations who act as reinsurance intermediaries and for insurers which transact business through a reinsurance intermediary. Sections include purpose and scope, definitions of terms used with the subchapter, requirements for reinsurance intermediaries and insurers who transact business through an reinsurance intermediary, filing requirements, record maintenance and penalties.

This rule proposal provides for a comment period of 60 days, and therefore, pursuant to N.J.A.C. 1:30-3.3(a)5, is not subject to the provisions of N.J.A.C. 1:30-3.1 and 3.2 governing rulemaking calendars.

Social Impact

The proposed amendments affect all persons selling, soliciting or negotiating insurance in New Jersey, insurance education providers and instructors. The proposed

changes to the instructor requirements for continuing education ease the burden on insurance education providers in finding qualified instructors while maintaining a high standard to guarantee that insurance producers receive their education from competent instructors. The proposed amendment exempting certain limited lines from registering their branch offices with the department addresses the burden placed on certain large companies with numerous branches, such as car rental agencies, created by the current requirement to register each branch office.

The rules proposed for re adoption will also affect all persons selling, soliciting or negotiating insurance in New Jersey, insurance education providers and instructors and the general public. The re adoption maintains the existing rules regarding licensing and producer education. Re adoption of these rules is necessary to maintain the quality and professionalism of insurance of producers with continued high standards that protect the consumers and ensure quality insurance services. In addition, re adoption of these rules is necessary to retain reciprocity with other states for producer licensing.

The Department believes re adoption of Subchapter 6 is necessary to maintain regulatory control over managing general agents and to allow definitive standards to remain in effect for those agents. The Department also believes retention of the standards and controls enumerated in Subchapter 7 are necessary for reinsurance intermediaries.

Economic Impact

The Department does not believe that the proposed amendments to the rules applicable to insurance education instructors will have any adverse economic impact on

producers or instructors. While the easing of the educational requirements may help increase the availability of education, the Department does not believe the change will affect either the cost of the education or the compensation of the instructors. In addition, there will be no economic impact in the cost of compliance with the recordkeeping requirements for insurance education providers, as these amendments impose no additional recordkeeping requirements, and do not shift any of the recordkeeping burden away from the provider.

The Department believes there will be a positive economic impact in eliminating the branch registration requirement for certain limited lines. The negation of the registration requirement will eliminate the burden of unnecessary and duplicative paperwork and its inherent cost both for the licensees and the Department.

The Department does not expect the rules proposed for readoption to impact economically the insurance producers, insurance education providers, managing general agents or reinsurance intermediaries. No change in the level of fees is anticipated at this time. Further, no additional educational requirements have been added. Therefore there should not be any additional costs associated with education, either in the cost of obtaining education or in the costs of developing or providing instruction.

Insurance producers, insurance education providers, managing general agents or reinsurance intermediaries will continue to pay application fees and renewal fees. All those required to keep records will continue to bear the cost of such recordkeeping. Those who require insurance education will continue to incur the costs of that education while insurance education providers will continue to incur costs associated with

providing that insurance, such as instructors' salaries and the costs associated with recording, retaining and reporting on completed educational requirements. Managing general agents and reinsurance intermediaries will continue to incur the costs of recordingkeeping. It is not anticipated that any outside professional services will be needed for any of the functions required by the rules. It is anticipated that these functions will continue to be performed by in-house staff.

Federal Standards Statement

A Federal standards analysis is not required because the rules proposed for readoption with amendments are not subject to any Federal standards or requirements.

Jobs Impact

The Department does not anticipate that the rules proposed for readoption with amendments will result in the generation or loss of jobs with respect to insurance education providers. The Department invites commenters to submit any data or studies concerning the jobs impact of the proposed amendment and new rule together with their written comments on other aspects of this proposal.

Agriculture Industry Impact

The Department does not expect any agriculture industry impact as a result of the rules proposed for readoption with amendments.

Regulatory Flexibility Analysis

Most persons selling, soliciting or negotiating insurance in New Jersey and some engaged in the business of providing insurance education in New Jersey are “small businesses” as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16. The same is true for managing general agents and reinsurance intermediaries doing business in New Jersey. These persons and entities will be subject to all requirements and must bear the costs of compliance imposed by these amended and readopted rules as discussed above.

The rules proposed for readoption with amendments provide no different reporting, recordkeeping or other compliance requirements specifically based on business size. The amendments and readoption enforce a regulatory framework for the licensure of producers to ensure that they possess the minimum qualifications and knowledge necessary to sell, solicit or negotiate insurance in New Jersey in order to protect insureds and the market generally. Providing different compliance requirements based on business size would, therefore, thwart the intent of the Legislature as expressed in the Act and violate reciprocity.

The rules also provide a framework to ensure the minimum qualifications for insurance education providers, to delineate the minimum educational curriculums and to allow for the oversight of those minimums to protect the producer and the general public. These purposes do not provide for different compliance requirements based on business size.

The proposed amendments regarding insurance education reduce the minimum qualifications applicable to insurance education instructors, making insurance education

more obtainable and easier to provide. These purposes do not provide for different compliance requirements based on business size.

Duplicative and unnecessary paperwork regarding the registration of branch offices has been eliminated for branch offices of certain limited lines. This has been eliminated for all companies which offer those lines, without regard to their size. For anticipated costs of compliance and use of professional services, see Economic Impact above.

For the foregoing reasons, the proposed new rules provide no differentiation in compliance requirements based on business size.

Smart Growth Impact Statement

The proposed new rule and amendments have no impact on the achievement of smart growth and implementation of the State Plan.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 11:17.

Full text of the proposed amendments follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

11:17-2.8 Branch offices

(a) [Licensees] **Except for licensees with authority in only ticket insurance, group mortgage cancellation insurance, legal insurance, credit insurance or self-storage personal property insurance, licensees** shall file with the Department by

hard copy or electronic means a branch office registration form within 30 days before business is first conducted there. A branch office registration form shall be accompanied by the processing fee specified in N.J.A.C. 11:17-2.12. The appropriate registration form will be prescribed by the Department.

(b) - (e) (No change.)

11:17-2.12 Fees

(a) – (c) (No change)

(d) Notwithstanding any action by the Department to the contrary, no license will be deemed issued or renewed if payment of the license fee is subsequently dishonored. In such cases, the Department will provide notice of the fact that funds were dishonored and the status of the application or license to the applicant.

11:17-3.2 Insurance education provider duties and requirements

(a) Each approved insurance education provider (except as modified hereafter) shall:

1. – 2. (No change.)

3. Use knowledgeable and competent instructors to teach all courses. An instructor shall not have had his or her insurance producer license revoked, suspended or voluntarily surrendered for cause in any state and shall in the opinion of the Commissioner, be otherwise of good character and reputation.

[Instructors] **Prelicensing education instructors** shall possess at least five years' experience in insurance practice, insurance education or the equivalent, **at least three years of which** must be derived from the same authority or authorities of insurance for which the instructor is teaching. **Continuing education providers shall possess at least three years experience in the subject area taught.** Prelicensing education instructors shall, in addition:

i. – iii. (No change.)

4. Be permitted to use substitute teachers, special lecturers or guest speakers to instruct on particular topics, so long as the insurance education provider fulfills the recordkeeping and reporting requirements imposed by this subchapter. For prelicensing education courses, the use of substitute teachers, special lecturers or guest speakers shall not collectively exceed 25 percent of the total course hours.

Recodify existing 4. – 9. as **5. – 10.** . (No change in text.)

(b) – (c) (No change.)

11:17-3.6 Continuing education

(a) No resident individual insurance producer licensed with life, accident and health or sickness, property, casualty, surplus lines, title, variable life and variable annuity or personal lines authority shall be renewed unless the renewal applicant demonstrates that he or she has completed 48 credits hours of approved continuing education courses during the previous four years, 24 of which shall be in approved courses in the authorities for which the producer is licensed and six of **those 24** which

shall be in approved courses related to insurance fraud, professional ethics or any other subject matter required by the Commissioner for the protection of consumers. Producers licensed as of November 4, 2002 shall have until the second renewal following November 4, 2002 to comply with the requirement to obtain 24 credits in the authorities for which the producer is licensed and six credits in approved courses related to insurance fraud, professional ethics or any other subject matter required by the Commissioner for the protection of consumers.

(b) - (l) (No change)

inoregs/bgprodRAa