

INSURANCE
DEPARTMENT OF BANKING AND INSURANCE
DIVISION OF INSURANCE

Commercial Automobile Insurance Plan

New Jersey Personal Automobile Insurance Plan
Definitions; Governing Committees

Proposed Amendments: N.J.A.C. 11:3-1.2, 1.4, 2.2 and 2.5

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

Authority: N.J.S.A. 17:29D-1

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

Proposal: PRN 2005 – 101

Submit comments by May 20 , 2005 to:

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The agency proposal follows:

Summary

The Department of Banking and Insurance (Department) proposes to amend N.J.A.C. 11:3-1, dealing with the New Jersey Commercial Automobile Insurance Plan (CAIP) and N.J.A.C. 11:3-2, dealing with the New Jersey Personal Automobile Insurance Plan (PAIP). These rules provide that the CAIP and PAIP shall, respectively, be administered by Governing Committees consisting of 14 members, of which six members shall be nominated by insurance

trade associations. The current rules provide that three trade associations, the Alliance of American Insurers (Alliance), the American Insurance Association (AIA) and the National Association of Independent Insurers (NAII) shall each nominate two members to represent participants of CAIP and PAIP. With the merger of the Alliance and NAII forming a new trade association known as Property Casualty Insurers Association of America (PCI), the Department seeks to make appropriate modifications to the compositions of the Governing Committees of CAIP and PAIP.

The Department recognizes that it is important to have a diverse and balanced membership on the Governing Committees. The Department has determined that the insurer participants' representation on the Governing Committees shall be comprised of two members each from the PCI and the AIA, and two members nominated by insurer participants who are not members of those organizations. In addition, insurer participants who belong to one of those organizations or who are not affiliated with either organization will nominate two other members to serve as at-large representatives.

The proposed amendments to N.J.A.C. 11:3-1.4(b) and 2.5(b) would clarify that AIA and PCI shall each nominate two members to represent insurer participants in the CAIP and PAIP. The nomination process for companies that do not belong to either of those organization will remain unchanged. Proposed new N.J.A.C. 11:3-1.4(d) and 2.5(d) would provide that two additional members will be nominated by insurer participants who belong to the AIA or PCI, or by insurer participants which do not belong to either organization to serve as at-large representatives on the CAIP and PAIP governing committees. In addition, N.J.A.C. 11:3-1.4(d) through (h) and 11:3-2.5(d) through (g) are being recodified as N.J.A.C. 11:3-1.4(e) through (h) and 11:3-2.5(e) and (f), respectively.

The Department also proposes to amend the definition of “participant” in N.J.A.C. 11:3-1.2 so as to have that term mean an insurer licensed and authorized to write motor vehicle coverage and which is actively writing commercial automobile liability or physical damage insurance in New Jersey and specifically includes any insurer who writes all other automobile liability and all other physical damage insurance.

The Department also proposes to amend the definition of “insurer” in N.J.A.C. 11:3-2.2 so as to have that term mean any person or persons, corporation, association, partnership, company, or other legal entity authorized to transact the business of private passenger automobile insurance and actively writing private passenger automobile liability or physical damage insurance in this State.

Finally, the Department proposes to add a new paragraph 6 to N.J.A.C. 11:3-2.5(a) to the effect that no employee of a voluntary market automobile insurer who has filed and received approval of an application to withdraw from writing private passenger automobile insurance in New Jersey shall be eligible to serve as a member of the PAIP governing committee.

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. 1:30-2.1 and 3.2 governing rulemaking calendars.

Social Impact

The proposed amendments will have a positive impact on the New Jersey insurance industry as well as New Jersey consumers because they ensure that participants (CAIP) and insurers (PAIP) actively writing automobile policies in New Jersey will be represented in the governing committee. In addition, the amendments also provide that the composition of the

respective governing committees remain balanced so as to avoid any one segment of the insurance industry assuming a controlling majority on the governing committees.

Economic Impact

The proposed amendments would have a neutral economic impact on insurers, policyholders and the Department. The amendments simply revise the criteria established to determine representation on the Governing Committees which administer the Plans' operations to ensure that participants (CAIP) and insurers (PAIP) are actively writing automobile policies in New Jersey.

Federal Standards Statement

A Federal standards analysis is required when any State agency proposes to adopt, readopt, or amend State regulations that exceed any Federal standards or requirements.

The proposed amendments deal with insurance related issues which are exclusively the subject of State law and are not subject to any Federal standards or requirements. Thus, no Federal standards analysis is required.

Jobs Impact

The Department has determined that no jobs will be generated or lost as a consequence of the proposed amendment.

Agriculture Industry Impact

The Department does not anticipate any impact on agriculture from the proposed amendments.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because the proposed amendments do not impose reporting, recordkeeping or other compliance requirements on small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A 52:14B-16 et seq. The proposed amendments simply revise the criteria established to determine representation on the Governing Committees of the CAIP and PAIP.

Smart Growth Impact

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

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

SUBCHAPTER 1. COMMERCIAL AUTOMOBILE INSURANCE PLAN

11:3-1.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

...

“Participant” means an insurer licensed and authorized to write motor vehicle **coverage** **and which is actively writing commercial automobile** liability or physical damage insurance

in this State and specifically includes any insurer who writes all other automobile liability and all other physical damage insurance.

...

11:3-1.4 Governing committee

(a) (No change.)

(b) The following organizations shall each nominate two members to represent participants of CAIP:

1. [The Alliance of American Insurers;] **Property Casualty Insurers**

Association of America (PCI) and

2. The American Insurance Association (AIA); [; and

3. The National Association of Independent Insurers]

(c) (No change.)

(d) Two additional members shall be representatives of one or more insurer participants in the organizations referenced in (b) above or of a non-member insurer participant as referenced in (c) above, to serve as at-large representatives and to be nominated in accordance with a fair method set forth in the plan of operation.

Recodify existing (d) - (h) as (e) - (i) (No change in text.)

SUBCHAPTER 2. NEW JERSEY PERSONAL AUTOMOBILE INSURANCE PLAN

11:3-2.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

...

“Insurer” means any person or persons, corporations, association, partnership, company, or other legal entity authorized to transact the business of private passenger automobile insurance **and actively writing private passenger automobile liability or physical damage insurance in this State**, except any residual market mechanism created by or pursuant to statute.

...

11:3-2.5 Governing committee

(a) The PAIP shall be administered by a governing committee of 14 members.

1 - 5. (No change.)

6. No employee of a voluntary market auto insurer who has filed and received approval of an application to withdraw from writing private passenger automobile insurance in New Jersey shall be eligible to serve as a member of the governing committee.

(b) The following organizations shall each nominate two members to represent insurer participants of PAIP:

1. [The Alliance of American Insurer’s] **Property Casualty Insurers Association of America (PCI) and**

2. The American Insurance Association (**AIA**); and

3. The National Association of Independent Insurers]

(c) (No change.)

(d) Two additional members shall be representatives of one or more insurer participants in the organizations referenced in (b) above or of a non-member insurer participant as referenced in (c) above, to serve as at-large representatives and to be nominated in accordance with a fair method set forth in the plan of operation.

Recodify existing (d) - (g) as (e) - (h) (No change in text.)

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