

INSURANCE  
DEPARTMENT OF BANKING AND INSURANCE  
DIVISION OF INSURANCE

Group Self-Insurance

Joint Insurance Funds for Local Government Units Providing Property and Liability Coverages

Proposed Amendments: N.J.A.C. 11:15-2.2 and 2.3

Authorized By: Donald Bryan, Acting Commissioner, Department of Banking and Insurance

Authority: N.J.S.A. 17:1-15e and 40A:10-36 et seq.

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

Proposal Number: PRN 2005-133

Submit comments by June 17, 2005 to::

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The agency proposal follows:

**Summary**

N.J.S.A. 40A:10-36 et seq. authorizes two or more local units of government to join together to establish a joint insurance fund for the purpose of insuring against liability, property damage, workers' compensation, and loss or theft of money or securities, providing blanket bond coverage, and for the sole purpose of insuring against bodily injury and property damage claims arising from environmental impairment liability and legal representation therefor to the extent

and for coverages approved by the Commissioner of Banking and Insurance (Commissioner). A fund may also provide its members with safety and loss control programs and may jointly purchase, on behalf of its membership, safety and loss control services, training equipment and apparatus, in connection with the provision of the coverages set forth above. The goal of this statute is to reduce insurance costs to local units of government by permitting them to pool risks. The Department of Banking and Insurance (Department) adopted N.J.A.C. 11:15-2 to provide standards governing the establishment and operation of local unit property and casualty joint insurance funds.

The Department proposes to amend N.J.A.C. 11:15-2.2, Definitions, to conform the definition of “local unit of government” or “local unit” therein to include non-profit housing entities, which are defined in N.J.S.A. 40A:10-36.3 as organizations that provide housing meeting the low or moderate income limits established by the United States Department of Housing and Urban Development, if that organization is organized as a not-for-profit entity or as a limited partnership, in a low or moderate income housing project that has as its general partner a non-profit housing entity that has as its primary purpose the construction, rehabilitation or management of housing projects for occupancy by persons of low and moderate incomes. Additionally, the Department proposes to amend N.J.A.C. 11:15-2.3 to reflect conditions regarding the choice of a non-profit housing entity, as defined by N.J.A.C. 40A:10-36.3, to join a joint insurance fund or to establish a joint insurance fund pursuant to N.J.S.A. 40A:10-36.3 and, where applicable, in compliance with the provisions of N.J.A.C. 11:15-6.

### **Social Impact**

The proposed amendments will likely have a positive social impact by enabling the Department to monitor the operations and financial condition of joint insurance funds that

include non-profit housing entities to attempt to ensure their solvency, thereby protecting the interests of claimants, the patrons of non-profit housing entities and taxpayers.

### **Economic Impact**

The proposed amendments will likely have a positive impact on non-profit housing entities by affording them a means through which they may reduce insurance costs by permitting such entities to pool risks. Coverage for the risks specified in N.J.S.A. 40A:10-36 will be more accessible and affordable to non-profit housing entities that render construction, rehabilitation or management services on housing projects for occupancy by persons of low and moderate income. The proposed amendments will not impose a significant impact on the Department, as any additional cost incurred to monitor joint insurance funds that include non-profit housing entities will, pursuant to N.J.A.C. 11:15-2.16, be assessed upon the funds.

### **Federal Standards Statement**

A Federal standards analysis is not required because the proposed amendments merely conform the application and the definition of “Local unit of government” or “local unit” in N.J.A.C. 11:15-2.2 to that in N.J.S.A. 40A:10-36.3 and are not subject to any Federal requirements or standards.

### **Jobs Impact**

The Department does not anticipate that any jobs will be lost or generated as a result of the proposed amendments.

### **Agriculture Industry Impact**

The Department does not expect that any agriculture industry impact will result from the proposed amendments.

### **Regulatory Flexibility Analysis**

The Department believes that the proposed amendments will apply to “small businesses” as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., because some non-profit housing entities may have fewer than 100 employees and may not be dominant in their field. The Department does not believe that the proposed amendments, which in effect will permit non-profit housing entities to join together with housing authorities and/or with other non-profit housing entities, will impose any substantial compliance costs on these entities. No distinctions are made in the proposed amendment based on business size, and no outside professional services are required. Finally, N.J.A.C. 11:15-2 is permissive, and does not compel any non-profit housing unit to join a joint insurance fund.

### **Smart Growth Impact**

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

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

### 11:15-2.2 Definitions

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

...

“Local unit of government” or local unit” means a county, municipality, county vocational school (pursuant to N.J.S.A. 18A:18B-8 and 40A:10-50), county college (pursuant to N.J.S.A. 18A:64A-25.40 and 40A:10-51), any contracting unit as defined in N.J.S.A. 40A:11-2, [or] boards of education of certain school districts, to the extent permitted pursuant to N.J.S.A. 40A:10-52 through 57, **and non-profit housing entities as defined by and subject to the limitations and requirements of N.J.S.A. 40A:10-36.3, when such entities choose to establish a joint insurance fund with other non-profit housing entities pursuant to N.J.S.A. 40A:10-36.3 and in accordance with N.J.A.C. 11:15-6, or to join a joint insurance fund pursuant to N.J.S.A. 40A:10-36.3 et seq. and in accordance with N.J.A.C. 11:15-2.3.**

### 11:15-2.3 Agreement to join joint insurance fund; duration

(a) Pursuant to N.J.S.A. 40A:10-36, the governing body of any local unit of government may by resolution agree to join together with any other local unit or units to establish a joint insurance fund as defined in this subchapter. The resolution shall provide for execution of a written agreement specifically providing for acceptance of the fund’s bylaws as approved and adopted pursuant to N.J.S.A. 40A:10-39. The agreement shall specify the extent of the local unit’s participation in the fund with respect to the types of insurance coverage to be provided by the fund and shall include the duration of fund membership, which in no event shall exceed three years, pursuant to N.J.S.A. 40A:11-15(6). The agreement shall also specify that the

fund members have never defaulted on claims if self-insured and have not been cancelled for non-payment of insurance premiums for a period of at least two years prior to application.

**1. Pursuant to N.J.S.A. 40A:10-36.3 et seq., non-profit housing entities as defined by N.J.S.A. 40A:10-36.3 may establish a joint insurance fund comprised only of other non-profit housing entities. Any such joint insurance fund so established shall comply with the provisions of N.J.A.C. 11:15-6.**

**2. Non-profit housing entities, as defined by N.J.S.A. 40A:10-36.3, may join a joint insurance fund comprised either of other non-profit housing entities, housing authorities, or a combination thereof. No such joint insurance fund shall, however, have as its members local units that are municipalities, counties, boards of education, or fire districts. Any joint insurance fund comprised solely of non-profit housing entities shall comply with the provisions of N.J.A.C. 11:15-6.**

**3. Notwithstanding any provision of law to the contrary, a joint insurance fund established pursuant to N.J.S.A. 40A:10-36.3 that includes non-profit housing entities as members shall not join together with other local units as otherwise provided in N.J.S.A. 40A:10-36.3 for the purpose of providing contributory or non-contributory group health insurance or group term insurance, or both, to employees or their dependents or both.**

**4. Notwithstanding any provision of law to the contrary, a joint insurance fund established pursuant to N.J.S.A. 40A:10-36.3 that includes non-profit housing entities as members may participate in joint insurance funds:**

**i. Where the membership is exclusively comprised of other joint insurance funds and whose purpose is to provide excess levels of coverage;**

**ii. Where the membership is exclusively comprised of other joint insurance funds and whose purpose is to accept the transfer of residual claims liabilities; or**

**iii. Whose purpose is to provide environmental impairment liability insurance.**

**5. A joint insurance fund that has as its members non-profit housing entities shall operate pursuant to the provisions of N.J.S.A. 40A:10-36 et seq.**

(b) - (c) (No change.)