

INSURANCE
DEPARTMENT OF BANKING AND INSURANCE
DIVISION OF INSURANCE

Insurance Group

Proposed Readoption with Amendments: N.J.A.C. 11:2

Proposed Amendment: N.J.A.C. 11:1-28.3

Proposed Repeal: N.J.A.C. 11:2-38

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

Authority: N.J.S.A. 17:1-8.1, 17:1-15e, 17:17-1 et seq., 17B:17- 1 et seq., 34:15-77, and
54:18A-1 et seq.

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

Proposal Number: PRN 2005-241

Submit comments by September 3, 3005 to:

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The agency proposal follows:

Summary

Pursuant to Executive Order No. 66 (1978), the Commissioner of Banking and Insurance (Commissioner) proposes to readopt N.J.A.C. 11:2, concerning insurance group rules, with certain technical and substantive amendments. This chapter is due to expire on May 29, 2006 pursuant to N.J.S.A. 52:14B-5.1c, and includes rules related to different areas of insurance, including life and health, property and casualty, financial integrity of insurers, and other regulated entities (that is, workers' compensation self-insurers, risk retention groups and

purchasing groups). Several of these rules are specifically required for a state to obtain or continue accreditation by the National Association of Insurance Commissioners (NAIC), or to implement statutes that are so required. Rules concerning the following subjects are codified in this chapter:

1. Admission requirements for life and health insurers;
2. Insurance on financed automobiles;
3. Credit life and health insurance;
4. Electronic data processing equipment;
5. Proxies, consents and authorizations;
6. Information required in proxy statements;
7. Information required by participants in proxy solicitation in election contests;
8. Insider trading of domestic stock insurance company equity securities;
9. Advertisement of health insurance;
10. Mass marketing of property and liability insurance;
11. Group coverage discontinuance and replacement;
12. Procedures for the conduct of voting on a plan of reorganization of a domestic mutual life insurer;
13. Insolvent insurers;
14. Guaranteed arrest bond certificates of automobile club undertaking;
15. Unfair claims settlement practices;
16. Readable policies;
17. Designation of third party for certain notification by senior citizen insureds;
18. Advertisement of life insurance and annuities;

19. Annual audited financial reports;
20. Determination of insurers in a hazardous financial condition;
21. Credit for reinsurance;
22. Orderly withdrawal of insurance business;
23. Determining premium for perpetual homeowners insurance;
24. Custodial deposits;
25. Workers' compensation self-insurance;
26. Allocation of surplus lines insurance premium tax and surcharge;
27. Relief from obligations under the Fair Automobile Insurance Reform Act of 1990;
28. Risk retention groups and purchasing groups;
29. Producer-controlled insurers;
30. Increase in capital and surplus requirements for property and casualty insurers;
31. Increase in capital and surplus requirements for insurers;
32. Life, health and annuity reinsurance agreements;
33. Windstorm market assistance program;
34. Standard Hurricane Deductibles and Expedited Process for Homeowners' Insurance Rate Changes; and
35. Treatment of Allocated Deposit-Type Deferred Annuity Contract Funds for Purposes of Calculating the Special Purpose Apportionment and the Fraud Assessment.

The rules in this chapter are promulgated to implement many of the statutory requirements in Titles 17, 17B, 34 and 54 of the New Jersey Statutes. The Department has undertaken a review of these rules at several levels to determine their current effectiveness and viability. Participating in this review were the Offices of Consumer Protection Services;

Property/Casualty; Life/Health; Solvency Regulation; and Legislative and Regulatory Affairs. The rules continue to provide the insurance industry, other regulated entities, and the consumer with vital information and useful standards concerning many aspects of insurance. The Department believes that the original purpose for each rule, as stated in the rule itself, continues to exist.

Based on the its review, the Department is proposing several amendments, primarily for technical reasons. Many of these amendments revise citations to the New Jersey Insurance Producer Licensing Act of 2001, N.J.S.A. 17:22A-26 et seq., to reflect the current statutory references. Changes to citations to the statute governing examinations are being made for the same reason. Other proposed amendments correct citation errors or are made as a matter of form.

In addition, the Department is proposing amendments to several rules to revise and clarify existing requirements. Specifically, the Department is proposing to amend N.J.A.C. 11:2-2.1(b) to confirm that insurers shall be required to comply with all of the requirements set forth in N.J.S.A. 17:16D-14 regarding the remittance of unearned premium. The Department is also proposing to amend N.J.A.C. 11:2-3.20 to provide a time certain within which refunds of premium for credit insurance must be made. The current rule provides that such refunds be made “promptly.” The Department believes that this does not provide sufficient guidance and is proposing that refunds be made not later than 60 days. This timeframe is consistent with that for the return of premium in other contexts, as set forth in N.J.A.C. 11:2-2.1 and N.J.S.A. 17:29C-4.1.

The Department is also proposing to amend the definition of “advertisement” in N.J.A.C. 11:2-11.1(e) to add references to the dissemination of material through electronic means,

including, but not limited to, the internet, fax machines, and other similar devices, audiovisual material and direct mail.

The Department is also proposing to amend N.J.A.C. 11:2-18 to combine the two exhibits in the Appendix into one exhibit. The Department has had experience where filers were confused as to which exhibit to file. By combining both exhibits into one document, such confusion may be reduced.

Further, the Department is proposing to amend N.J.A.C. 11:2-39.2 to amend the definition of “NAIC RBC Instructions” to delete reference solely to “Life” instructions as the rules by their terms also apply to health and property/casualty insurers.

In addition, the Department is proposing to amend Exhibit A in the Appendix to N.J.A.C. 11:2-42 with respect to the reference to N.J.A.C. 11:2-42.5. The Exhibit currently reads “Requested increase overall and by form is the lower of indication or five percent.” The phrase “and by form” is proposed to be deleted to ensure consistency with the rule.

The Department is proposing to repeal N.J.A.C. 11:2-38, which relates to temporary waivers from increases in capital and surplus for property/casualty insurers. These rules were of limited duration and, by their terms, no longer apply. However, the Department is retaining the definitions of “capital” and “surplus” contained therein by proposing to amend N.J.A.C. 11:1-28.3, governing formation of insurers, to incorporate those definitions, simultaneously with this proposed readoption.

The Department believes that the rules in this chapter primarily serve two general purposes in implementing insurance laws of this State. First, the rules protect current and prospective policyholders by addressing issues such as unfair claims settlement practices, advertising, readability of insurance policies and forms, and mass marketing of property and

liability insurance. Secondly, they provide guidance to insurers and other regulated entities respecting such business related matters as insolvencies, proxies, insider trading of stock, annual audited financial reports, deposits, withdrawal from transacting business, reinsurance, capital and surplus requirements, and approval for employers to self-insure workers' compensation. Several rules serve both purposes, such as those pertaining to advertising, unfair claims settlement practices, withdrawal from transacting business, capital and surplus requirements, deposits, and workers' compensation self-insurance. The Department believes that through readoption, these rules will continue to provide the regulatory framework by which the Department may effectively monitor and evaluate the financial condition of insurers and other regulated entities, ensure that such entities continue to comply with the insurance laws and other applicable laws of this State, and provide for consistent evaluation and treatment by the Department of these entities. Moreover, through readoption, these rules will continue to provide insurers and other regulated entities with guidance and specific standards for compliance with New Jersey laws, thereby avoiding confusion regarding such requirements. This, in turn, should continue to benefit insurers, other regulated entities, policyholders, the market, and the public generally.

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

Social Impact

As noted in the Summary above, the rules in this chapter address a myriad of subjects regarding the business of insurance in this State and impose requirements governing other regulated entities (workers' compensation self-insurers, and risk retention groups and purchasing

groups.) For example, rules concerning advertising help ensure that consumers are fully informed about insurance products so that they can choose products best suited to their needs. The rules concerning unfair claims settlement practices enable insureds to receive prompt, efficient and appropriate consideration of their claims. The rules concerning readable policies help enable insureds and prospective insureds to understand more easily the highly technical aspects of insurance in insurance contracts. The rules concerning mass marketing of property and liability insurance prevent abuses in the sale of such insurance pursuant to a mass marketing plan, while preserving for consumers the benefits of this form of marketing.

The insurance industry has also come to rely on the presence and viability of these rules in their operations. Insurers are provided with standards concerning certain trade practices as noted above, and with information concerning annual audited financial reports, insolvency, determination of hazardous financial condition, cancellation of property/liability policies, insider trading, proxies, sale of credit life and health insurance, as well as requirements governing producer-controlled property/liability insurers, risk retention groups and purchasing groups, workers' compensation self-insurers, and capital and surplus requirements. The rules in this chapter implement various statutory requirements and enable the Department to fulfill its regulatory duties under law. Failure to readopt these rules would impair the Department's ability to properly oversee insurers' operations, would unsettle established relations between insurers and the general public, as well as between these two groups and the Department, and could result in the loss of NAIC accreditation of the Department.

The protections that these rules afford the consumer and the operational guidance that they afford the insurance industry mandate their continued existence, both to implement statutory

provisions and to foster and promote an effective regulatory system and sound insurer business practices.

The amendments to the various rules set forth in the chapter, the other proposed amendments and the proposed repeal are primarily technical in nature, or clarify existing requirements. Thus, the proposed amendments and repeal should have a beneficial social impact.

Economic Impact

The proposed amendments to N.J.A.C. 11:1-28.3 and the readoption of this chapter with the proposed repeal and amendments will not impose any additional economic impact on insurers, other regulated entities, or consumers in that the readoption will continue long-standing requirements. The proposed amendments do not impose any additional recordkeeping or compliance requirements on insurers or other regulated entities. The amendments reflect current citations and attempt to provide more certainty as to the operation of various rules.

Insurers and other regulated entities will continue to be required to incur any costs associated with continued compliance with the requirements set forth in this chapter. These requirements include: the requirements that insurers file an annual audited financial report completed by an independent certified public accountant; the requirement that insurers maintain files for the Department's review concerning advertising activities; the requirement that insurers file a risk-based capital report with the Department annually; the requirement that risk retention groups and purchasing groups register with the Department and file specified information in order to enable the Department properly to monitor their activity consistent with the Federal Liability Risk Retention Act and N.J.S.A. 17:47A-1 et seq.; the requirement that producer-

controlled property/casualty insurers file an actuarial opinion or other information annually with the Department as required by N.J.S.A. 17:22D-1 et seq.; the requirement that insurers continue to comply with all requirements regarding claims settlement practices; the requirement that insurers comply with any order of the Commissioner upon a finding of hazardous financial condition as set forth in N.J.A.C. 11:2-27; the requirement that insurers seeking to withdraw from transacting business in this State file required information and comply with all requirements set forth in N.J.A.C. 11:2-29; the requirement that insurers pay all custodian fees for custodial deposits; the requirement that employers seeking to self-insure workers' compensation or to continue to self-insure that coverage file required information with the Department and maintain a surety bond as set forth in N.J.A.C. 11:2-33; the requirement that surplus lines agents file required periodic reports and properly allocate premiums subject to tax and applicable surcharge in this State pursuant to N.J.A.C. 11:2-34; and the requirement that insurers seeking relief from certain statutory obligations file required information with the Department. The use of professional services currently required by the rules (for example, actuaries, claims professionals, certified public accountants, underwriting professionals, etc.) will continue to be necessary. The costs for these services will vary depending on the professional, but should be consistent with current annual costs of compliance. The Department notes, however, that no additional costs should be imposed as this proposal merely continues requirements currently in effect.

The Department will continue to incur any costs associated with reviewing information filed pursuant to this chapter and ensuring compliance with all of the rules set forth therein.

Finally, as noted fully in the Social Impact above, the rules in this chapter address a myriad of aspects of the business of insurance in this State, and provide requirements governing

other regulated entities. These rules will continue to provide a regulatory framework by which the Department may continue to monitor the business of insurers and other regulated entities to help ensure that such entities will be in a position to pay claims when they are due. This, in turn, should benefit insureds, insurers, taxpayers and the public generally.

The failure to readopt this chapter would require the insurance industry to perform many significant statutory functions without guidance from, or oversight by the Department. This would impose significant costs on the industry because current compliance requirements would not be readily available to the industry, requiring them to utilize procedures which may or may not be acceptable to the Department. This, in turn, could result in disruption to the market with attendant additional costs.

Further, the readoption of the current rules will enable the Department to continue to monitor insurers and other regulated entities in a manner which appropriately meets its current fiscal resources and capabilities. The use of current procedures that have been proven effective over time produces economies for the Department.

Federal Standards Statement

A Federal standards analysis is not required as the rules set forth in this chapter and the proposed amendments and repeal are not subject to any Federal requirements or standards.

Jobs Impact

As set forth in the Summary, the rules in this chapter address a myriad of aspects of the business of insurance. Regulated entities may be required to hire additional professional staff in their continued compliance with this chapter. However, entities may comply with this chapter

through utilization of current resources or reallocation of existing resources. The readoption of these rules will continue long-standing procedures with respect to various requirements for insurers and other regulated entities, as well as the Department's ability to properly oversee the operations of these entities. Similarly, the amendments are primarily technical in nature, and thus should not have any substantive impact. However, to the extent that the rules in this chapter help promote a healthy insurance marketplace in New Jersey, the climate for business and job growth is improved.

Agriculture Industry Impact

The rules proposed for readoption with amendments and proposed repeal will have no impact on the agriculture industry in New Jersey.

Regulatory Flexibility Analysis

In some instances, entities regulated by the rules in this chapter are "small businesses" as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Several rules (for example, replacement of life insurance) relate to the conduct of insurance producers, most of whom are small businesses. In addition, the rules governing workers' compensation self-insurance affect employers seeking to self-insure workers' compensation, many of whom may be small businesses.

Numerous recordkeeping, reporting and compliance requirements will continue to be imposed by this chapter, as set forth in the Economic Impact above. The Department has determined that these continue to be reasonable and necessary for the purpose for which they were originally proposed. The rules continue to apply to all insurers, insurance producers, risk

retention groups, purchasing groups, or employers, as the case may be, without regard to size, since they implement statutory provisions and/or regulatory tenets which allow for no such exceptions or differentiation. The Department notes, however, that the proposed amendments and readoption with amendments impose no new recordkeeping, reporting, or other compliance requirements, but merely continue those requirements that have been in existence, in some cases for over 25 years. As noted above, the proposed amendments are primarily technical in nature. The Department, therefore, believes that the readoption of these rules with amendments should not impose any adverse or undue burdens on “small businesses.”

The Department anticipates that future annual costs of compliance with these rules should be consistent with current annual costs.

The use of professional services currently required by the rules proposed for readoption (for example, actuaries, claims professionals, underwriting professionals, etc.) will continue to be necessary, at costs which vary with the individual professional.

Smart Growth Impact

The proposed amendments and the rules proposed for readoption with amendments and repeal will not have an impact on the achievement of smart growth or the implementation of the State Development and Redevelopment Plan.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 11:2.

Full text of the rules proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 11:2-38

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

SUBCHAPTER 28. FORMATION OF A DOMESTIC PROPERTY AND CASUALTY
INSURANCE CORPORATION (STOCK OR MUTUAL) OR
RECIPROCAL INSURANCE EXCHANGE

11:1-28.3 Definitions

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

...

“Capital” means par value per share multiplied by the number of issued shares, or in the case of no-par shares, the total stated value.

...

“Surplus” means the net worth of an insurer as reported in its annual statement. For a stock insurer, surplus means net worth less minimum capital. For a mutual insurer, surplus means its net worth.

SUBCHAPTER 2. INSURANCE ON FINANCED AUTOMOBILES

11:2-2.1 Return of unearned premiums

(a) (No change.)

(b) Upon the effective date of this regulation, such unearned premiums shall be remitted by insurers to finance companies not later than 60 days after the effective date of cancellation, or 60 days after the completion of any payroll audit necessary to determine the amount of premium earned while the policy was in force. Such audit shall be performed within

30 days after the effective date of cancellation. **Insurers also shall remit unearned premium in accordance with the requirements set forth in N.J.S.A. 17:16D-14.**

SUBCHAPTER 3. CREDIT LIFE INSURANCE AND CREDIT ACCIDENT AND HEALTH INSURANCE

11:2-3.20 Refunds

(a) Each individual policy or group certificate of credit life insurance and credit accident and health insurance for which a payment is collected from the debtor shall provide that, in the event of termination of the insurance prior to the scheduled maturity date of the indebtedness, any refund due of premium or of an amount collected from the debtor for insurance shall be paid or credited promptly, **but in no event later than 60 days from such termination,** to the insured debtor.

(b) If a creditor collects a payment from a debtor for credit life insurance and credit accident and health insurance and such insurance does not become effective, the creditor shall immediately give written notice to such debtor and shall promptly, **but in no event later than 60 days from such notice,** refund to or credit to the account of the debtor the amount collected from him for such insurance.

(c) - (d) (No change.)

(e) When credit involuntary unemployment insurance is included in the combined coverages and the debtor notifies the insurer in writing that he or she is or has become ineligible for credit involuntary unemployment insurance coverage by reason of being or becoming voluntarily unemployed, or by reason of being or becoming self-employed, and states the date on which that ineligibility commenced, or a claim is denied under the credit involuntary

unemployment insurance coverage because the debtor became ineligible for that coverage, the insurer shall promptly, **but in no event later than 60 days from the date of notice by the policyholder or denial of the claim, as applicable,** remit a refund of the portion of the premium applicable to the credit involuntary unemployment insurance coverage during the period of ineligibility.

(f) (No change.)

(g) An insurer shall promptly, **but in no event later than 60 days from termination of coverage,** refund to an individual policyholder and refund or credit to a group policyholder any refund of premium due on termination of insurance prior to the scheduled maturity date of the indebtedness, and a group policyholder or creditor shall promptly, **but in no event later than 60 days from date of receipt of the refund or credit from the insurer,** refund or credit to the debtor any refund due pursuant to this section.

SUBCHAPTER 5. PROXIES, CONSENTS AND AUTHROIZATIONS

11:2-5.1 Applicability

(a) This [Subchapter] **subchapter** is applicable to all domestic stock insurers having 100 or more stockholders; provided, however, that this [Subchapter] **subchapter** shall not apply to any insurer if 95 [per cent] **percent** or more of its stock is owned or controlled by a parent or an affiliated insurer and the remaining shares are held by less than 500 stockholders.

(b) A domestic stock insurer which files with the Securities and Exchange Commission forms of proxies, consents and authorizations complying with the requirements of the Securities and Exchange Act of 1934 and the Securities and Exchange Acts Amendments of

1964 and Regulation X-14 of the Securities and Exchange Commission promulgated thereunder shall be exempt from the provisions of this [Subchapter] **subchapter**.

11:2-5.4 Definitions

(a) The definitions and instructions set out in Schedule SIS, as promulgated by the National Association of Insurance Commissioners, shall be applicable for purpose of this [Subchapter] **subchapter**.

(b) The terms "solicit" and "solicitation" for purposes of this [Subchapter] **subchapter** include:

1.- 3. (No change.)

(c) (No change.)

SUBCHAPTER 11. RULES GOVERNING ADVERTISEMENT OF HEALTH INSURANCE

11:2-11.1 Purpose, general provisions and definitions

(a) - (d) (No change.)

(e) An advertisement for the purpose of [these rules] **this subchapter** shall include:

1. Printed and published material, **including material disseminated through electronic means (including, but not limited to, the internet, fax machines, and other similar devices), audiovisual material,** and descriptive literature of an insurer used in **direct mail,** newspapers, magazines, radio, and [TV (including CATV)] **television scripts,** billboards and similar displays;

2. - 3. (No change.)

(f) - (j) (No change.)

11:2-11.6 Endorsements by third parties

(a) - (b) (No change.)

(c) Any person acting as a spokesperson as defined in (b) above, who transacts the business of or holds himself or herself out to the public as being an insurance producer as defined at N.J.S.A. 17:22A-[2] **28**, and who is required to have a license pursuant to N.J.S.A. 17:22A-[3] **29**, shall be considered to be an insurance producer and shall be required to be licensed pursuant to and shall submit to the requirements of N.J.S.A. 17:22A-[1 et seq.] **26 et seq.** and any implementing rules.

(d) - (m) (No change.)

SUBCHAPTER 12. MASS MARKETING OF PROPERTY AND LIABILITY INSURANCE

11:2-12.2 Definitions

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

...

11:2-12.7 Producers

No person shall act as an insurance agent or an insurance broker in connection with a mass marketing plan for any kind of insurance unless such person is duly licensed, under

N.J.S.A. 17:22A-[1 et seq.] **26 et seq.** as an insurance agent or broker for such kind of insurance in such insurance plan.

11:2-12.13 Compulsory facilities

An insurer, agent or broker selling insurance pursuant to a mass marketing plan shall, with respect to any employees or members who apply for but are denied insurance under such plan and are not otherwise insured, assist such persons in their efforts to obtain insurance through any other appropriate voluntary or mandatory insurance plan, such as, the New Jersey **Personal** Automobile Insurance Plan or the plans of the New Jersey Insurance Underwriting Association.

SUBCHAPTER 17. UNFAIR CLAIMS SETTLEMENT PRACTICES

11:2-17.12 Examinations

(a) Each insurer's claim files are subject to examination and inspection by the Commissioner or by his duly appointed designees pursuant to N.J.S.A. 17:23-[4] **20 et seq.**, 17:29B-5, [17B:21-3] and 17B:30-16.

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

SUBCHAPTER 18. READABLE POLICIES

11:2-18.3 Definitions

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

...

"Coverage Selection Form" means part of a written notice required to be given to insureds and prospective insureds for automobile insurance, pursuant to N.J.S.A. 39:6A-23, which provides information required by the Commissioner pursuant to N.J.A.C. 11:3-[15.7] **15.6**.

...

11:2-18.5 Procedures for requesting an opinion of compliance with the Plain Language Law

(a) (No change.)

(b) For each policy form and related writings, Buyer's Guide and Coverage Selection Form for which an opinion is desired, an insurer shall prepare the Request for Opinion shown in [Exhibit A] **Part I** of the Appendix to this subchapter. For related writings (including riders and endorsements) submitted separately from a basic contract to which they will apply, one Request for Opinion Form shall be prepared for each writing or group of writings applicable to one policy form. The insurer shall also provide two copies (where possible, "specimen" or "proof" copies) of the policy and related writings, Buyer's Guide and Coverage Selection Form to be reviewed.

(c) An officer of the insurer shall complete and submit the Affidavit of Compliance shown in [Exhibit B] **Part II** of the Appendix to this subchapter for each policy and related writings, or for each separately submitted writing or group of writings applicable to one policy form. An officer of a rating organization which requests an opinion as to compliance may complete and sign the affidavit on behalf of the member companies of the rating organizations.

(d) - (e) (No change.)

(f) Any insurance policy, Buyer's Guide and Coverage Selection Form whose language is revised for any reason, including compliance with the Plain Language Law, must be

approved by the Commissioner pursuant to insurance laws and regulations before it can be issued:

1. - 3. (No change.)

4. If an insurer has already received approval of a policy, Buyer's Guide and Coverage Selection Form pursuant to insurance laws and regulations, and believes that the policy, Buyer's Guide and Coverage Selection Form complies with the Plain Language Law without further revision, it may resubmit it for the sole purpose of requesting an opinion as to compliance with the Plain Language Law. In completing the Request for Opinion Form ([Exhibit A] **Part I**), an insurer should provide information necessary to confirm the previous approval of the policy, Buyer's Guide and Coverage Selection Form pursuant to insurance laws and regulations.

APPENDIX

[EXHIBIT A]

PART I

REQUEST FOR OPINION AS TO COMPLIANCE WITH PLAIN LANGUAGE LAW

(N.J.S.A. 56:12-1 et seq., as amended)

NAME OF INSURER: _____ FORM NUMBER: _____

ADDRESS: _____ DATE OF SUBMITTAL: _____

TELEPHONE: _____

I. - III (No change.)

[EXHIBIT B]

PART II

AFFIDAVIT OF COMPLIANCE

NAME OF INSURER: _____ FORM NUMBER: _____

I certify that this contract and related writings comply with the Plain Language Law (N.J.S.A. 56:12-1 et seq.) and with N.J.A.C. 11:2-18.

I certify that the score of the text of the form on the Flesch reading ease test is _____ and that the test score has been accurately calculated as required by N.J.A.C. 11:2-18.

I also certify that the form(s) or Buyer's Guide is printed in not less than 10 point type, one point leading and/or the application is not less than 8 point type, one point leading as required by N.J.A.C. 11:2-18.4 and N.J.A.C. 11:3-15.6.

I also certify that any Coverage Selection Form submitted is not less than 12 point type, as required by N.J.A.C. 11:3-15.7.

Date: _____

Name and Title of Insurer's Officer

Signature

SUBCHAPTER 23. ADVERTISEMENT OF LIFE INSURANCE AND ANNUITIES

11:2-23.5 Disclosure requirements

(a) - (j) (No change.)

(k) Endorsements by third parties must comply with the following requirements:

1. - 2. (No change.)

3. Any person acting as a spokesperson as defined in (k)2 above, who acts as or holds himself or herself out to be an insurance producer as defined at N.J.S.A. 17:22A-28, and who is required to have a license pursuant to N.J.S.A. 17:22A-[3] 29, shall be considered to be an insurance producer and shall be required to be licensed pursuant to and shall submit to the requirements of N.J.S.A. 17:22A-[1 et seq.] 26 et seq. and any implementing rules.

4. - 12. (No change.)

(l) - (o) (No change.)

SUBCHAPTER 31. MANNER OF DETERMINING PREMIUM FOR PERPETUAL HOMEOWNERS INSURANCE

11:2-31.5 Data filed; examination

(a) (No change.)

(b) All data submitted is examined by the Commissioner and he or she may make any further audit or investigation or reaudit as necessary. An insurer shall pay the reasonable expenses of any examination, pursuant to N.J.S.A. 17:23- [4] 22d.

SUBCHAPTER 35. RELIEF FROM INSURER OBLIGATIONS UNDER THE FAIR
AUTOMOBILE INSURANCE REFORM ACT OF 1990

11:2-35.3 Application procedures and filing format

(a) - (c) (No change.)

(d) Each request shall be in loose leaf form inserted into standard two-ring or three-ring binders tabbed or otherwise indexed to correspond to the exhibits set forth in N.J.A.C. 11:2-[25.4] **35.4**. The loose leaf sheets used in the request shall be eight and one-half inches wide and 11 inches long and punched for two-ring or three-ring binders, as appropriate.

(e) - (g) (No change.)

SUBCHAPTER 36. RISK RETENTION GROUPS AND PURCHASING GROUPS

APPENDIX A

STATEMENT OF REGISTRATION

STATE OF NEW JERSEY

APPLICATION FOR REGISTRATION AS

A RISK RETENTION GROUP

(All information should be typed)

1. - 7. (No change.)

8. List the name, address and telephone number of the principal agent or broker responsible for marketing the group's insurance policies,

pursuant to N.J.S.A. 17:22A-[1 et seq.] **26 et seq.**

Name: _____

Address: _____

Phone Number: _____

Producer ID Reference Number: _____

9. The items described below should be attached to the registration form:

- A. If not previously submitted, registration fee in the amount of \$100.00 made payable to the "State of New Jersey General Treasury."
- B. Completed and signed Service of Process.
- C. A listing of the individual(s) who organized the group and the individuals who are providing administrative services or otherwise influence or control the activities of the group.

As President or Chief Executive Officer of the _____, I hereby certify that the information contained in this registration is true and correct and in conformance with 15 USC 3901 et seq., N.J.S.A. [17:___] **17:47A-1 et seq.**

and N.J.A.C. [11:___] **11:2-36.** Further, I certify that:

The Risk Retention Group is composed of members who are engaged in the following described business or activities, which are similar or related with respect to the liability to which such members are exposed by virtue of related, similar, or common business, trade, product, services, premises or operations.

The primary activity of this Risk Retention Group consists of assuming and spreading all, or any portion, of the liability exposure of its members.

The Risk Retention Group is organized for the primary purpose of conducting the activity described above.

The Risk Retention Group does not exclude any person from membership in the Group solely to provide for members of the Group a competitive advantage over such a person.

The activities of the Risk Retention Group do not include the provision of insurance other than:

- (a) Liability insurance for assuming and spreading all or any portion of the similar or related liability exposure of its Group members; and
- (b) Reinsurance with respect to the similar or related liability exposure of another Risk Retention Group (or a member of such other Risk Retention Group) engaged in business or activities which qualify such other Risk Retention Group (or member) under item (6) above for membership in this Group.

In addition all required documents as set forth in 15 USC 3901 et seq.,

N.J.S.A. [17:___] **17:47A-1 et seq.** and N.J.A.C. [11:___] **11:2-36** are being included in this filing.

President or Chief Executive Officer

Secretary

Sworn before me this _____

day of _____,

[19]_____.

Notary Public, State of:

My Commission Expires:

[(Revised 7/93)]

APPENDIX C

STATE OF NEW JERSEY

APPLICATION FOR REGISTRATION

AS A PURCHASING GROUP

(All information should be typed)

1. - 12. (No change.)

13. Purchasing groups procuring insurance through companies licensed in New Jersey or registered Risk Retention Groups must use an insurance producer pursuant to N.J.S.A. 17:22A-[1 et seq.] **26 et seq.** Please identify the producer(s) representing the purchasing group:

Name _____

Address _____

Phone No. _____

Producer License Reference Number: _____

- 14. Purchasing groups procuring insurance from New Jersey eligible surplus lines companies must place it through a licensed New Jersey insurance producer with surplus lines authority pursuant to N.J.S.A. 17:22-6.40 et seq. and 17:22A-[1 et seq.] **26 et seq.** Please identify the producer(s) representing the purchasing group:

Name _____

Address _____

Phone No. _____

Producer License Reference Number: _____

- 15. - 16 (No change.)

SUBCHAPTER 37. PRODUCER-CONTROLLED INSURERS

11:2-37.3 Definitions

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

...

["FNAIC"] **“NAIC”** means National Association of Insurance Commissioners.

"Producer" means any person engaged in the business of an insurance agent, insurance broker or insurance consultant as defined at N.J.S.A. 17:22A-[2] **28**.

...

SUBCHAPTER 39. INCREASE IN CAPITAL AND SURPLUS REQUIREMENTS FOR
INSURERS

11:2-39.2 Definitions

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

...

"NAIC RBC Instructions" means the form of the [Life] Risk-Based Capital Report and instructions for completing such form adopted by the NAIC, as such form and instructions may be amended by the NAIC from time to time in accordance with the procedures adopted by the NAIC.

"NAIC RBC Report" means the Risk-Based Capital Report prepared pursuant to the NAIC RBC Instructions as set forth in N.J.A.C. 11:2-[29.3] **39.3**.

...

SUBCHAPTER 42. HOMEOWNERS' INSURANCE; STANDARD HURRICANE
DEDUCTIBLES AND EXPEDITED PROCESS FOR HOMEOWNERS'
INSURANCE RATE CHANGES

APPENDIX

EXHIBIT A

Expedited Homeowners Filings

Company/Group: _____

Company File No.: _____

Section	Item	Page #
. . .		
11:2-42.5	Limitation on filer's rate request	
	<u>Requested increase overall [and by form] is the lower of indication or five percent</u>	<u>Yes/No</u>

jc05-06/inoregs