

INSURANCE

DEPARTMENT OF BANKING AND INSURANCE

DIVISION OF INSURANCE

Insurance Producer to Witness Signature of Insured

Proposed Amendment: N.J.A.C. 11:17A-4.2

Authorized By: Neil N. Jasey, Commissioner, Department of Banking and Insurance.

Authority: N.J.S.A. 17:1-8.1 and 17:1-15e.

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

Proposal Number: PRN 2009 – 329.

Submit comments by January 1, 2010 to:

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The agency proposal follows:

Summary

N.J.A.C. 11:17A-4.2 states that in cases where an applicant's signature is required, an insurance producer who takes an application for insurance shall be required to witness the

signature of the prospective insured on the application prior to the submission of the application to the insurer. This requirement may be waived, however, upon prior written authorization by the insurer. Because of technological advances in obtaining electronic signatures, Internet sales and updated signature laws nationwide, the Department has determined that this rule requires updating.

Therefore, the Department is proposing to amend the N.J.A.C. 11:17A-4.2 to require the witnessing of the signatures of applicants by producers only when the application is signed by the applicant after having been completed in a face to face meeting between the producer and the client and only when required by the insurer.

A 60-day comment period is provided for the 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

The proposed amendments will have a positive social impact by providing flexibility on the requirement that producers witness the signatures of applicants for insurance when required. The amendment will facilitate the use of electronic signatures on applications for insurance and make it easier for consumers and producers to complete insurance applications using current technologies.

Economic Impact

The proposed amendment modifies the previously established purpose of the rule by explicitly requiring the witnessing of the signatures of applicants obtained during an insurance transaction only when the application is signed during a face to face meeting between the

insurance producer and the client and only when required by the insurance company. As a result of the amendment, producers, insurers and consumers should experience either no increase in costs or a modest reduction in the costs they incur in scheduling and conducting the previously required face to face meetings in order to witness applicant's signatures.

Federal Standards Statement

Executive Order No. 27 (1994) and P.L. 1995, c. 65 require State agencies that adopt, readopt or amend State regulations that exceed any Federal standards or requirements to include in the rulemaking document a comparison with Federal law. A Federal standards analysis is not required in this instance because the amendment proposed enhances the State's regulation of licensed insurance professionals and the companies they represent and no Federal standards or requirements are exceeded. There are no Federal standards or requirements applicable to the proposed amendment.

Jobs Impact

The Department does not believe that this amendment will cause any jobs to be generated or lost. The Department invites interested parties to submit any data or studies concerning the jobs impact of the amendments together with their written comments on other aspects of the proposal.

Agriculture Industry Impact

The Department does not expect any impact upon the State agriculture industry by this proposed amendment.

Regulatory Flexibility Analysis

There are no provisions in the proposed amendment that are excessively onerous to "small businesses" as that term is defined in N.J.S.A. 52:14B-17. This amendment will impose no new recordkeeping or other compliance requirements. Future annual costs of compliance with this rule are expected to remain the same or be modestly reduced, as some insurance producers will not incur travel expenses for a follow-up personal visit to witness and obtain an insurance applicant's signature. This amendment has no differing standards for small businesses because the amendment relaxes the requirement that applicant's signatures be witnessed by insurance producers for all producers, regardless of the size of the producer's business.

Smart Growth Impact

The proposed amendment will not have an impact upon the achievement of smart growth or the implementation of the State Development and Redevelopment Plan.

Housing Affordability Impact

The proposed amendment will not have an impact on housing affordability because the proposed amendment addresses the witnessing of consumer signatures by licensed insurance producers only when an insurance application is signed during a face to face meeting between the producer and the client and only when required by the insurer.

Smart Growth Development Impact

The Department believes that there is an extreme unlikelihood that this proposed amendment would evoke a change in the housing production in Planning Areas 1 and 2 or within the designated centers under the State Development and Redevelopment Plan in New Jersey because the proposed amendment addresses the witnessing of consumer signatures by

licensed insurance producers only when an insurance application is signed during a face to face meeting between the producer and the client and only when required by the insurer.

Full text of the proposal follows (addition indicated boldface **thus**):

11:17A-4.2 Insurance producer to witness signature of insured

In cases where an applicant's signature is required, an insurance producer who takes an application for insurance shall be required to witness the signature of the prospective insured on the application prior to the submission of the application to the insurer **only when the application is signed by the applicant after having been completed in a face to face meeting between the producer and the prospective insured.** This requirement may be waived, however, upon prior written authorization by the insurer.