

**BANKING**

**DEPARTMENT OF BANKING AND INSURANCE**

**DIVISION OF BANKING**

**Insurance Premium Finance Company Act Rules**

**Proposed Readoption with Amendments: N.J.A.C. 3:22**

Authorized By: Thomas B. Considine, Commissioner,  
Department of Banking and Insurance

Authority: N.J.S.A.17:1-15(e) and 17:16D-7 and 8

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

Proposal Number: PRN 2010-116

Submit comments by September 4, 2010 to:

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**Summary**

The Department of Banking and Insurance (Department) proposes to readopt N.J.A.C. 3:22, which is scheduled to expire on October 26, 2010, pursuant to N.J.S.A. 52:14B-5.1c. The Department has reviewed these rules and determined them to be necessary, reasonable and proper for the purpose for which they were originally promulgated.

N.J.A.C. 3:22 requires that there be disclosure in the premium financing agreement of the key elements prior to its being signed by the insured and prohibits continuing agreements. It further requires separately signed premium finance agreements for each personal lines policy financed. With regard to commercial policies, the chapter provides that companies may utilize either separately signed premium finance agreements or one agreement to cover the financing of multiple commercial policies, so long as they are issued through the same producer.

The chapter requires that each insurance premium finance company licensee file an annual report as mandated by N.J.S.A. 17:16D-7 and permits the Department to assess a penalty against any licensee who files late.

Two amendments are proposed to N.J.A.C. 3:22-1.3. The first corrects the heading reference from “fee” to “penalty.” The second amendment reflects the Department’s discretion as to the imposition of a penalty by changing the language from “shall” to “may” which more accurately reflects the Department’s penalty procedures.

As the Department has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

### **Social Impact**

The rules proposed for readoption and amendments apply to licensed insurance premium finance companies. These rules continue to impose reasonable requirements on these licensees to ensure that consumers are informed of all key elements in a premium finance agreement and of any changes in the agreement. The rules proposed for readoption and amendments will continue to require that premium finance companies file annual reports with the Department to enable the Department to determine compliance with applicable law and to levy an assessment on the licensee in an appropriate amount in accordance with P.L. 2005, c. 199, and N.J.A.C. 3:5-2. The proposed amendments will have no social impact as the changes reflect the Department's current procedures.

### **Economic Impact**

The rules proposed for readoption and amendments will not have a negative economic impact. These rules will continue to require important disclosures which provide a measure of protection to consumers who enter into premium finance agreements, thereby averting potential negative economic consequences which might otherwise result from consumers entering into such agreements without the benefit of those disclosures. The costs to licensees consist of the administrative costs of complying with the disclosure and reporting requirements of N.J.A.C. 3:22-1.3. The fee charged for new licensee applications remains unchanged. The changes in language proposed by the amendments will have no new economic impact as the changes reflect the Department's ongoing procedures. Thus, the clarifying amendments will benefit licensees by making the rule text more accurate while imposing no additional costs upon them.

### **Federal Standards Statement**

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

### **Jobs Impact**

The Department does not anticipate that any jobs will be generated or lost as a result of the rules proposed for readoption and amendments. The Department invites commenters to submit any data or studies concerning the job impact of these rules proposed for readoption and amendments.

### **Agriculture Industry Impact**

The Department does not expect any agriculture industry impact from the rules proposed for readoption and amendments.

### **Regulatory Flexibility Analysis**

Most insurance premium finance companies are small businesses as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules proposed for readoption and amendments will continue to impose compliance requirements on licensees, including that insurance premium finance companies file an annual report. The Department does not believe the annual report imposes an undue burden on entities engaged in the premium finance business. While some insurance premium finance companies might engage professionals to aid with their reporting requirements, the

reports are necessary in order to enable the Department to evaluate a licensee's compliance with applicable law and to determine the company's assessment to offset the Department's expenses through the dedicated funding process. In addition, the rules proposed for readoption that require licensees to disclose the key elements of a financing agreement to the consumer prior to the execution of the agreement are an important consumer protection. Any cost associated with that requirement should be considered a necessary cost of doing business. It is essential that all consumers receive these disclosures and agree to them in writing. Thus, the purpose sought to be achieved by these requirements does not vary based upon business size. Accordingly, no differentiation based on business size is made. The proposed amendments do not affect a licensee's reporting compliance or recordkeeping obligations, as the changes merely revise the text to more accurately reflect the Department's ongoing procedures.

### **Smart Growth Impact**

The rules proposed for readoption and amendments will have no impact on the achievement of smart growth and implementation of the State Development and Redevelopment Plan because this chapter concerns the licensing and regulating of those who finance insurance premiums.

### **Housing Affordability Impact**

The rules proposed for readoption and amendments will have an insignificant impact on affordable housing in New Jersey and there is an extreme unlikelihood that the rules would evoke a change in the average costs associated with housing because the

rules proposed for readoption and amendments concern requirements for insurance premium financing.

### **Smart Growth Development Impact**

The rules proposed for readoption and amendments will have an insignificant impact on smart growth and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2 or within designated centers under State Development and Redevelopment Plan in New Jersey because the rules proposed for readoption and amendments concern requirements for insurance premium financing.

**Full text** of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 3:22.

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

3:22-1.3 Annual report; [fee] **penalty**

Each insurance premium finance company licensee shall file an annual report as mandated by N.J.S.A. 17:16D-7. In accordance with N.J.A.C. 3:1-7.6, the Department [shall] **may** assess a penalty against any licensee for each report the licensee files late.