

INSURANCE

DEPARTMENT OF BANKING AND INSURANCE

OFFICE OF CONSUMER PROTECTION SERVICES

Producer Licensing

Participation in National Insurance Producer Database

Proposed New Rule: N.J.A.C. 11:17-1.3

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

Authority: N.J.S.A. 17:1-8.1, 17:1-15e and 17:22A-48.

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

Proposal Number: PRN 2011-221.

Submit comments by December 16, 2011 to:

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The agency proposal follows:

Summary

The Department of Banking and Insurance (Department) is proposing a new rule at N.J.A.C. 11:17-1.3 to codify the existing practice of the Department to utilize the national insurance producer database of the National Association of Insurance Commissioners (NAIC), which is currently made available through the National Insurance Producer Registry (NIPR). The Federal Nonadmitted and Reinsurance Reform Act of 2010 (NRRA), P.L. 111-203, § 523, provides that, beginning in 2012, a state may not collect any fees related to the licensing of an individual or entity as a surplus lines broker in a state unless the state has in effect laws or rules that provide for participation by the state in the national insurance producer database of the NAIC, or any other equivalent uniform national database, for the licensure of surplus lines brokers and the renewal of such licenses. The producer licensing rules at N.J.A.C. 11:17-2 currently recognize the use of the NIPR.

The Department proposes a new rule at N.J.A.C. 11:17-1.3 to provide that, pursuant to N.J.S.A. 17:22A-43b(3), and for purposes of carrying out the Federal NRRA, the Commissioner shall utilize the national insurance producer database of the NAIC (through the NIPR), or any other equivalent uniform national database, for the licensure of an individual or entity as an insurance producer and for the renewal of such license. The NIPR presently facilitates the use of the NAIC national database. The Department utilizes that database in its licensure of insurance producers, including surplus lines producers. Participation entails the Department sending its producer licensing records, including surplus lines producer records, to the national database. This information allows other state insurance departments and insurers to verify that the producer is licensed as an insurance producer in this State, and thus affords protection to consumers. The records in the national database also permit verification of licensing information on a current basis, which is preferable to utilizing paper-based verification, which may be

months or even years out-of-date. In addition, the database permits producers to access electronic initial and renewal license applications online through the NIPR. The electronic process expedites license processing, eliminates time delays for paper applications, allows qualified producers to obtain a license more promptly, and minimizes costs associated with the filing of such applications and any potential delays.

The proposed new rule thus codifies existing Department practice and conforms New Jersey law with the impending Federal requirements.

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

The proposed new rule codifies the Department's participation in the NIPR, thus conforming New Jersey's rules with Federal law. As set forth in the Summary above, the use of the NIPR provides accurate licensing information for consumers and insurers, and enables producers to utilize an online filing process to make application for initial and renewed licensing, thereby minimizing delays in the processing of such applications. These provide a positive social impact.

Economic Impact

No negative economic impact will result from the proposed new rule. As required by the NRRA, the proposed rule codifies the Department's existing participation in the NIPR, which producers and insurers have utilized for several years. Moreover, as noted above, the ability of

producers to utilize the NIPR for filing initial and renewal license applications minimizes delays in the processing of such applications and the costs related thereto. Accordingly, the codification of the Department's participation in the NIPR will provide benefits to the Department and to producers at no cost.

Federal Standards Analysis

As noted above, the NRRRA requires that by July 2012, states provide by law or rule for their participation in the national insurance producer database of the NAIC, or an equivalent national uniform database, with respect to licensed surplus lines producers. The Department currently participates in the NIPR with respect to all licensed producers. The proposed new rule codifies this participation and thus implements the intent of Congress as expressed in the NRRRA with respect to surplus lines insurance producers. The proposed rule applies to all insurance producers to reflect existing State law and Department practice, and thus could be construed as exceeding the Federal standard established by the NRRRA. The Department's policy reasons for exceeding the Federal requirement are to codify its current practice and the other factors set forth in the proposal Summary above. A cost/benefit analysis of the proposed new rule is included in Economic Impact above. The use of the NIPR by non-surplus lines producers is not only achievable, but has been accomplished for several years by all types of licensed producers under current technology.

Jobs Impact

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

The Department invites commenters to submit any data or studies on the potential jobs impact of the proposed new rule together with their comments on any other aspects of the proposal.

Agriculture Industry Impact

The proposed new rule will not have any impact on the agriculture industry in New Jersey.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because the proposed new rule does not impose any reporting, recordkeeping or other compliance requirements on “small businesses,” as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. As set forth above, the proposed new rule codifies the Department’s existing participation in the NIPR, the national insurance producer database of the NAIC, consistent with the NRRA.

Smart Growth Impact

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

Housing Affordability Impact Analysis

The proposed new rule will not have an impact on housing affordability in this State in that the proposed new rule relates to the Department’s participation in a national insurance producer database.

Smart Growth Development Impact Analysis

The proposed new rule will not have an impact on smart growth in this State and there is an extreme unlikelihood that the rule would evoke a change in housing production in Planning Areas 1 or 2 or within designated centers under the State Development and Redevelopment Plan in New Jersey in that the proposed new rule relates to the Department's participation in a national insurance producer database.

Full text of the proposed new rule follows:

11:17-1.3 Participation in national insurance producer database

Pursuant to N.J.S.A. 17:22A-43b(3) and for purposes of carrying out the provisions of the Federal Nonadmitted and Reinsurance Reform Act of 2010, P.L. 111-203, § 523, the Commissioner shall utilize the national insurance producer database of the NAIC (through the National Insurance Producer Registry), or any other equivalent uniform national database, for the licensure of an individual or entity as an insurance producer and for the renewal of such license.