

**INSURANCE  
DEPARTMENT OF BANKING AND INSURANCE  
DIVISION OF INSURANCE**

**Foreign Insurers—Designation of Individual for Service of Process**

**Proposed New Rule: N.J.A.C. 11:1-25.4**

**Authorized By: Holly C. Bakke, Commissioner, Department of Banking  
and Insurance**

Authority: N.J.S.A. 17:1-8.1 and 17B:23-2c

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

Proposal Number: PRN 2002-411

Submit comments by January 17, 2003 to:

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The agency proposal follows:

**Summary**

New Jersey law requires each admitted foreign insurer to designate the Commissioner of Banking and Insurance as agent for service of process. See N.J.S.A. 17:32-2 (property and casualty insurers) and 17B:23-2c (life and health insurers). Authorizing the Commissioner to accept service on behalf of

foreign insurers assures that New Jersey citizens have an accessible place, in State, where they can make effective service.

When the Commissioner has been served, the Department's current procedure is to mail all papers to the attention of the "Company Secretary" pursuant to N.J.A.C. 11:1-25.3(c). Several foreign insurers have requested to be able to designate a specific person in their company who would be mailed all papers regarding the company that have been served on the Commissioner. The Department notes that N.J.S.A. 17B:23-2c allows foreign life and health insurers to make such a specific designation. Although the statutes for property and casualty insurers do not contain a similar authorization to designate a specific individual, the Department has decided to extend the same opportunity to those insurers.

The Department has developed a simple form on which life and health insurers may designate a particular person to receive served papers. This form may be obtained from the Department's Website at <http://www.state.nj.us/dobi/index.shtml>. Alternatively, a hard copy may be obtained from the Department upon request.

Some foreign insurers may not choose to designate a specific individual to receive papers served on the Commissioner. The proposed new rule provides that, in those cases, the Department will continue to mail papers to the "Company Secretary" as before. All initial mailings to the company--whether to a specified individual or to the Company Secretary--will be made by certified mail, return receipt requested.

It is the responsibility of the foreign insurer to notify the Department if the designated person changes. The Department realizes that some insurers may fail to make changes in a timely manner, causing the Department's initial mailing to be returned as undeliverable. In that case, the proposed new rule provides that the Department will re-mail the papers to the "Company Secretary" by regular mail pursuant to N.J.A.C. 11:1-25.3(c).

A 60-day comment period is provided for in this 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 Department believes that the proposed new rule will have a beneficial social impact. It will allow foreign insurers to specify who in the company will receive papers served on the Commissioner pursuant to N.J.S.A. 17:32-2 and N.J.S.A. 17B:23-2c. It will allow those insurers to control who receives these important, time-sensitive papers. This should result in the papers being handled in the most efficient manner within the insurer's organization. The increased efficiency should not only benefit the companies, but also those who are parties in legal actions involving foreign insurers. The administrative burden on the Department is minimal.

### **Economic Impact**

The economic impact of the proposed new rule is addressed in the Social Impact above. For the reasons set forth there, the Department believes that the proposed new rule will have a beneficial economic impact.

### **Federal Standards Statement**

There are no Federal standards that apply to the subject matter of the proposed new rule. Therefore, no Federal standards analysis is required.

### **Jobs Impact**

The Department does not believe that the proposed new rule will cause any jobs to be generated or lost. The Department invites interested parties to submit any data or studies concerning the job impact of the proposed new rule.

### **Agriculture Industry Impact**

The Department does not believe that the proposed new rule will have any agriculture impact. See the Right to Farm Act, N.J.S.A. 4:1C-1 et seq., and the Administrative Procedure Act, N.J.S.A. 52:14B-4(a)(2).

### **Regulatory Flexibility Analysis**

Some of the entities that would be affected by the proposed new rule may be small businesses as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. However, whether to designate a specified individual is

optional on the part of the insurer. Because the proposed new rule is totally optional, it does not establish any new reporting, recordkeeping or compliance requirements on the regulated public. Therefore, no regulatory flexibility analysis is required. For those who exercise the option to designate a specific individual, the designation can be made on a simple form with no additional burden.

### **Smart Growth Impact**

The proposed new rule has no impact on the achievement of smart growth and implementation of the State Development and Redevelopment Plan.

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

#### **11:1-25.4 Foreign insurers - designation of individual for service of process through Commissioner**

**(a) A foreign insurer may specify an individual to receive papers that have been served on the Commissioner as its agent pursuant to N.J.S.A. 17:32-2 (property and casualty insurers) and N.J.S.A. 17B:23-2c (life and health insurers).**

**(b) To designate an individual to receive papers served on the foreign insurer through the Commissioner, the foreign insurer must complete a designation form and return this form to the Department. The**

designation form can be obtained from the Department's website at: <http://www.state.nj.us/dobi/index.shtml>, or a hard copy can be obtained from the Department upon request.

(c) If a foreign insurer has specified an individual to receive papers served on the Commissioner pursuant to (a) above, the Department shall, upon being served, mail all papers to the specified individual by certified mail, return receipt requested. If the mailing to the specified individual is returned to the Department without service upon the designated individual, then the Department shall mail all papers to the Company Secretary by regular mail, as provided in N.J.A.C. 11:1-25.3(c).

(d) If a foreign insurer does not specify an individual to receive papers served on the Commissioner, then the Department shall mail all papers to the Company Secretary by certified mail, return receipt requested, as provided in N.J.A.C. 11:1-25.3(c).

(e) Each foreign insurer shall immediately notify the Department upon any change in the individual designated for mailing of papers served upon the Commissioner as its agent.

11:1-[25.4]**25.5** (No change in text.)

