

INSURANCE

DEPARTMENT OF BANKING AND INSURANCE

OFFICE OF SOLVENCY REGULATION

Credit for Reinsurance

Certification Procedure

Proposed Amendment: N.J.A.C. 11:2-28.7B

Authorized By: Kenneth E. Kobylowski, Commissioner, Department of Banking and Insurance.

Authority: N.J.S.A. 17:1-8.1, 17:1-15.e, and 17:51B-1 et seq.

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

Proposal Number: PRN 2014-047.

Submit written comments by June 20, 2014, to:

Robert J. Melillo, Chief
Legislation and Regulation
Department of Banking and Insurance
20 West State Street
PO Box 325
Trenton, NJ 08625-0325
Fax: 609-292-0896
E-mail: legsregs@dobi.state.nj.us

The agency proposal follows:

Summary

N.J.A.C. 11:2-28, which sets forth rules to implement the credit for reinsurance requirements prescribed by N.J.S.A. 17:51B-1 et seq., was amended effective September 4, 2012, to implement amendments to the statute at N.J.S.A. 17:51B-2.f. The recently adopted new rules and amendments are based on the applicable model statute and rules adopted by the National Association of Insurance Commissioners (NAIC) to provide for the approval as certified reinsurers of certain reinsurers not meeting the requirements in N.J.S.A. 17:51B-2.a through d. Although a state is not required to provide for certified reinsurers, if a state chooses to do so its requirements governing the approval of such entities must be in accordance with the applicable NAIC models in order for the state to maintain accreditation by the NAIC.

Section 8B(1) of NAIC Model #786 provides that a state insurance commissioner shall post a notice on the website of his or her department promptly upon receipt of an application for approval as a certified reinsurer, and include instructions on how members of the public may respond to the application. The section further provides that the commissioner shall not take any action on the application until at least 30 days after the posting of the notice referenced above. At the time it proposed the recently adopted new rules and amendments to N.J.A.C. 11:2-28, the Department was not aware that this provision, which relates to a procedural matter as opposed to a substantive standard, would be required as an essential element for NAIC accreditation. For that reason, the Department did not include a similar provision in its recently adopted proposal. The Department has now learned that this provision is so required. N.J.A.C. 11:2-28 currently includes no directives on the Department providing notice to the public of its receipt of such applications or of the time frame within which it must act on such applications.

On May 30, 2013, the Department issued Bulletin No. 13-13 to advise that promptly upon its receipt of an application from an insurer to be designated as a certified reinsurer

pursuant to N.J.A.C. 11:2-28.7B, the Department shall post on its website, dobi.nj.gov, notice of such application. Interested parties may respond in writing to the application within 30 days of the date of such posting. The Bulletin also provided that the Department shall take no action on an application for certification prior to the expiration of the 30-day period referenced above.

Accordingly, the Department is proposing to amend N.J.A.C. 11:2-28.7B(a) to codify the procedure set forth in the NAIC model and Bulletin No. 13-13 as set forth above.

The Department is also proposing to amend N.J.A.C. 11:2-28.7B(f) to correct the citation to the Open Public Records Act to read N.J.S.A. 47:1A-1 et seq.

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 amendments will have a positive social impact by correcting a citation error and by reflecting the national standard adopted by the NAIC and reflected in Bulletin No. 13-13 with respect to providing notice of pending certified reinsurer applications and of the ability of interested parties to submit written comments related thereto. The Department will benefit by the amendments better ensuring that it will qualify for reaccreditation by the NAIC and that it will have the benefit of the views of interested parties when making determinations on applications for certification as a reinsurer.

Economic Impact

No negative impact will result from the proposed amendments. As noted above, the amendments correct a citation error and codify the national standard adopted by the NAIC with respect to providing notice to the public of pending certified reinsurer applications and of the ability of interested parties to submit written comments related thereto. No additional professional services will be required in order to comply with the proposed amendments. Accordingly, the benefits to be achieved through the proposed amendment far outweigh any costs that may be imposed.

Federal Standards Statement

A Federal standards analysis is not required because the proposed 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 proposed amendments. The Department invites commenters to submit any data or studies on the potential jobs impact of the proposed amendments together with their comments on other aspects of the proposal.

Agriculture Industry Impact

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

Regulatory Flexibility Analysis

The proposed amendments impose no new reporting or recordkeeping requirements on “small businesses” as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. As noted above, the proposed amendments correct a citation error and codify the national standard adopted by the NAIC and reflected in Bulletin No. 13-13 with respect to the Department providing notice of pending certified reinsurer applications and the ability of interested parties to submit written comments related thereto. The only compliance requirements imposed outside of the Department concern the addresses to which interested parties may respond concerning an application and the time frame for doing so. While these requirements do apply to businesses resident in New Jersey as interested parties, they will incur no additional costs and professional services will not be required, as the proposed amendments impose a new notification requirement only upon the Department.

Housing Affordability Impact Analysis

The proposed amendments will not have an impact on housing affordability in this State in that the proposed amendments correct a citation error and relate to notice of pending certified reinsurer applications and the ability of interested parties to submit written comments related thereto.

Smart Growth Development Impact Analysis

The proposed amendments will not have an impact on smart growth in this State 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 the State Development and Redevelopment Plan in New Jersey in that the proposed amendments correct a citation error and

relate to notice of pending certified reinsurer applications and the ability of interested parties to submit written comments related thereto.

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

11:2-28.7B Certification procedure

(a) The Commissioner shall issue a written notice to an assuming insurer that has made application and been approved as a certified reinsurer. Included in such notice shall be the rating assigned the certified reinsurer in accordance with N.J.A.C. 11:2-28.7A. The Department shall publish a list on its website of all certified reinsurers and their ratings.

1. Promptly upon its receipt of an application from an insurer to be designated as a certified reinsurer pursuant to this section, the Department shall post on its website notice of such application. Interested parties may respond in writing to the application within 30 days of the date of such posting, directed to: Chief of Reinsurance and Surplus Lines, 20 West State St., PO Box 325, Trenton, NJ 08625-0325, or via e-mail at do.bi.reinsurance@do.bi.state.nj.us. The Department shall take no action on an application for certification prior to the expiration of the 30-day period referenced above.

(b) – (e) (No change.)

(f) The certified reinsurer shall meet applicable information filing requirements as determined by the Commissioner, both with respect to an initial application for certification and on an ongoing basis. All information submitted by certified reinsurers which is not otherwise public information subject to disclosure shall not be considered a government record subject to

public inspection and copying under the Open Public Records Act, N.J.S.A. [17]47:1A-1 et seq.

The applicable information filing requirements are[,] as follows:

1. - 7. (No change.)

(g) – (j) (No change.)