

INSURANCE

DEPARTMENT OF BANKING AND INSURANCE

DIVISION OF INSURANCE

Administration

Readoption with Amendments: N.J.A.C. 11:1

Proposed: July 18, 2011 at 43 N.J.R. 1566(a).

Adopted: October 7, 2011 by Thomas B. Considine, Commissioner, Department of Banking and Insurance.

Filed: October 24, 2011 as R. 2011 d. 284, **without change**.

Authority: N.J.S.A. 17:1-8.1, 17:1-15e, 17:17-1 et seq., 17B:17-1 et seq., and 34:15-103 et seq.

Effective Date: October 24, 2011, Readoption;
November 21, 2011, Amendments.

Expiration Date: October 24, 2018

Summary of Public Comment and Agency Response:

No comments were received.

Federal Standards Statement

A Federal standards analysis is not required because the rules readopted with amendments are not subject to any Federal requirements or standards, with the exception of surplus lines insurance. Aspects of surplus lines insurance are subject to Federal law, the Dodd-Frank Wall Street Reform and Consumer Protection Act, P.L. 111-203 (“the Act”). The following rules are affected:

N.J.A.C. 11:1-31, governing surplus eligibility, and N.J.A.C. 11:1-33, governing surplus procurement procedures. Section 524 of the Act provides that a state may not impose eligibility

requirements on, or establish eligibility criteria for, nonadmitted insurers domiciled in the United States, except in conformance with sections 5A(2) and 5C(2)(a) of the NAIC Non-Admitted Insurance Model Act, unless the state has adopted nationwide uniform procedures developed in accordance with the Act. In addition, no state may prohibit a surplus lines producer from placing nonadmitted insurance, or procuring nonadmitted insurance from, a nonadmitted insurer domiciled outside of the United States that is listed on the Quarterly Listing of Alien Insurers maintained by the International Insurers Department of the NAIC. N.J.A.C. 11:1-31 imposes eligibility requirements on all insurers seeking to become eligible. Accordingly, under the Act, this subchapter would only continue to apply to an insurer not domiciled in the United States that is not listed on the Quarterly Listing of Alien Insurers.

N.J.A.C. 11:1-33, governing the procurement of surplus lines insurance, currently does not reflect the streamlined procedures for “exempt commercial purchasers” as defined in section 527 of the Act, to obtain surplus insurance without first going through the “declination procedures” set forth in the rule.

In all instances, the Department recognizes that the Act controls and will apply the rules consistent therewith. Changes necessary to conform the rules in this chapter that relate to surplus lines insurance with the Federal law will be separately proposed.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 11:1.

Full text of the adopted amendments follows:

TEXT