

**INSURANCE**

**DEPARTMENT OF BANKING AND INSURANCE**

**DIVISION OF INSURANCE**

**OFFICE OF PROPERTY AND CASUALTY**

**Automobile Insurance - Voluntary Written Exposure and Primary Classification Data**

**Homeowners Comparison Survey**

**Adopted Repeals: N.J.A.C. 11:3-16.12 and 11:4-29**

Proposed: November 15, 2010 at 42 N.J.R. 2700(a).

Adopted: May 11, 2011 by Thomas B. Considine, Commissioner, Department of Banking and Insurance.

Filed: May 12, 2011 as R. 2011 d. 165, **without change**.

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

Effective Date: June 6, 2011.

**Summary of Public Comments and Agency Responses**

The Department of Banking and Insurance (Department) received written comments from Francis C. O'Brien, Vice President, State Government Relations, Property Casualty Insurers Association of America; Rachael E. Moore, Director, Insurance Council of New Jersey; Deborah A. Wean, Esq. Secretary, NJM Insurance Group; and Honorable Jeff Van Drew, Senator, 1st District, New Jersey Senate.

COMMENT: The commenter commends the Department for proactively seeking the repeal of antiquated regulations and expresses support for the repeal of these unnecessary requirements and asks for the Department to adopt the proposal as drafted.

RESPONSE: The Department appreciates the commenter's expression of support for the proposed repeals.

COMMENT: The commenter expresses support for the repeals which eliminate filing requirements and data submission requirements which are no longer useful and thanks the Department for eliminating administrative burdens which no longer offer tangible benefit to policyholders or insurers.

RESPONSE: The Department appreciates the commenter's expression of support for the proposed repeals.

COMMENT: The commenter believes that information in the automobile voluntary exposure reports which indicates distribution exposures among carriers on a Statewide basis is essential for the Department to monitor the marketplace and is useful for carriers for strategic planning purposes. The commenter suggested that if there is no other source from which exposure information can be accessed, a scaled down version of the report be retained.

RESPONSE: It appears that the comment is based upon a misunderstanding of the proposal. Information on exposures that includes policy limit, deductible and threshold data will continue to be collected in the Semi-Annual Report required by N.J.A.C. 11:3-3A.3. The repeal will only discontinue that portion of the report which asks for information regarding driver class and vehicle usage, which is no longer collected or used by many insurers.

COMMENT: The commenter opines that the Department has failed to justify the repeals and that consumers will ultimately be harmed if the Department adopts the proposed repeals as drafted. The commenter noted that when it initially proposed N.J.A.C.11:3-16.12, the Department stated that there is a link between the percentage of pleasure use classification in an insurer's book of business and the diligence of that insurer in requiring insureds to properly report the use classification of their automobiles. See 29 N.J.R. 5240(a). The commenter stated that the notice of proposed repeal does not clearly indicate whether the Department believes that this link no

longer exists and, absent such a determination, that repealing the rule would be inappropriate. The commenter also believes that the Department must instead propose an amendment to N.J.A.C.11:3-16.12 that would adequately reflect the current rating systems.

The rule currently requires private passenger automobile insurers to file with the Department data showing Statewide written exposures and primary classification distribution of policies written, and upon receipt of that data the Department annually issues a bulletin reflecting this data.

RESPONSE: The Department disagrees with the commenter. The Department has determined that vehicle use categories once used in rating systems are no longer collected or used by many insurers for rating automobile policies. Consequently, the Department has determined that this distribution no longer has a meaningful link to the accuracy and effectiveness of insurer rating plans, and that the continued reporting of the data and issuance of the Bulletin referenced in N.J.A.C. 11:3-16.12 will be of limited value. In addition, due to the complexity and diversity of current rating plans, it would be meaningless to create a “current” average exposure distribution of any sort against which to measure companies. No single rating variables exist that could be compared across insurers in such a way as to measure the accuracy and effectiveness of rating plans.

COMMENT: Regarding the proposed repeal of N.J.A.C. 11:4-29, the commenter stated that the Department’s determination that the data on which the Homeowners Insurance Comparison Guide is based is no longer useful is not adequately supported and that consumers do rely upon the price comparison information provided by the Department when purchasing homeowners coverage. The commenter noted that the Department has not indicated how consumers will obtain clear, concise and accurate information if the Comparison Guide is discontinued.

RESPONSE: The Department disagrees with the commenter, as it has determined that due to the complexity of the current homeowners rating systems, it is difficult to specify representative

sample policies that are meaningful for use by individual prospective insureds in making comparisons between different companies' premium rates which are relevant in the diverse housing array within the State. This is due to the large number of rating factors that, alone or in combination, can have a significant impact upon an individual homeowners, rental or condominium policy. These include zip code, prior claims, prior coverage, age of the dwelling and its essential components (roof, plumbing, etc.), number of stories, account discounts, and loss mitigation features, among others. The current survey proposed for repeal dates back to the 1980's – a time when companies used only a few rating factors. Then, as opposed to now, it was easy to compare the prices charged by companies because most, if not all, insurers used those same limited number of rating factors. Now, however, as more and more companies have diversified their rating systems, in some cases, using thousands of rating factors, such comparisons are much more difficult to make. Consumers who wish to comparison shop may obtain lists of all companies licensed and authorized to sell homeowners insurance in New Jersey, including the company websites, phone numbers and whether the company is a direct writer or uses agents to sell policies on the Internet. This information is available on the Department's website or the consumer may call the Department for specific company data. In addition, information on premiums charged by many homeowners insurers and the ability to obtain premium quotes are also available on the websites of insurers. Thus, consumers today have direct access to information that is more current than that contained in the data reported to the Department months later by insurers pursuant to N.J.A.C. 11:4-29, and subsequently included in the Homeowners Insurance Price Comparison Guide issued months later by the Department. The continuation of the current premium data reporting system has the potential to invite consumers to put misplaced reliance upon older, less specific data than that available from other easily accessible sources. Therefore, no amendments or changes are being made to the proposed repeals upon adoption.

### **Federal Standards Statement**

Executive Order No. 27 (1994) and P.L. 1995, c. 65 require State agencies that adopt, readopt or amend State regulations that exceed any Federal standards or requirements to include in the rulemaking document a comparison with Federal law. A Federal standards analysis is not required in this instance because there are no Federal standards or requirements applicable to the repealed rules.