BANKING
DEPARTMENT OF BANKING AND INSURANCE
DIVISION OF BANKING

Premium Finance Agreements

Proposed Amendment: N.J.A.C. 3:22-1.1

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

Authority: N.J.S.A. 17:1-15(e) and 17:16D-7 and 8

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

Proposal: PRN 2004 - 69

Submit comments by April 30, 2004 to:

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The agency proposal follows:

Summary

The Department of Banking and Insurance (Department) proposes to amend N.J.A.C. 3:22-1.1 which currently requires that there be disclosure in premium financing agreements of the key elements of, and current conditions and provisions applicable to, the loan prior to the agreement being signed by the insured. The rule also prohibits continuous payment agreements, and requires separately signed premium finance agreements for each policy, renewal, addition or change.

The Department is proposing to amend N.J.A.C. 3:22-1.1(c) to enable premium finance companies to use one premium finance agreement to cover multiple commercial policies, renewals, additions or changes where the policies are issued through the same producer.

As proposed for amendment, N.J.A.C. 3:22-1.1(c) would provide that companies shall utilize separately signed premium finance agreements for each non-commercial policy, renewal, addition or change. Companies may utilize one premium finance agreement covering multiple commercial policies, renewals, additions or changes where the policies are issued through the same producer, or a separately signed agreement for each such policy. The disclosure requirements in the current rule would continue to apply, regardless of whether a premium finance agreement covered one or multiple policies. The Department is also contemplating whether this rule should be amended to provide for the premiums on multiple non-commercial policies to be financed under the terms of one premium finance agreement.

This rule proposal provides for a comment period of 60 days, and, therefore, pursuant to N.J.A.C. 1:30-3.3(a)5, is not subject to the provisions of N.J.A.C. 1:30-2.2 and 3.2 governing rulemaking calendars.

Social Impact

The proposed amendment should have a positive impact on consumers of commercial insurance products and the agents who sell such products. The proposed amendments will enable insureds to finance the premiums on multiple commercial policies in a more efficient manner where they desire to do so on the terms offered by a premium finance company willing to finance the premiums on multiple commercial policies in a single premium finance agreement.

Economic Impact

The proposed amendment should have a favorable impact on premium finance companies because, if enacted, they will have the option of being able to include multiple commercial policies in a single premium finance agreement, as opposed to a separately signed premium finance agreement for each commercial policy premium financed. The efficiencies that may be realized through the exercise of that option will benefit such companies. Consumers of commercial insurance products who finance the premiums in a multiple policy premium finance agreement should also be favorably impacted economically, as they will avoid duplicative fees for separate premium financing agreements and may, as a result of the larger amount being financed in the single agreement, be able to negotiate a lower interest rate than they would have obtained on individual agreements for each premium financed.

Federal Standards Statement

A Federal standards analysis is required when any State agency proposes to adopt, readopt, or amend State regulations that exceed any Federal standards or requirements.

The proposed amendment implements the Insurance Premium Finance Company Act, N.J.S.A. 17:16D-1 et seq., which pertains to issues that are exclusively the subject of State law and are not subject to any Federal standards or requirements. Consequently, no Federal standards analysis is required.

Jobs Impact

The Department does not anticipate any jobs will be generated or lost as a result of the proposed amendment. The Department welcomes input on this subject from all knowledgeable commenters.

Agriculture Industry Impact

The Department does not anticipate any impact on agriculture from the proposed amendment.

Regulatory Flexibility Statement

Most insurance premium finance companies are small businesses as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendment will continue to require that premium finance companies disclose the key elements of the financing agreement to the consumer prior to the execution of the agreement. The Department does not believe that the proposed amendment will impose any additional compliance costs on companies. Moreover, it is essential that all consumers receive these disclosures and agree to them in writing. The proposed amendment provides no differentiation in compliance requirements based on business size. All businesses should be able to comply with the proposed amendment utilizing existing staff, professional services, or resources. The proposed amendment does not impose additional recordkeeping or compliance requirements on companies. The proposed amendment injects flexibility into what was a rigid requirement and provide an opportunity for companies to reduce their compliance burden by utilizing one premium finance agreement that covers multiple commercial policies issued through the same producer.

Smart Growth Impact

The proposed amendment 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;** deletions indicated in brackets [thus]):

3:22-1.1 Premium finance agreement

(a) There [must] **shall** be disclosure in [the] **each** premium [financing] **finance** agreement of the key elements prior to the signature of the insured in accordance with the requirements set forth in N.J.S.A. 17:16D-9 **and (c) below**.

(b) (No change.)

(c) [Separately] **Companies shall utilize separately** signed premium finance agreements [are required] for each **non-commercial** policy, renewal, addition or change[, in order to] **on which the premium is to be financed. With respect to the premiums on commercial policies, companies may utilize either separately signed agreements, or one premium finance agreement covering multiple commercial policies, renewals, additions or changes where the commercial policies to which the single premium financing agreement pertains are issued through the same producer. Regardless of whether they cover one or multiple policies, all premium finance agreements shall** disclose current conditions and provisions applicable to each loan.

(d) (No change.)

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