

INSURANCE

DEPARTMENT OF BANKING AND INSURANCE

OFFICE OF PROPERTY AND CASUALTY

Private Passenger Automobile Insurance Territorial Rating Plans

Territorial Rating Equalization Exchange

Proposed Amendments: N.J.A.C. 11:3-16A.1, 16A.2 and 16A.4

Proposed Repeals: N.J.A.C. 11:3-16A.10, 16A.11 and 16A.12

Authorized By: Thomas B. Considine, Commissioner, Department of Banking and Insurance

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

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

Proposal Number: PRN 2010-148

Submit written comments by September 17, 2010 to:

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The agency proposal follows:

Summary

The Department of Banking and Insurance (Department) adopted new rules and amendments related to the Territorial Rating Equalization Exchange (TREE), which became effective on February 4, 2008. See 39 N.J.R. 13(a) and 40 N.J.R. 786(a). The TREE is an unincorporated association operating on a no-profit, no-loss basis, and has a governing committee composed of insurer representatives and a public member. The TREE program itself has not become operational.

The purpose of TREE was to promote sustainable competition in all areas of the State related to private passenger automobile insurance by eliminating concerns of insurers that they would be at a competitive disadvantage by actively seeking business in the territories previously “capped” under N.J.S.A. 17:29A-36a, which cap was repealed effective May 19, 1998. The Department was concerned that there would be a disincentive for insurers to write more risks in higher loss territories.

After several years’ analysis of market conditions involving private passenger automobile insurance, the Department has determined that the issues to be addressed through the TREE have not materialized. Using the “common sense principles” for agency rulemaking as mandated under Executive Order No. 2 (2010), the Department has determined that it is unnecessary to continue to maintain rules establishing TREE to address issues that have not yet materialized and may never materialize. The Department will continue to monitor closely the private passenger automobile insurance market, and to the extent that the Department determines that problems have arisen that must be addressed, it will propose rules specifically tailored to address the issues that exist at that time. Any such rules will adhere to the common sense principles set forth in Executive Order No. 2, including the advance notice of rules to obtain advice and views of knowledgeable persons in advance of any rulemaking.

Accordingly, the Department proposes to repeal N.J.A.C. 11:3-16A.10 through 16A.12, which established the TREE, and to amend N.J.A.C. 11:3-16A.1, 16A.2 and 16A.4, to delete references to the TREE that were proposed as part of the initial proposal of the TREE rules. The proposed changes will not effect, and will not require the refileing of, territorial rate filings that were previously filed and approved. In addition, existing N.J.A.C. 11:3-16A.13 is proposed to be recodified as N.J.A.C. 11:3-16A.10 without amendment.

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 repeals and amendments will have a positive social impact in that they eliminate rules that address problems that have not materialized. The Department also notes that the TREE program was never put into operation.

Economic Impact

The proposed repeals and amendments will eliminate any potential costs, with no corresponding benefit, the maintenance of the rules establishing TREE would engender. No costs will be imposed by the proposed repeals and amendments. As noted above, the TREE program was never put into operation and therefore the proposed repeals and amendments will have no impact.

Federal Standards Statement

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

Agriculture Industry Impact

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

Regulatory Flexibility Statement

A Regulatory flexibility analysis is not required because the proposed repeals and amendments impose no reporting, recordkeeping or other compliance 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 repeals and amendments will eliminate the rules governing TREE, which has not become operational, and will eliminate any potential costs with no corresponding benefit that would be engendered through these rules.

Smart Growth Impact

The proposed repeals and amendments will not have an impact on the achievement of smart growth or the implementation of the State Development and Redevelopment Plan.

Housing Affordability Impact

The proposed repeals and amendments will not have an impact on housing affordability in this State in that the proposed repeals and amendments relate to the TREE and private passenger automobile insurance.

Smart Growth Development Impact

The proposed repeals and 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 repeals and amendments relate to the TREE and private passenger automobile insurance.

Full text of the rules proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 11:3-16A.10, 16A.11 and 16A.12.

Full text of the proposed amendments follows (addition indicated in boldface **thus**; deletions indicated brackets [thus]):

SUBCHAPTER 16A. PRIVATE PASSENGER AUTOMOBILE INSURANCE TERRITORIAL
RATING PLANS

11:3-16A.1 Purpose and scope

(a) This subchapter sets forth the standards and requirements for the establishment of territory maps by insurers, rating organizations, and the Automobile Insurance Territorial Rating Plan Advisory Commission, pursuant to N.J.S.A. 17:29A-48 et seq. and 17:29A-36, [the creation of the Territorial Rating Equalization Exchange] and for the amendments to rating plans by insurers and rating organizations.

(b) (No change.)

11:3-16A.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

...

["TREE" means the Territorial Rating Equalization Exchange created pursuant to this subchapter.]

11:3-16A.4 Standards for establishment of territories

(a) - (e) (No change.)

[(f) In accordance with the purpose of the TREE, the Commissioner may waive the requirements of (a), (b) and (d) above for territories comprised of zip codes eligible for TREE reimbursement.]

11:3-[16A.13]**16A.10** (No change in text.)