

INSURANCE
DEPARTMENT OF BANKING AND INSURANCE
DIVISION OF INSURANCE

Special Rules for Effecting Coverage for Private Passenger Automobile Insurance

Adopted Amendment: N.J.A.C. 11:3-44.2

Proposed: November 17, 2003 at 35 N.J.R. 5215 (a)

Adopted April 15, 2004 by Holly C. Bakke, Commissioner,
Department of Banking and Insurance

Filed April 16, 2004 as R. 2004 d.188, **with substantive changes** not requiring
additional public notice and comment (See N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 17:1-8.1, 17:1-15e and 17:33B-15 and 18 et seq.

Effective Date: May 17, 2004

Expiration Date: January 4, 2006

Summary of Public Comments and Agency Responses:

The Department received five written comments on the proposal. The comments were received from The Property Casualty Insurers Association of America, Professional Insurance Agents of New Jersey, The Independent Insurance Agents of New Jersey, a joint submission from the Insurance Council of New Jersey and the American Insurance Association, and B. Sashaw.

COMMENT: One commenter is of the opinion that this proposal seems necessary to clarify two conflicting regulations issued by two different State agencies. The commenter also suggested that the actual text of the proposal should be revised for clarity, but make no specific recommendations as to how the text might be revised..

RESPONSE: As mentioned in the proposed Summary, the Department intended through these amendments to address the apparent conflict mentioned in the comment. In response to this and other comments, the Department is clarifying the amendment by revising its text upon adoption, as set forth in more detail below.

COMMENT: Two commenters suggested that the proposal be amended so as to ensure that leased or rented vehicles are covered.

RESPONSE: The Department agrees with the commenter, and is revising the amendment upon adoption to indicate that a copy of evidence of a leasehold interest is acceptable as a basis upon which an application for insurance may be deemed complete as referenced in paragraph 4 of the definition in N.J.A.C. 11:3-44.2. Proof that a vehicle has been rented from a rental company or agency is not sufficient for purposes of this rule.

COMMENT: Two commenters suggested that the language of the proposal be revised to correct an inconsistency between the Summary and the actual text of the proposal. The Summary states that the new rule would allow “satisfactory proof of ownership or a copy of the motor vehicle registration or an application for the registration of each vehicle.” In contrast, proposed N.J.A.C. 11:3-44.2 refers to a “copy of the vehicle registration or satisfactory proof of ownership and a copy of an application for the registration of each vehicle.” Thus, although the Summary contemplates one of three options, the actual text of the proposal provides only two options.

RESPONSE: The Department agrees with the commenter, and has determined to delete the phrase “and a copy of an application for the registration of each vehicle” from the amended rule upon adoption. As a business practice, in situations where a completed written application has been supported only by satisfactory proof of ownership or by the holding of a valid leasehold interest, insurers may subsequently require proof that the vehicle has been properly registered.

COMMENT: One commenter commended the Department for seeking to clarify the confusion in the current regulation. However, the commenter suggested that the proposal be revised so that satisfactory proof of ownership alone be an alternative to the copy of the motor vehicle registration for purposes of making an insurance application. As another alternative, the commenter suggested that the Department could require satisfactory proof of ownership with the application for insurance and then require the motor vehicle registration to be provided within a certain number of days after the application for insurance has been submitted.

RESPONSE: As is set forth in the Response to the previous Comment, the Department agrees with the commenter and has revised the rule upon adoption accordingly. Although the Department has concluded that it is not necessary for the rule to require the submission of evidence of the proper registration of the vehicle in addition to satisfactory proof of ownership, insurers may, as a business practice, require the submission of such evidence within a specified, reasonable time period after the effective date of a policy that has been issued based upon satisfactory proof of ownership alone.

COMMENT: Two commenters believe that a copy of an application for registration should not be required at the time of application for insurance, with one suggesting that the rules specify that the ability to accept a copy of such an application as adequate proof of ownership is an option available to the insurer. The other commenter suggested that the rule could require that the registration information be sent to the insurer within 30 days of the effective date of coverage for that vehicle, thus eliminating the need for the insured to make two trips to a Motor Vehicle Commission office. This commenter further suggested that the reference in the rule to satisfactory proof of ownership should provide specifically that the name on the title match the name of the applicant, or, if the title is being transferred, that the title be fully completed, dated and signed, indicating the purchaser's name and address.

RESPONSE: As set forth above, the Department agrees with the commenters' suggestion with regard to the application for registration not being required to be submitted at the time of application. The Department does not deem it necessary for the rule to include the other provisions suggested by the latter commenter, as prudent business practices by insurers would require consistency between the application and supporting documentation, and that all such documents be fully completed and signed with all necessary information included. Finally, the Department cannot agree that a copy of an application for registration alone would constitute adequate proof of ownership of a vehicle, because there would be no assurance that such an application had actually been submitted for processing and that the applicant identified on the application was the record owner or lessee of the vehicle.

COMMENT: One commenter suggested that the proposal require the insured to send in a copy of the registration within 60 days of the application for insurance or risk cancellation of the policy.

RESPONSE: As set forth above, the Departments agrees that requiring proof of proper registration of a vehicle subsequent to receipt of an application for insurance based solely on proof of ownership or a leasehold interest may be a good business practice. Pursuant to N.J.A.C. 11:3-35.4(g)2, an insurer may file for approval underwriting rules that provide for the cancellation of coverage during the policy term under a policy insuring an eligible person if an insurer determines, within 60 days of issuance of the policy, that the named insured does not meet the insurer's approved underwriting rules in effect on the date of application. Therefore, if an insurer received approval of underwriting rules that so provided, a failure to submit a copy of the registration of an insured vehicle within 60 days of the effective date of a policy issued on the basis of proof of ownership alone could constitute an adequate basis upon which to cancel the policy. Given the current availability of this option to insurers, the Department deems it unnecessary to amend N.J.A.C. 11:3-44.2 to so provide.

Federal Standards Statement

The subject of these amendments deals with insurance activities in New Jersey, which is exclusively subject to the laws of this State and is not subject to any Federal standards or requirements. Therefore, no Federal standards analysis is required.

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

11:3-44.2 Definitions

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

...

“Completed written application” means a signed written application that contains:

1. – 3. (No change.)

4. With respect to all vehicles to be insured under the policy, either a copy of the motor vehicle registration or satisfactory proof of ownership*[and a copy of an application for the registration of each vehicle]* ***or of the holding of a valid leasehold interest, which shall not include an agreement with a rental company or agency***.

5. – 7. (No change.)

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