

Note: The Department's email address and fax number for the submission of public comments was inadvertently omitted from the copy of the proposal that appears in the New Jersey Register. They have been inserted below for the information of interested parties.

INSURANCE
DEPARTMENT OF BANKING AND INSURANCE
DIVISION OF INSURANCE

Group Self-Insurance

Proposed Readoption with Amendments: N.J.A.C. 11:15

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

Authority: N.J.S.A. 17:1-8.1, 17:1-15e, 17:49A-1 et seq., 34:15-77 et seq., 18A-18B-1 et seq., and 40A:10-36 et seq.

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

Proposed Number: PRN 2004-385

Submit comments by December 17, 2004 to:

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Summary

The Department of Banking and Insurance (Department) proposes to readopt N.J.A.C. 11:15, which will expire on March 13, 2005, pursuant to N.J.S.A. 52:14B-5.1c. The Department has reviewed these rules and has determined that they continue to be necessary, reasonable and proper for the purpose for which they were originally promulgated. The Department is therefore proposing to readopt these rules with amendments.

The existing chapter contains rules that govern the formation of pooling mechanisms by groups of hospitals seeking to self-insure workers' compensation coverage; by local units of government or boards of education seeking to join together to insure against liability, property damage, workers' compensation, environmental impairment liability (local units only) and to provide group health and term life insurance; and by nonprofit corporations and Keys amendment facilities seeking to form a joint insurance fund for the purpose of insuring against liability, property damage, and workers' compensation.

N.J.A.C. 11:15 contains rules on the following subjects:

1. Hospital workers' compensation group self-insurance;
2. Joint insurance funds for local governmental units providing property and liability coverages;
3. Joint insurance funds for local governmental units providing group health and term life benefits;
4. Joint insurance funds for school boards providing property and liability coverages;
5. Joint insurance funds for school boards providing group health and term life benefits; and
6. Joint insurance funds for nonprofit corporations and Keys amendment facilities.

The rules in this chapter were promulgated to implement statutory requirements in Titles 17, 18A, 34 and 40A of the New Jersey Statutes. Subchapter 1 was promulgated to implement N.J.S.A. 34:15-77 et seq., which authorizes 10 or more hospitals licensed in this State to pool their workers' compensation liabilities through the formation of a self-insurance group or pool.

Subchapter 1 implements those provisions by establishing criteria for: the organization and administration of such groups; the obligations of the group and its members; the manner in which rates are established and profits and losses distributed; and methods to guard against insolvency or financial deterioration of the group.

Subchapters 2 and 3 authorize two or more local units of government to form a joint insurance fund for the purpose of insuring against claims for liability, property damage, and workers' compensation, insuring against loss or theft of money or securities, providing blanket bond coverage of certain county municipal officers and employees for faithful performance in discharge of their duties, insuring against environmental impairment liability, and providing contributory or noncontributory group health or group term life insurance. Subchapter 2 provides the standards governing the establishment, operation, oversight, modification, and dissolution of property and liability joint insurance funds. Subchapter 3 essentially reflects the requirements set forth in Subchapter 2, with appropriate modifications, to address the provision of group health and term life coverages.

Subchapters 4 and 5 authorize two or more boards of education to form a joint insurance fund to insure against liability, property damage, losses from liability for a members' acts or omissions, workers' compensation, and expenses of defending any claim against the school board, county college, officer, or servant arising out of the course of performing their duties (Subchapter 4); and for the provision of group health and group term life benefits (Subchapter 5). Subchapters 4 and 5 set forth the requirements for the establishment, operation, oversight, modification, and dissolution of a school board joint insurance fund, and essentially reflect the requirements set forth in Subchapters 2 and 3, respectively, with appropriate modifications to

address specific statutory requirements related to school boards and school board insurance funds.

Subchapter 6 permits two or more nonprofit corporations or two or more Keys amendment facilities, as applicable, to form a joint insurance fund for the purpose of insuring against liability, property damage, and workers' compensation. Subchapter 6 similarly sets forth the requirements for the establishment, operation, oversight, modification and dissolution of a joint insurance fund formed for that purpose. The general requirements set forth in Subchapter 6 essentially reflect those set forth in Subchapters 2 and 4, with appropriate changes to reflect that these joint insurance funds are formed by entities other than public entities with taxing authority.

The Department is proposing the following amendments to this chapter:

N.J.A.C. 11:15-2.1, 2.3 and 3.3 are being proposed with amendments to render the rules consistent with N.J.S.A. 40A:10-36 et seq. as amended by P.L. 1999, c. 434. In N.J.A.C. 11:15-2.1, subsection (a) is amended to indicate that local units of government may establish joint insurance funds for the additional purpose of insuring against loss liability associated with sick leave payment for service connected disability. In addition, a new subsection (b) is being added to N.J.A.C. 11:15-2.3. It includes therein a reference to joint insurance funds only being empowered to insure, contract, or provide for any insurable interest of a member solely for the purposes delineated in N.J.A.C. 11:15-2.1(a). New subsection (b) is being added to N.J.A.C. 11:15-3.3 to indicate the limitations on the authority of joint insurance funds of local units of government to insure, contract, or provide for an insurable interest of a member with respect to contributory or non-contributory group health insurance or group life insurance, or both, for employees and/or their dependents, through self-insurance, the purchase of commercial insurance or reinsurance, or any combination thereof. It also specifies that the maximum risk to

be retained for group term life insurance by a joint insurance fund on a self-insured basis shall not exceed a face amount of \$5,000 per covered person or such greater amount as may be approved by the Commissioners of the Departments of Banking and Insurance and Community Affairs. N.J.S.A. 40A:10-36 et seq addresses local unit insurance funds and provides for the establishment of a joint insurance fund for the following purposes: insuring against liability, property damage, workers' compensation, liability loss associated with sick leave payments for service connected disability; insuring against loss or theft of money or securities; blanket bond coverage of certain county or municipal officers and employees for faithful performance and discharge of their duties; insuring against bodily injury and property damage claims arising from environmental impairment liability and legal representation therefor, to the extent that such coverages as approved by the Commissioner are provided by the purchase of insurance and no risk is retained by the fund; and providing contributory or non-contributory group health insurance or group term life insurance or both.

N.J.A.C. 11:15-4.3 is being proposed with amendments to reflect the statutory changes enacted to N.J.S.A. 18A:18B-2 by P.L. 1999, c. 435. These statutory changes, reflected in proposed N.J.A.C. 11:15-4.3(c)6 through 10, address school board joint insurance funds, and authorize such funds to insure, contract or provide for an insurable interest of a member for liability loss associated with sick leave payments for service connected disability; loss or theft of money or securities; blanket bond coverage for certain school board officers, employees and volunteer organizations serving as school boards for faithful performance and discharge of their duties; bodily injury and property claims arising from environmental impairment liability and legal representation therefor to the extent that such coverages as approved by the Commissioner

are provided by the purchase of insurance and no risk is retained by the fund; and student accident coverage to the extent approved by the Commissioner.

N.J.A.C. 11:15-5.3 is being repropose with an amendment adding a new subsection (b). The new subsection provides that school board joint insurance funds may insure, contract, or provide for an insurable interest of a member for benefits pursuant to contributory or non-contributory group health insurance or group term life insurance or both, for employees or their dependents or both, subject to certain limits. The amendment renders the rule consistent with the provisions of N.J.S.A. 18A:18B-2.

In addition, N.J.A.C. 11:15-2.3 and 3.3 are being proposed with other amendments to delete references to “ordinances” as a method for members to agree to renew their participation in a joint insurance fund or change the duration of membership. When this chapter was enacted in 1999, there were still some members who were able to renew or change the duration of the membership by ordinance or resolution. This option has since expired and action by resolution is the exclusive method for action pursuant to P.L. 1995, c. 356.

In N.J.A.C. 11:15-2.2 and 6.2, there are references to “Associates” of the American Academy of Actuaries. The term “Associates” of the American Academy of Actuaries has been proposed for deletion and the term “Member” is being proposed for replacement. Use of the term “Member” accurately reflects the nomenclature utilized by the American Academy of Actuaries.

Throughout the chapter, current references to the Commissioner as “he” or “him” or Commissioner’s actions as “his” have been amended to include feminine as well as masculine pronouns and adjectives.

The Department believes that the readoption of these rules with amendments will continue to provide a regulatory framework by which the Department may ensure that hospital workers' compensation self-insurance groups and joint insurance funds formed by local units of government, school boards, nonprofit corporations, and Keys amendment facilities are operating in compliance with applicable statutory requirements. In addition, the readoption of the rules with amendments will continue to enable the Department to assess the financial condition and viability of these entities, thus lessening the likelihood of group or fund insolvencies. This, in turn, will help ensure that these entities will be in a position to pay their obligations, thus protecting the interest of claimants as well as taxpayers of this State.

As the Department has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

Readoption of N.J.A.C. 11:15 will continue to provide the Department with an appropriate regulatory framework by which it may monitor the operations of insurance pools formed by hospitals, local units of government, school boards, nonprofit corporations, and Keys amendment facilities, to ensure that they are in compliance with applicable statutory requirements, and monitor these entities' financial position and operations, thereby helping ensure that these entities will be in a position to pay covered claims. This, in turn, will continue to benefit claimants as well as taxpayers. Failure to readopt these rules would eliminate the existing regulatory framework that both the Department and the regulated entities have relied upon for procedures governing formation and approval of these self-insurance pools, as well as the guidelines for their operation. Failure to readopt N.J.A.C. 11:15 thus would result in

disruptions to the Department, as well as claimants, taxpayers of this State, and the regulated entities. Through readoption of N.J.A.C. 11:15, these entities will continue to be regulated in a uniform, consistent manner and with cost-effective flexibility.

The amendments being proposed to N.J.A.C. 11:15-2.1 will extend the safeguards provided in the rules and described above to covered claims of persons employed by members of local government units related to sick leave payment for service connected disability. As a result of the amendments being proposed to N.J.A.C. 11:15-5.3 those safeguards will also be extended to covered claims of persons employed by school districts involving contributory or non-contributory group health insurance or group term life insurance, or both. The amendments proposed to N.J.A.C. 11: 15-3.3 will also reduce any uncertainty with respect to the authority of local government unit joint insurance funds to insure, contract, or provide for an insurable interest of their members with regard to contributory or non-contributory group health or group life insurance, or both for employees and/or their dependents.

Economic Impact

Insurance pools formed pursuant to N.J.S.A. 17:49A-1 et seq., 18A:18B-1 et seq., 34:15-77 et seq., or 40A:10-36 et seq., and entities that seek to join together to form such insurance pools pursuant to those statutes, will continue to be required to file required information, obtain required actuarial certifications, bear the cost of examinations, and bear any costs associated with operating a joint insurance fund or pool pursuant to the guidelines set forth in the rules, including the payment of applicable filing fees. The general guidelines established by these rules have been utilized for, in some cases, as long as 20 years, as modified from time-to-time. Moreover, as noted in the Social Impact statement above, the Department, as well as the regulated entities,

have relied on the guidelines set forth in the rules for their formation as well as for general operating guidelines and other regulatory requirements. Accordingly, the readoption of N.J.A.C. 11:15 will continue to provide a mechanism for the creation and operation of these insurance pools, pursuant to applicable statutes, and thus avoid any disruptions and attendant costs to the Department, claimants, taxpayers, and the regulated entities resulting from the elimination of the existing regulatory framework. Therefore, hospitals, local units of government, school boards, nonprofit corporations, and Keys amendment facilities may continue to stabilize insurance costs and may experience premium savings through the formation of self-insurance groups and pools. The rules also will continue to provide appropriate regulatory oversight for these entities to help ensure their solvency, adequacy of reserving, and compliance with applicable statutory requirements. This will help ensure that these entities will be in a position to pay covered claims, thus benefiting both claimants and taxpayers of this State. The continued viability of local unit and Board of Education joint insurance funds allows those entities to stabilize insurance costs and focus attention on loss prevention thereby reducing the level of expenditures funded by local property taxes.

The amendments being proposed to N.J.A.C. 11:15-2.1 will extend the economic benefits of joint insurance funds described above to claims of persons employed by members of local units of government involving sick leave payment for service connected disability. The amendments proposed to N.J.A.C. 11:15-5.3 extend these economic benefits to school boards who choose to insure contract or provide for an insurable interest of their members for benefits on contributory or non-contributory group health insurance or group term life insurance or both, subject to certain limits, through a joint insurance fund. Thus the tax burden on residents of local government units and school districts which are members of such funds may be further reduced,

as the insurance costs attendant upon the coverages referenced in these proposed amendments are stabilized. The amendments being proposed to N.J.A.C. 11:15-3.3 will enhance the ongoing financial stability of local government unit joint insurance funds by establishing a ceiling on the amount of risk such funds may retain for group term life insurance on a self-insured basis, which maximum amount may be increased with the approval of the Commissioners of the Department of Banking and Insurance and Community Affairs.

The Department will continue to be required to bear costs associated with reviewing information submitted in accordance with the rules and with the continuing review of the operations of these entities to ensure compliance with applicable statutes and these rules. The Department notes that the filing fees imposed for the review of applications for approval submitted by prospective entities will offset some of these costs.

Federal Standards Statement

A Federal standards analysis is not required because the rules proposed for readoption with amendments relate to the establishment of joint insurance funds by hospitals, local units of government, school boards, nonprofit corporations and Keys amendment facilities, pursuant to N.J.S.A. 34:15-77, 40A:10-36 et seq., 18A:18B-1 et seq., and 17:49A-1 et seq., respectively, and are not subject to any Federal requirements or standards.

Jobs Impact

The Department does not believe that any jobs should be generated or lost by the rules proposed for readoption with amendments. The rules proposed for readoption continue existing regulatory requirements regarding the establishment, operation, modification, and dissolution of

a joint insurance fund formed by hospitals, local units of government, school boards, nonprofit corporations, and Keys amendment facilities, pursuant to applicable statutes. The proposed amendments impose no new reporting, recordkeeping, or other compliance requirements. The Department anticipates that the existing professional services and staffing required to comply with these rules will continue to be utilized. Accordingly, the rules proposed for readoption with amendments will continue the need for jobs and services currently required under the existing regulatory schemes, including, but not limited to, the following areas: actuarial, auditing, claims administration, safety and loss prevention, brokerage, underwriting, and treasury.

To the extent that entities permitted to join together to form a joint insurance fund experience efficiencies and stabilization of insurance costs the corresponding need for revenue by those entities may continue to be stabilized. This stability contributes to a healthy business climate in New Jersey.

The Department invites commenters to submit any data or studies concerning the jobs impact of the proposed readoption with amendments together with their written comments on other aspects of the proposal.

Agriculture Industry Impact

The rules proposed for readoption with amendments will have no impact on the agriculture industry.

Regulatory Flexibility Analysis

N.J.A.C. 11:15 may impose 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. With the exception of N.J.A.C. 11:15-6, the chapter directly applies only to hospitals and public entities composed of member local units of government or school boards. The Department believes that many, if not all, licensed hospitals that may form a self-insurance group employ more than 100 full-time employees. In certain circumstances, the rules proposed for re-adoption with amendments will impose indirect reporting, recordkeeping and other compliance requirements on other entities that have contracted with the self-insurance group or joint insurance fund to provide specific services - for example, the reporting by fund administrator to the fund commissioner and the Commissioner pursuant to N.J.A.C. 11:15-2.4, 2.17, 2.18 etc. These entities are likely to be “small businesses” as that term is defined in the Act, and they will continue to bear any compliance costs. Similarly, there will continue to be an indirect impact on small businesses within the context of joint insurance funds formed by nonprofit corporations or Keys amendment facilities that must bear costs associated with the reporting and recordkeeping requirements.

With respect to indirect costs on entities with which a fund contracts, these entities have contracted with the self-insurance group or joint insurance fund to provide specified services. The information required to be reported is intended to ensure that the fund or group is fully apprised of the status of the various services being provided. Accordingly, the information required to be reported should be readily available, and indeed would undoubtedly be required by the fund itself in the absence of specific regulatory requirements by the Department. Finally, any costs to the entity would be reflected in the compensation provisions voluntarily entered into between the entity and the fund or group.

Accordingly, the Department does not believe that the requirements set forth in the rules proposed for re-adoption with amendments impose any undue burden on these entities or that

different reporting, recordkeeping or compliance requirements are feasible. Any professional services required to comply with the rules proposed for readoption with amendments will be those routinely utilized by entities engaged in the business of insurance, including actuarial services. Therefore, for the reasons discussed above, and to continue to ensure consistency and uniformity in the regulation of joint insurance funds and in the data reported to the funds themselves and to the Commissioner, no differentiation in compliance requirements is provided based on business size.

Smart Growth Impact

The rules proposed for readoption with amendments will have no impact on the achievement of smart growth or the implementation of the State Development and Redevelopment Plan.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 11:15.

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

11:15-1.3 Qualifications for initial approval and continued authority to act as a group

(a) A proposed group shall file its application with the Commissioner for his **or her** approval on a form prescribed by him **or her** and accompanied by a nonrefundable processing

fee in the amount of \$1,000. The application shall include the group's name, location of its principal office, date of organization, name and address of each of its trustees and its administrator or general manager, and service organizations, the name and address of each member hospital, and such other information as the Commissioner may reasonably require, together with the following:

1. – 10. (No change.)

(b) To obtain and to maintain its certificate of approval, a group shall comply with the following requirements, as well as any other requirements established by law or regulation:

1. (No change.)

2. To provide assurance that such benefits as are payable by the group will continue to be paid and that the group will meet its statutory obligations, security in a form and amount prescribed by the Commissioner shall be posted by either a surety bond, security deposit, letter of credit, or financial security endorsement, or any combination thereof. If a surety bond is used to meet the security requirement, it shall be issued by a corporate surety company authorized to transact business in this State. If a security deposit is used to meet the security requirement, securities shall be limited to bonds or other evidences of indebtedness issued, assumed, or guaranteed by the United States of America, or by an agency or instrumentality thereof; certificates of deposit in a federally insured bank; shares or savings deposits in a federally insured savings and loan association or credit union, or any bond or security issued by a State of the United States of America and backed by the full faith and credit of the State. If a letter of credit is used, it shall be issued by a banking [association] **institution** authorized to transact business in New Jersey and in a form acceptable to the Commissioner. A financial security endorsement, issued as part of an acceptable excess insurance contract, may be used to

meet all or part of the security requirement. The bond, security deposit, letter of credit, or financial security endorsement shall be:

i. (No change.)

ii. Payable upon the failure of the group to pay workers' compensation benefits it is legally obligated to pay. The Commissioner may establish requirements for the amount of security based on differences among groups in their size, years in existence, and other relevant factors; however, the Commissioner may not require an amount lower than \$100,000 for any group during its first year of operation and may subsequently increase such amount as he **or** **she** deems necessary;

3. Confirmation of the availability of specific and aggregate excess insurance in a form, in an amount, and by an insurance company acceptable to the Commissioner. The Commissioner may establish minimum requirements for the amount of specific and aggregate excess insurance based on differences among groups in their size, years in existence, and other relevant factors and may permit a group to meet this requirement by placing in a designated depository securities of the type referred to in [paragraph 2 of this subsection] **(b)2 above**;

4. – 7. (No change.)

(c) (No change.)

11:15-1.4 Issuance of certificate of approval

(a) – (b) (No change.)

(c) If the Commissioner determines that an application does not satisfactorily meet all requirements, he **or she** shall notify the group of the reasons for rejection and requirements to be met for approval to be granted.

(d) (No change.)

11:15-1.7 Trustees: qualifications, powers, duties, and prohibitions

(a) Each group shall be operated by not fewer than five trustees whom the members of a group shall elect for stated terms of office. At least two-thirds of the trustees shall be employees, officers, directors, or trustees of members of the group. Except in the case of bona fide hospital associations, or organizations affiliated therewith, as determined by the Commissioner, the group's administrator, service company, or any owner, officer, or employee of, or any other person affiliated with, such administrator or service company shall not serve as trustees of the group. In the case of bona fide hospital associations, the preceding sentence shall apply only to any compensated employee of such association, or organization affiliated therewith, who is not also an officer, director, or trustee of a hospital. All trustees shall be residents of this State or officers of corporations authorized to do business in this State. The trustees of each group shall ensure that all claims are paid promptly and take all necessary precautions to safeguard the assets of the group, including all of the following:

1. - 2. (No change.)

11:15-1.9 Voluntary dissolution of group

(a) (No change.)

(b) If such a group self-insurance plan is terminated, the securities or surety bond on deposit with the Commissioner shall remain in the custody of the Commissioner for a period of at least 26 months. At the expiration of such time or such further period as the Commissioner may deem proper and necessary, he or she may accept, in lieu thereof, and for the additional

purpose of securing such further and future contingent liability as may arise from prior injuries to workers and be incurred by reason of any change in the condition of such workers which warrant awards for additional compensation, a policy of insurance furnished by the group self-insurer, its successor, assigns, or others carrying on or liquidating such self-insurance group.

SUBCHAPTER 2. JOINT INSURANCE FUNDS FOR LOCAL GOVERNMENT UNITS PROVIDING PROPERTY AND LIABILITY COVERAGES

11:15-2.1 Purpose and scope

(a) N.J.S.A. 40A:10-36 et seq. authorizes two or more local units of government to join together to establish a joint insurance fund for the purpose of insuring against liability, property damage, workers' compensation, and loss or theft of money or securities, providing blanket bond coverage, [and for] the sole purpose of insuring against bodily injury and property damage claims arising from environmental impairment liability and legal representation therefor to the extent and for coverage approved by the Commissioner, **and insuring against loss from liability associated with sick leave payment for service connected disability as provided by N.J.S.A. 18A:30-2.1.** A fund may also provide its members with safety and loss control programs and may jointly purchase, on behalf of its membership, safety and loss control services, training equipment and apparatus, in connection with the provision of the coverages set forth above. This subchapter provides rules for the establishment, operation, oversight, modification and dissolution of such funds.

(b) – (c) (No change.)

11:15-2.2 Definitions

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

"Actuary" means a person who is a Fellow in good standing of the Casualty Actuarial Society with three years recent experience in loss reserving; an Associate in good standing of the Casualty Actuarial Society with five years recent experience in loss reserving; or [an associate] **a Member** in good standing of the American Academy of Actuaries who has been approved as qualified for signing casualty loss reserve opinions by the Casualty Practice Council of the American Academy of Actuaries and who has seven years recent experience in loss reserving.

. . .

"Commissioner" means the Commissioner of **the Department of** Banking and Insurance.

. . .

11:15-2.3 Agreement to join joint insurance fund; duration

(a) (No change.)

(b) A joint insurance fund formed pursuant to N.J.S.A. 40A:10-36 et seq. and this subchapter shall have the power to insure, contract or provide for any insurable interest of the member solely for the purposes set forth in N.J.A.C. 11:15-2.1(a).

[(b)] **(c)** Members may renew their participation by the execution of a new agreement to rejoin the joint insurance fund. If the existing [ordinance or] resolution did not specify the duration of fund membership, the member shall affirm the new membership agreement by resolution. If the existing [ordinance of] resolution specified the duration for fund membership, the member shall either amend the existing [ordinance or] resolution, or adopt a new [ordinance or] resolution, as appropriate, to authorize the continued participation in the joint insurance fund

prior to the execution of the new membership agreement. In lieu of filing with the Department and the Department of Community Affairs copies of the new [ordinance or] resolution and new indemnity and trust agreement referred to in N.J.A.C. 11:15-2.6(b)10 for each member's renewal of membership, the fund shall file a notice with the Department which sets forth the members that have renewed membership and the respective durations of such membership, as well as the members that have not rejoined the fund.

[(c)] **(d)** For purposes of N.J.S.A. 40A:10-52, the governing body of any municipality and the board of education of the local school district operating within that municipality may, subject to N.J.S.A. 40A:10-52, by [ordinance or] resolution, [as the case may be,] agree to join together for purposes of insuring coverages as set forth in that statute, provided that the district is not part of a limited purpose regional school district, an all purpose regional school district, or a consolidated school district. All purpose regional school districts, consolidated school districts, limited purpose regional school districts, the board of education of local school districts which are part of a limited purpose regional school district as described above, and county vocational school districts and the board of education of local school districts within a county vocational school district, may otherwise agree to join together with one or more constituent municipalities for the purposes of insuring coverages as described in and in accordance with N.J.S.A. 40A:10-53 to 57, as applicable. The board of education of a local or regional school district, consolidated school district or county vocational school district may not otherwise join with any municipality to form a fund pursuant to N.J.S.A. 40A:10-36 et seq. for the purpose of insuring coverages of the kinds set forth in N.J.S.A. 40A:10-52 to 57, except pursuant to this subsection. Notwithstanding any other provision to the contrary, no board of education, except the board of education of county vocational school districts, may join together

with a municipality or other local unit for the purpose of providing contributory or non-contributory group health insurance or term life insurance, or both, to employees or their dependents, or both, as otherwise permitted pursuant to N.J.S.A. 40A:10-36 et seq.

SUBCHAPTER 3. JOINT INSURANCE FUNDS FOR LOCAL GOVERNMENT UNITS
PROVIDING GROUP HEALTH AND TERM LIFE BENEFITS

11:15-3.3 Agreement to join joint insurance fund; duration

(a) Pursuant to N.J.S.A. 40A:10-36, the governing body of any local unit of government may by resolution [or ordinance, as appropriate,] agree to join together with any other local unit or units to establish a joint insurance fund as defined in this subchapter. The resolution [or ordinance] shall provide for execution of a written agreement specifically conditioning membership on acceptance of the fund's bylaws as approved and adopted pursuant to N.J.S.A. 40A:10-36 et seq. The agreement shall specify the extent of the local unit's participation in the fund with respect to the types of insurance coverage to be provided by the fund and shall include the duration of fund membership, which in no event shall exceed three years, pursuant to N.J.S.A. 40A:11-15(6) and subject to N.J.A.C. 11:15-3.10. The agreement shall also specify that the fund members have never defaulted on claims if self-insured, and, if not self-insured, have not been cancelled for non-payment of insurance premiums for a period of at least two years prior to application.

(b) A joint insurance fund formed pursuant to N.J.S.A. 40A:10-36 et seq. and this subchapter shall have the power to insure, contract, or provide for any insurable interest of the member solely for benefits pursuant to contributory or non-contributory group health insurance or group term life insurance, or both, for employees or their

dependents, or both, through self-insurance, the purchase of commercial insurance or reinsurance, or any combination thereof. The maximum risk to be retained for group term life insurance by a joint insurance fund on a self insured basis shall not exceed a face amount of \$5,000 per covered employee or dependent or such greater amount as approved by the Commissioners of the Departments of Banking and Insurance and Community Affairs .

[(b)] **(c)** Members may renew their participation by the execution of a new agreement to rejoin the joint insurance fund. If the existing [ordinance or] resolution did not specify the duration of fund membership, the member shall affirm the new membership agreement by resolution. If the existing [ordinance or] resolution specified the duration for fund membership, the membership shall either amend the existing [ordinance or] resolution, or adopt a new [ordinance or] resolution, as appropriate, to authorize the continued participation in the joint insurance prior to the execution of the new membership agreement. In lieu of filing copies of the new agreement and new indemnity and trust agreement referred to in N.J.A.C. 11:15-3.6(b)6 for each member's renewal of membership, the fund shall file a notice with the Department which sets forth the members that have renewed membership and the respective durations of such membership, as well as the members that have not rejoined.

SUBCHAPTER 4. JOINT INSURANCE FUNDS FOR SCHOOL BOARDS PROVIDING PROPERTY AND LIABILITY COVERAGES

11:15-4.2 Definitions

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

...

"Administrator" means a person, partnership, corporation or other legal entity engaged by the joint insurance fund trustees, as defined herein, to act as executive director to carry out the policies established by the joint insurance fund trustees and to otherwise administer and provide day-to-day management of the joint insurance fund. The administrator may also be the lead agency, an employee of the fund, a fund member, or an independent contractor.

...

"Department" means the [Department of the] New Jersey Department of Banking and Insurance.

...

11:15-4.3 Agreement to join joint insurance fund; duration

(a) - (b) (No change.)

(c) A joint insurance fund formed pursuant to N.J.S.A. 18A:18B-1 et seq. and this subchapter shall have the power to insure, contract or provide for any insurable interest of the member solely for the following:

1. – 3. (No change.)

4. Loss or damage from liability as established by N.J.S.A. 34:15-1 et seq.;

[or]

5. Expenses of defending any claim against the school board or county college, officer, employee or servant arising out of and in the course of performance of their duties, whether or not liability exists on the claim[.] ;

6. Loss from liability associated with sick leave payment for service connected disability as provided by N.J.S.A. 18A:30-2.1;

7. Any loss or damage from liability resulting from loss or theft of money or securities;

8. Blanket bond coverage for certain school board officers, employees, and volunteer organizations serving a school board for faithful performance and discharge of their duties;

9. Bodily injury and property damage claims arising from environmental impairment liability and legal representation therefor to the extent that such coverages, as approved by the Commissioner of Banking and Insurance, are provided by the purchase of insurance and no risk is retained by the fund; and

10. Student accident coverage to the extent approved by the Commissioner.

SUBCHAPTER 5. JOINT INSURANCE FUNDS FOR SCHOOL BOARDS PROVIDING GROUP HEALTH AND TERM LIFE BENEFITS

11:15-5.3 Agreement to join joint insurance fund; duration

(a) (No change.)

(b) A joint insurance fund formed pursuant to N.J.S.A. 18A:18B-1 et seq. and this subchapter shall have the power to insure, contract or provide for any insurable interest of the member solely for benefits pursuant to contributory or non-contributory group health insurance or group term life insurance, or both, for employees or their dependents, or both, through self-insurance, the purchase of commercial insurance or

reinsurance, or any combination thereof. The maximum risk to be retained for group term life insurance by a joint insurance fund on a self insured basis shall not exceed a face amount of \$5,000 per covered employee or dependent or such greater amount as approved by the Commissioners of Banking and Insurance and Education. Notwithstanding any other provision of law to the contrary, the board or joint insurance fund shall be subject to the surcharge levied pursuant to section 3 of P.L. 1993, c. 8 (N.J.S.A. .52:14-17.38c) for claims paid within the retained amount. For any claims paid in excess of the retained amount, the surcharge shall be paid by the entity insuring the excess amount;

[(b)] **(c)** (No change in text).

SUBCHAPTER 6. JOINT INSURANCE FUNDS FOR NONPROFIT CORPORATIONS AND KEYS AMENDMENT FACILITIES

11:15-6.2 Definitions

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

"Actuary" means a person who is a Fellow in good standing of the Casualty Actuarial Society with three years recent experience in loss reserving; an Associate in good standing of the Casualty Actuarial Society with five years recent experience in loss reserving; or [an Associate] **a Member** in good standing of the American Academy of Actuaries who has been approved as qualified for signing casualty loss reserve opinions by the Casualty Practice Council of the American Academy of Actuaries and who has seven years experience in loss reserving.

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