

INSURANCE  
DEPARTMENT OF BANKING AND INSURANCE  
DIVISION OF INSURANCE

Rate Filing Requirements: Voluntary Market Private Passenger Automobile Insurance

Calculation of Maximum on Combined Commission and Brokerage, Other Acquisition Expense and General Expense

Proposed Amendment: N.J.A.C. 11:3-16 Appendix Exhibit E

Authorized By: Donald Bryan, Acting Commissioner, Department of Banking and Insurance

Authority: N.J.S.A. 17:1-8.1 and 17:29A-1 et seq.

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

Proposal Number: PRN 2005-350

Submit written comments by November 18, 2005 to:

Douglas A. Wheeler, Assistant Commissioner  
Department of Banking and Insurance  
Legislative and Regulatory Affairs  
20 West State Street  
P.O. Box 325  
Trenton, NJ 08625-0325  
Fax: (609) 292-0896  
E-mail: [legsregs@dobi.state.nj.us](mailto:legsregs@dobi.state.nj.us)

The Agency proposal follows:

Summary

The Department of Banking and Insurance (Department) is amending Exhibit E of its Rate Filing Requirements for Voluntary Market Private Passenger Automobile Insurance found in N.J.A.C. 11:3-16. Currently, Exhibit E places maximum limits on expense factors, and limits the expense provisions of the filer to no more than the weighted average of the expense provisions for the 20 largest New Jersey private passenger automobile insurance companies or groups that use the same general marketing methods as the filer. The Department's amendment

bases that weighted average on all private passenger automobile companies or groups in this State that use the same marketing method as the filer, but may exclude carriers that are newly admitted and writing business because their average expenses may, for a number of reasons, be distorted, for example, by start-up costs. Additionally, the proposed amendment provides that the caps on commission and brokerage expenses, and general and other acquisition expenses, shall be calculated as the weighted average, plus five percent, for all private passenger automobile companies or groups in this State. The Department is also deleting the requirement that it compile a list of the 20 largest companies because, as a result of the amendment, it is no longer necessary. The proposed amendment also clarifies how the maximum allowed expense is to be applied.

The Department's 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. 1:30-3.1 and 3.2 governing rulemaking calendars.

#### Social Impact

The Department believes that the proposed amendments should have a positive social impact on insurers. The maximum limit on expenses will reflect the weighted average for all companies or groups writing private passenger automobile insurance in this State that use the same marketing method, as opposed to only the 20 largest. Moreover, the addition of a margin above the average should permit insurers that wish to provide extra services to policyholders or extra underwriting reviews to price policies properly. To the extent insurers provide extra services to policyholders, the proposed amendments will have a favorable impact on consumers. Finally, newly admitted companies writing private passenger automobile insurance in this State

may be exempted by the Department from both contributing to the all-company data, and being subject to the caps.

### Economic Impact

The Department believes that the proposed amendments should have a positive economic impact on insurers. The proposed amendments will permit insurers to calculate their expenses by using what the Department believes is a more efficient and fairer formula. The new methodology is based on all companies or groups in this State that write private passenger automobile insurance and use the same marketing method, with the exception of newly admitted companies writing business. The average expenses of such newly admitted companies may be distorted because of start-up costs and other factors. These rules will have no economic impact on the Department. Moreover, the addition of a margin above the average should permit insurers that wish to provide extra services to policyholders or extra underwriting reviews to price policies properly. To the extent insurers provide extra services to policyholders, the proposal will have a favorable impact on consumers.

Insurers will not incur any administrative costs in order to comply with these proposed amendments. These rules require neither any new systems to be in place nor additional personnel.

### Federal Standards Statement

A Federal standards analysis is not required because the proposed amendments are not subject to any Federal requirements or standards.

### Jobs Impact

The Department does not anticipate that the proposed amendments will result in the generation or loss of jobs.

### Agriculture Industry Impact

The proposed amendments will have no agriculture industry impact.

### Regulatory Flexibility Analysis

Pursuant to the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., a “small business” means any business resident in this State that employs fewer than 100 full-time employees and is not dominant in its field. Some insurers affected by these amendments may meet this definition. The Department notes that the proposed amendments do not impose any new recordkeeping or reporting requirements, but merely revise the formula for the calculation of the expenses of insurers. The new compliance obligations are described in the Summary above. These proposed amendments will not cause insurers to incur any additional costs in order to comply. Additionally, the Department does not believe that these amendments will impose any undue burden on small businesses, because the amendments are consistent with what insurers currently provide under N.J.A.C. 11:3-16. In order to establish a uniform and consistent methodology for the evaluation of rate filings by insurers active in the New Jersey automobile insurance market, no differential treatment is accorded small businesses. These amendments will not require small businesses to use any professional services beyond those they currently utilize (primarily actuarial) to comply. The Department believes that the proposed amendments will be beneficial to all insurers regardless of size.

Smart Growth Impact

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

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

## APPENDIX

## EXHIBIT E

Calculation of Maximum on Combined Commission and Brokerage, other  
Acquisition Expense and General Expenses

The maximum **allowed** expense **provision for commission and brokerage, other acquisition, and general expenses** shall be calculated as a weighted average, **plus five percent** of [those companies in the 20 largest] **the provision for all** private passenger automobile companies or groups in this State that use the same marketing method as the filer, excluding the results of insurance carriers with membership requirements. **The Department may, in its discretion, also exclude the expenses of carriers that are newly admitted and writing business in the State due to the potential distortion in the expenses of such carriers, including the effect of start-up costs.**

[The Department will compile the list of the 20 largest private passenger automobile companies or groups on May 31 of each year based on the most recent annual premium volume.]

The companies and groups [on the list] shall be divided into one of the three marketing methods: (1) Independent Agents; (2) Captive Agents; or (3) Direct Writers. The designation of marketing method shall be based on the primary designation for the company or group in the A.M. Best Report (Property/Casualty). [The list shall be posted on the Department's web site and made available to filers on request.]

The provision for commission and brokerage expense shall be calculated as a percentage of New Jersey written premium, as stated on New Jersey Page 14 of the Statutory Annual Statement for each company or group used in the calculation. The provision for general and

other acquisition expense shall be calculated as a percentage of countrywide earned premium, as stated on Part 3 of the Insurance Expense Exhibit for each company or group used in the calculation. **The maximum allowed expense provision, calculated by group of coverages (liability, risks, physical damage), shall be the weighted average of the total commission and brokerage, other acquisition, and general expense provisions for each company within each marketing method, plus an additional five percent.**

Inoregs/dht05-10