

INSURANCE  
DEPARTMENT OF BANKING AND INSURANCE  
OFFICE OF SOLVENCY REGULATION

Joint Insurance Funds for Local Governmental Units Providing Property and Liability Coverages

Proposed Amendment: N.J.A.C. 11:15-2.6

Authorized By: Steven M. Goldman, Commissioner, Department of Banking and Insurance

Authority: N.J.S.A. 17:1-8.1, 17:1-15e, 40A:5-34.1 and 40A:10-36 et seq.

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

Proposal Number: PRN 2006-365

Submit written comments by January 5, 2007 to:

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The agency proposal follows:

Summary

N.J.S.A. 40A:10-36 et seq. authorizes two or more local units of government to join together for the purpose of forming a joint insurance fund (JIF) to insure against liability, property damage, workers' compensation, and loss or theft of money or securities, providing blanket bond coverage, solely 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 of Banking and Insurance (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.

N.J.S.A. 40A:5-34.1 provides that the board of chosen freeholders of any county or the governing body of any municipality, as the case may be, may provide by blanket bond for the bonding of certain county or municipal officers and employees for faithful performance and discharge of their duties. Blanket bond coverage may be by one or more blanket bonds issued by surety companies or one or more underwriters or by a JIF of which the county or municipality is a member. Blanket bonds previously were not permitted to be provided with respect to treasurers, tax collectors, municipal court judges and administrators. P.L. 2006, c. 50, enacted July 20, 2006, amended N.J.S.A. 40A:5-34.1 to provide that blanket bond coverage now may be provided by a JIF with respect to individuals in the said positions, provided the blanket bond meets the requirements for the individual bond and amounts, rights of cancellation, and the governmental agencies in whose favor it runs.

The Department, after consultation with the Department of Community Affairs pursuant to N.J.S.A. 40A:10-49, proposes to amend N.J.A.C. 11:15-2.6(e) to recognize that blanket bonds may now cover persons in the additional positions set forth above by providing that, for JIFs which provide such blanket bond coverage, the JIF's plan of risk management must also include underwriting guidelines that include, but are not limited to, background checks and credit checks with respect to treasurers, tax collectors, municipal court judges and administrators to be covered by the blanket bond. This recognizes that there is a greater risk of loss to the member local unit, and thus to the JIF, and ultimately the taxpayers of this State, with respect to the failure of treasurers, tax collectors, municipal court judges and administrators, to faithfully perform and discharge their duties. Accordingly, the Department believes that it is reasonable and appropriate that a JIF properly underwrite the risks related to individuals in those specified positions proposed to be included under a blanket bond, in order to ensure that the risks are

properly ascertained and the assessments made for such coverage properly reflect the risk, similar to the current requirement where such individuals are covered under an individual bond.

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 amendments implement N.J.S.A. 40A:5-34.1, as amended by P.L. 2006, c. 50, which permits JIFs to provide blanket bonds that include the treasurer, tax collector, municipal court judge, and administrator, of a county or municipality, and require JIFs to individually underwrite the individuals in those positions to be covered under the blanket bond. The amendments will have a positive impact by providing the efficiencies and cost savings that will result from including these individuals under a blanket bond provided through a JIF, while ensuring that the JIF continues to properly underwrite these individuals to ascertain the risk of loss and ultimately protect the taxpayers of this State.

#### Economic Impact

JIFs seeking to provide blanket bond coverage that includes treasurers, tax collectors, municipal court judges and administrators will be required to bear any costs associated with developing, filing and implementing underwriting guidelines that require the JIF to individually underwrite the individuals in the positions of treasurer, tax collector, municipal court judge and administrator to be included in a blanket bond. The Department believes that any additional costs should be minimal in that JIFs should currently have or be in a position to readily develop

procedures to underwrite risks for blanket bond coverage. In light of the potential for greater risk of loss and other disruptions for the failure of individuals in the positions referenced above to faithfully discharge their duties, the costs of which are ultimately borne by the taxpayers of the municipality or county, any additional costs are outweighed by the potential benefits to be achieved. The Department does not believe that any new professional services should be required in order to comply with the proposed amendments.

#### 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 any jobs should be generated or lost as a result of the proposed amendments.

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

#### Agriculture Industry Impact

The proposed 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 amendments do not 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. The proposed amendments apply to joint insurance funds, which are comprised of local units of government.

### 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]):

11:15-2.6 Bylaws and plan of risk management; contents

(a) - (d) (No change.)

(e) The commissioners shall prepare, or cause to be prepared, a plan of risk management for the joint insurance fund. The plan description shall include, but not be limited to:

1. - 10. (No change.)

11. The maximum amount a certifying and approving officer may approve for payment pursuant to N.J.A.C. 11:15-2.22; [and]

12. For environmental impairment liability funds, a full description of all coverages to be provided, including, but not limited to, defense services, environmental management or risk management services, above-ground/underground storage tank and/or off-site storage/spills involving sudden and accidental claims, and third-party liability claims[.]; **and**

**13. For funds providing blanket bonds pursuant to N.J.S.A. 40A:5-34.1 that include treasurers, tax collectors, municipal court judges and administrators, by whatever title known, underwriting guidelines that include, but are not limited to, background checks and credit checks for such individuals covered by the blanket bond.**

(f) (No change.)