

**INSURANCE
DEPARTMENT OF BANKING AND INSURANCE
DIVISION OF INSURANCE**

Producer Licensing

Proposed Readoption with Amendments: N.J.A.C. 11:17

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

Authority: N.J.S.A. 17:1-8.1 and 15e and 17:22A-26 et seq.

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

Proposal Number: PRN 2008-379

Submit comments by January 16, 2009 to:

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The agency proposal follows:

Summary

On August 15, 2001, the New Jersey Legislature enacted the New Jersey Insurance Producer Licensing Act of 2001 (the "Producer Act"), N.J.S.A. 17:22A-26 et seq. The Producer Act's stated purpose is to govern the qualifications and procedures for the licensing of insurance producers, simplify and organize the statutory law to improve efficiency, permit the use of new technology, and reduce costs associated with the issuance and renewal of producer licenses. Regulations pursuant to the Producer Act were readopted with amendments on October 10, 2003. See. 35 N.J.R. 2159(a) and 5115(a). The resulting revised chapter, N.J.A.C. 11:17, Producer Licensing, expires on April 8, 2009, pursuant to N.J.S.A. 52:14B-5.1. The Department has

reviewed the chapter and has determined that the chapter will continue to serve the Producer Act's stated purpose and is therefore proposing readoption of the Chapter with amendments as discussed below.

Subchapter 1 sets forth the purpose and scope of the chapter and the definitions of certain words and terms that appear in the chapter.

Subchapter 2 contains licensing rules regarding terms of licenses; license authorities; application requirements for initial licenses; temporary work authorities; license renewal; additional authorities; legal and business names; addresses; branch offices; business relationships, continuation of business of a producer who becomes disabled; dies or enters the Armed Forces; licensing information requirements; fees; denial of license; surrender and cancellation of license; reinstatement after surrender; license records; and requests for disclosure of social security numbers.

N.J.A.C. 11:17-2.5(a) is proposed to be amended to delete the extra lead time of 10 days for the submission of a license renewal application prior to expiration due to the ability to submit license renewals electronically.

N.J.A.C. 11:17-2.5(c) is proposed to be amended to eliminate the reference to evidence being "attached to the application," as most renewal applications are now submitted electronically without attachments.

N.J.A.C. 11:17-2.7(f)2 is proposed to be amended to include a statement that: "Licensees may submit changes of address online through the National Insurance Producer Registry at www.nipr.com."

N.J.A.C. 11:17-2.9(a)2, 5 and 6 are proposed to be amended to include the domain address for the NIPR website.

N.J.A.C. 11:17-2.9(a)7 is proposed to be amended to delete the requirement that a notice of termination shall specify the true reason for termination because online processing and uniformity do not require specification of reason, except in cases of misconduct by producers.

N.J.A.C. 11:17-2.12(a)1 and 3 are proposed to be deleted since there are no longer any licenses for which these fees are charged.

N.J.A.C. 11:17-2.12(a)1 through 15 are being recodified to reflect the two deletions mentioned above.

Subchapter 3 sets forth the requirements with regard to insurance education programs, insurance education providers, prelicensing education, State licensing examination, continuing education and professional designations recognized by the Department. It also contains provisions for penalties for insurance education providers.

N.J.A.C. 11:17-3.1(b)3 is proposed to be amended to add the e-mail address of the provider's identified director(s) to the list of items required to be provided in applications for approval as an insurance education provider.

N.J.A.C. 11:17-3.2(b) is proposed to be amended to add language requiring, if applicable, the submission of a statement from education course providers indicating that no courses have been scheduled for the succeeding calendar quarter.

N.J.A.C. 11:17-3.6(a)3 is proposed to be amended to clarify that initially licensed or initially renewed producers who write flood insurance, whether under property or personal lines authorities, must fulfill the one-time continuing education requirement for flood insurance.

N.J.A.C. 11:17-3.6(a)4 is proposed to be added to prohibit usage of prelicensing education credits to fulfill continuing education credit requirements.

N.J.A.C. 11:17-3.6(a)5 is proposed to be added to establish that producers may only receive credit for the successful completion of any single approved continuing education course one time during the licensing term.

N.J.A.C. 11:17-3.6(b) is proposed to be amended to revise the minimum course requirement of two hours to one hour to reflect evolving trends in the field.

N.J.A.C. 11:17-3.6(i) is proposed to be deleted, eliminating the reference to the Department annually providing an accounting of continuing education credits to all individual resident producers, and replaced with a new subsection providing that: “Producers are responsible for verifying their compliance with continuing education credits by viewing the online producer transcript available at the Department’s Continuing Education vendor’s website. Access information for viewing the Continuing Education transcript is available at the Department’s website www.njdobi.org”

N.J.A.C. 11:17-3.6(j) is proposed to be amended to reflect the amendments to N.J.A.C. 11:17-3.6(i) discussed in the preceding paragraph.

Subchapter 4 and 5 continue to be reserved.

Subchapter 6 sets forth the procedures for the regulation of certain persons, firms, associations or corporations who act as managing general agents on behalf of insurers. Its sections address the following: purpose and scope, definitions of terms used within the subchapter, requirements for managing general agents and insurers who appoint managing general agents, filing requirements, claim processing requirements, record maintenance and

penalties. Subchapter 6 also contains an Appendix of two forms for use in the regulation of managing general agents.

Subchapter 7 sets forth the procedures for the regulation of certain persons, firms, associations or corporations who act as reinsurance intermediaries and for insurers which transact business through a reinsurance intermediary. Sections include purpose and scope, definitions of terms used within the subchapter, requirements for reinsurance intermediaries and insurers who transact business through a reinsurance intermediary, filing requirements, record maintenance and penalties. Subchapter 7 also contains an Appendix of three forms for use in the regulation of reinsurance intermediaries.

N.J.A.C. 11:17-7.4(c) is proposed to be amended to reflect the proper PO Box number in the mailing address of the Department's License Processing Unit.

This proposed rule readoption with amendments 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 rules proposed for readoption at and amendments to N.J.A.C. 11:17-1 through 5 affect all persons selling, soliciting or negotiating insurance in New Jersey, insurance education providers and instructors, and the general public. The rules proposed for readoption maintain the substantive requirements in the existing rules regarding licensing and pre-licensure education. Readoption of these rules is necessary to maintain the quality of service provided by and the professionalism of insurance producers by continuing high standards that protect consumers. In addition, readoption of these rules is necessary to retain reciprocity with other states for producer

licensing. The proposed amendments to enable the on-line updating of addresses will facilitate faster licensing, registration and renewal transactions. The proposed amendments to the requirements for continuing education will ease the compliance burdens imposed on producers while continuing to ensure that insurance producers receive necessary and ongoing instruction on information pertaining to their profession.

Additionally, the Department believes re-adoption of Subchapter 6 is necessary to maintain regulatory control over managing general agents and to allow definitive standards to remain in effect for those agents. The Department also believes retention of the standards and controls enumerated in Subchapter 7 are necessary for reinsurance intermediaries.

Economic Impact

The rules proposed for re-adoption will continue to economically affect insurance producers, insurance education providers, and managing general agents or reinsurance intermediaries. No change in the level of fees is proposed at this time. Further, no additional educational requirements have been added. Therefore, no additional costs should result. Insurance producers, insurance education providers, managing general agents or reinsurance intermediaries will continue to pay application fees and renewal fees. All regulated persons and entities currently required to keep records will continue to bear the cost of such recordkeeping. Those who require insurance education will continue to incur the costs of acquiring such education while insurance education providers will continue to incur costs associated with providing such education, such as instructors' salaries and the costs associated with recording, retaining and reporting on completed educational requirements. Managing general agents and reinsurance intermediaries will continue to incur the costs of recordkeeping. It is not anticipated

that any outside professional services will be needed for any of the functions required by the rules, but that these functions will continue to be performed by in-house staff.

The Department does not believe that the proposed amendments to the rules applicable to insurance education instructors will have any adverse economic impact on producers or instructors. While the easing of the minimum course hour requirement may help increase the availability of education, the Department does not believe the change will affect either the cost of the education borne by producers or the compensation of the instructors. In addition, there will be no increase in the cost of compliance with the recordkeeping requirements for insurance education providers, as these amendments impose no additional recordkeeping requirements and do not shift any of the recordkeeping burdens away from the provider.

Federal Standards Statement

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

Jobs Impact

The Department does not anticipate that the rules proposed for readoption with amendments will result in the generation or loss of jobs with respect to insurance education providers. The Department invites commenters to submit any data or studies concerning the jobs impact of the proposed amendment and new rule together with their written comments on other aspects of this proposal.

Agriculture Industry Impact

The Department does not expect any agriculture industry impact as a result of the rules proposed for readoption with amendments.

Regulatory Flexibility Analysis

Most persons selling, soliciting or negotiating insurance in New Jersey and some engaged in the business of providing insurance education in New Jersey are “small businesses” as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The same is true for managing general agents and reinsurance intermediaries doing business in New Jersey. These persons and entities will be subject to all of the requirements and must bear the costs of compliance imposed by the amended and readopted rules as discussed above. It is not anticipated that any outside professional services will be needed for any of the functions required by the rules, but that these functions will continue to be performed by in-house staff. The rules proposed for readoption with amendments provide no different reporting, recordkeeping or other compliance requirements specifically based on business size. The amendments and readoption enforce a regulatory framework for the licensure of producers to ensure that they possess the minimum qualifications and knowledge necessary to sell, solicit or negotiate insurance in New Jersey in a competent and lawful manner in order to protect insurance consumers and the market generally. Providing different compliance requirements based on business size would be inconsistent with the intent of the Legislature as expressed in the Producer Act and violate reciprocity. The rules also provide a framework to ensure the minimum qualifications for insurance education providers, to delineate the minimum educational curriculums, and to allow for the enforcement of those minimums to protect the interests of producers and the general public. These purposes

do not provide for different compliance requirements based on business size. For the foregoing reasons, the rules proposed for readoption with amendments provide no differentiation in compliance requirements based on business size.

Smart Growth Impact

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

Housing Affordability Impact

The rules proposed for readoption with amendments will have an insignificant impact on affordable housing in New Jersey and there is an extreme unlikelihood that the rules would evoke a change in the average costs associated with housing because the rules proposed for readoption with amendments concern the qualifications and procedures for the licensing of producer licensees and the regulation of managing general agents.

Smart Growth Development Impact

The Department believes that the rules proposed for readoption with amendments will not evoke a change in housing production in Planning Areas 1 or 2 or within the designated centers under the State Development and Redevelopment Plan in New Jersey because the rules proposed for readoption with amendments address licensing and education requirements for insurance producers, a profession regulated by the Department pursuant to the Producer Act.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 11:17.

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

11:17-2.5 License renewal

(a) A current licensee shall renew a license in the following manner:

1. [At least 10 days before the license expiration date] **Prior to expiration of the current license term**, each licensee shall submit a properly completed renewal application, including electronic online submissions, together with payment of renewal fees in accordance with N.J.A.C. 11:17-2.12. The renewal application shall be signed, dated and certified to be correct by the licensee or a licensed officer, partner, owner or designated licensed responsible producer of a licensed business entity, or an authorized submitter for electronic online submissions. The licensee shall certify that he, she or it continues to be qualified in accordance with the insurance laws of New Jersey.

(b) (No change.)

(c) If an applicant's license has lapsed for a period of less than one year, the applicant may apply for late renewal of the license within one year of the date the license expired [provided the following is attached to the application] **if evidence of the following is provided:**

1. – 3. (No change.)

(d) (No change.)

11:17-2.7 Legal and business names; addresses

(a) – (e) (No change.)

(f) The requirements for business addresses and notification of change of business mailing or location address, residence address, phone number and email address, are as follows:

1. (No change.)

2. All licensees shall provide in the format prescribed by the Department notification of any change of business mailing or location address, residence address, phone numbers and email addresses within 30 days of the change and maintain a proof of notification for five years or until receipt of a license or other documentation from the Department showing the new address. **Licensees may submit changes of address online through the National Insurance Producer Registry at www.nipr.com.**

3. (No change.)

(g) (No change.)

11:17-2.9 Business relationships

(a) The agency relationship between company and producer is subject to the following requirements:

1. (No change.)

2. An insurance company contracting with a licensed insurance producer shall be responsible to advise the Department of that relationship by filing a notice within 15 days after execution of the contract or within 15 days after the first insurance application is submitted by the producer, on a form prescribed by the Department or by using the online

appointment and termination system available through the National Insurance Producer Registry, incorporated herein by reference, as amended and supplemented, located at [<http://www.licenseregistry.com>] <http://www.nipr.com> containing the company's name and license reference number; the producer's name and license reference number; and the effective date of the contract. The form shall contain the name and title of the company official who signed and certified the notice. The fee set forth in N.J.A.C. 11:17-2.12 for each appointment shall be collected from the insurer.

3. - 4. (No change.)

5. All appointment notifications shall be renewed with the Department annually on May 1. An insurer shall utilize the online appointment renewal process available through the National Insurance Producer Registry, incorporated herein by reference, as amended and supplemented, located at [<http://www.licenseregistry.com>][nipr.com](http://www.nipr.com).] The renewal appointment fee as set forth in N.J.A.C. 11:17-2.12 shall be collected from the insurer. All active appointments on record with the Department as of April 1 of the same year shall be subject to renewal.

6. The agency contract shall be deemed to continue in effect until a notice of termination of that contract is filed by the insurance company with the Department on a form prescribed by the Commissioner or by using the online appointment and termination system available through the National Insurance Producer Registry, incorporated herein by reference, as amended and supplemented, located at [<http://www.licenseregistry.com>]<http://www.nipr.com>. The fee set forth in N.J.A.C. 11:17-2.12 for each termination shall be collected from the insurer.

7. [The notice of termination filed shall specify the true reason for termination.] If the reason **for termination** involves misconduct by the producer, an additional

copy of the notice of cancellation **which specifies the reason for termination** shall be mailed by the insurance company to the Department's Enforcement Unit, PO Box 329, Trenton, NJ 08625-0329 together with an outline of available information and documentation.

8. - 9. (No change.)

(b) (No change.)

11:17-2.12 Fees

(a) The following fees shall be payable as set forth in this chapter:

[1. License fee, not limited line, for a four-year license issued or renewed prior to January 1, 2007: \$300.00;]

[2.]**1.** (No change in text.);

[3. License fee for limited line only, for a four-year license issued or renewed prior to January 1, 2007: \$ 150.00;]

Recodify existing 4. 17. as **2. – 15.** (No change in text.)

(b) – (d) (No change.)

11:17-3.1 Approval of insurance education program

(a) (No change.)

(b) An application for approval of an insurance education provider shall be made on a form prescribed by the Commissioner and shall provide the following information:

1. – 2. (No change.)

3. The name, address, **email address**, and telephone number of the program director or directors, New Jersey producer license reference number(s), if any, and a signed statement from each insurance education director that he or she has read this subchapter, understands his or her responsibilities as an insurance education director, and that he or she is fully responsible for the activity of the insurance education program;

4. – 7. (No change.)

(c) – (e) (No change.)

11:17-3.2 Insurance education provider duties and requirements

(a) (No change.)

(b) Fifteen days prior to the start of each quarter, each insurance education provider shall provide to the Department in writing by hard copy or electronic means, information about the time, date and location of all prelicensing or continuing education courses scheduled for the following quarter. If the insurance education provider is offering self-study and examination courses, it shall provide the Department with the name of the approved courses offered and the date and location of each proctored examination. **If the provider is not offering any courses during the upcoming quarter, it shall so notify the Department.** If the schedule of courses changes, the provider shall immediately notify the Department of any additions or cancellations.

(c) – (d) (No change.)

11:17-3.6 Continuing education

(a) For licenses issued for a four-year term, no resident individual insurance producer licensed with life, accident and health or sickness, property, casualty, surplus lines, title, variable life and variable annuity or personal lines authority shall be renewed unless the renewal applicant demonstrates that he or she has completed 48 credit hours of approved continuing education courses during the previous four years, six of which shall be in approved courses related to insurance fraud, professional ethics or any other subject matter required by the Commissioner for the protection of consumers. Producers licensed as of November 4, 2002 shall have until the second renewal following November 4, 2002 to comply with the requirement to obtain six credits in approved courses related to insurance fraud, professional ethics or any other subject matter required by the Commissioner for the protection of consumers.

1. – 2. (No change.)

3. With respect only to the first renewal following the initial issuance or initial renewal of a license on or after January 1, 2007, no resident individual insurance producer with property **or personal lines** authority who writes flood insurance shall be renewed unless the renewal applicant demonstrates that, as part of their total continuing education obligation as set forth above, he or she has completed a three credit hour approved continuing education course related to flood insurance and the National Flood Insurance Program during the previous license term.

4. Prelicensing education courses may not be utilized to fulfill continuing education credits.

5. Producers may only receive credit for the successful completion of any single approved continuing education course one time during the licensing term.

(b) For a contact course, a credit hour shall provide no less than 50 minutes of instruction. Breaks, announcements and time not spent in instruction shall not be included in calculating credit hours requested. For self-study courses, credit hours include time for reading and study, which the Department has approved as reasonable to successfully pass the final examination. Time taking the examination is not counted towards approved credit hours. Each continuing education course submitted for approval shall be in whole credit hours and shall contain at least [two hours] **one hour** of instruction or time spent for reading and study. No continuing education course will be approved for more than 24 credit hours, regardless of the actual number of hours of instruction, reading or study.

(c) – (h) (No change.)

(i) At least once each year, the Department, or its designee, shall issue to individual resident producers an accounting which shall identify and include the information in (i)1 through 4 below. Written notification to the licensee that the information is available at any time via a secure Internet connection shall satisfy the requirements of this provision.

1. The number of continuing education credits completed, the course or courses taken, and the school code where the credits were completed;
2. The total number of continuing education credits completed;
3. The total number of continuing education credits remaining to be completed; and
4. The license renewal date of the producer.]

(i) Producers are responsible for verifying their compliance with continuing education credits by viewing the online producer transcript available on the website of the

Department's continuing education recordkeeping vendor. Access information for viewing the continuing education transcript is available at the Department's website at www.njdobi.org.

(j) If the [accounting required by (i) above is considered by the] resident producer **considers his or her online producer transcript in (i) above** to be inaccurate, he or she shall promptly request the insurance education provider of the approved education program to file with the Department, or its designee, an appropriate corrected report.

(k) - (l) (No change.)

11:17-7.4 Filing requirements

(a) – (b) (No change.)

(c) Reinsurers and their reinsurance intermediaries-managers shall file a Notice of Reinsurance Intermediary-Manager in the form set forth as Form A in the Appendix to this subchapter incorporated herein by reference by completing and jointly executing the form and sending the written contract, a valid check or money order for \$20.00, and all necessary attachments to the Department at the following address:

Attn: License Processing
 New Jersey Department of Banking and Insurance
 PO Box [329] **327**
 Trenton, NJ 08625-[0329] **0327**