

INSURANCE

DEPARTMENT OF BANKING AND INSURANCE

OFFICE OF SOLVENCY REGULATION

Annual Audited Financial Reporting

Exemptions and Effective Dates

Proposed Amendment: N.J.A.C. 11:2-26.17

Authorized By: Kenneth E. Kobylowski, Commissioner, Department of Banking and Insurance.

Authority: N.J.S.A. 17:1-8.1, 17:1-15.e, and 17:23-20 et seq.

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

Proposal Number: PRN 2014-042.

Submit written comments by June 6, 2014, to:

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The agency proposal follows:

Summary

N.J.A.C. 11:2-26, originally adopted in 1993 and amended subsequently, requires the filing of annual audited financial reports by domestic, foreign, and alien insurers. The rules are

based on a model adopted by the National Association of Insurance Commissioners (NAIC) and are required for a state insurance department to maintain accreditation by the NAIC.

N.J.A.C. 11:2-26.17 provides that foreign or alien insurers filing audited financial reports in another state pursuant to such other state's requirements which have been found by the Commissioner to be substantially similar to the requirements in the rules, are exempt from compliance with the subchapter if:

1. A copy of the audited financial report, communication of internal control related matters noted in an audit, and the accountant's letter of qualifications which are filed with such other state are filed with the Commissioner in accordance with the filing dates specified in N.J.A.C. 11:2-26.4, 26.11, and 26.12, respectively (Canadian insurers may submit accountants' reports as filed with the Canadian Dominion Department of Insurance); and

2. A copy of any notification of adverse financial condition report filed with such other state is filed with the Commissioner within the time specified in N.J.A.C. 11:2-26.10.

Upon review, the Department of Banking and Insurance has determined that it is appropriate to eliminate the need to receive paper copies of these reports from foreign and alien insurers, as they are filed electronically with the NAIC and are available on the I-Site database, unless special circumstances exist as set forth below. Such filings are maintained on I-Site for 10 years which corresponds to the Department's record retention policy for such reports. Eliminating the requirement to file paper copies of the reports would result in a significant savings in terms of the need to log-in and maintain a large number of hard copy reports where no special circumstances exist.

Accordingly, the Department is proposing to amend N.J.A.C. 11:2-26.17(b)1 to provide that hard copies would not be required if the audited financial report of such foreign or alien

insurer contains an “unqualified opinion” as set forth in the applicable NAIC Financial Analysis Handbook in use at the time such report is due and there is no unremediated material weakness noted in the report as set forth in N.J.A.C. 11:2-26.11. The Department is also proposing to change the word “requirement of” to read “requirements on” in paragraph (b) to correct a grammatical error.

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 amendment will have a positive social impact by eliminating unnecessary filings from foreign and alien insurers where no special circumstances exist. The Department will continue to be able to review the information currently received through the NAIC.

Economic Impact

No negative impact will be incurred through the proposed amendments. Eliminating the filing of hard copies of documents where no special circumstances exist will eliminate these costs to filers in mailing hard copies of documents, and reduce costs to the Department in filing and maintain such documents. No additional professional services will be required in order to comply with the proposed amendment. Accordingly, the benefits to be achieved through the proposed amendment far outweigh any costs that may be imposed.

Federal Standards Statement

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

Jobs Impact

The Department does not anticipate that any jobs will be generated or lost as a result of the proposed amendment. The Department invites commenters to submit any data or studies on the potential jobs impact of the proposed amendment together with their comments on other aspects of the proposal.

Agriculture Industry Impact

The proposed amendment 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 amendment imposes no new 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 amendment does not apply to New Jersey-domiciled entities and only eliminates filing hard copies of reports in certain circumstances for foreign and alien insurers.

Housing Affordability Impact Analysis

The proposed amendment will not have an impact on housing affordability in this State in that the proposed amendment relates to the filing of information by foreign and alien insurers.

Smart Growth Development Impact Analysis

The proposed amendment will not have an impact on smart growth in this State and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2 or within designated centers under the State Development and Redevelopment Plan in New Jersey in that the proposed amendment relates to the filing of information by foreign and alien insurers.

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

11:2-26.17 Exemptions and effective dates

(a) (No change.)

(b) Foreign or alien insurers filing audited financial reports in another state, pursuant to such other state's requirements [of] **on** audited financial reports which have been found by the Commissioner to be substantially similar to the requirements herein, are exempt from compliance with this subchapter if:

1. A copy of the audited financial report, communication of internal control related matters noted in an audit, and the accountant's letter of qualifications which are filed with such other state are filed with the Commissioner in accordance with the filing dates specified in N.J.A.C. 11:2-26.4, 26.11, and 26.12, respectively (Canadian insurers may submit accountants' reports as filed with the Canadian Dominion Department of Insurance). **It shall not be necessary for copies of the documents referenced in this paragraph to be filed with the Commissioner if the audited financial report of such foreign or alien insurer contains an**

“unqualified opinion” as set forth in the applicable National Association of Insurance Commissioners (NAIC) Financial Analysis Handbook in use at the time such report is due and there is no unremediated material weakness noted in the report as set forth in N.J.A.C. 11:2-26.11; and

2. (No change.)

(c)-(j) (No change.)