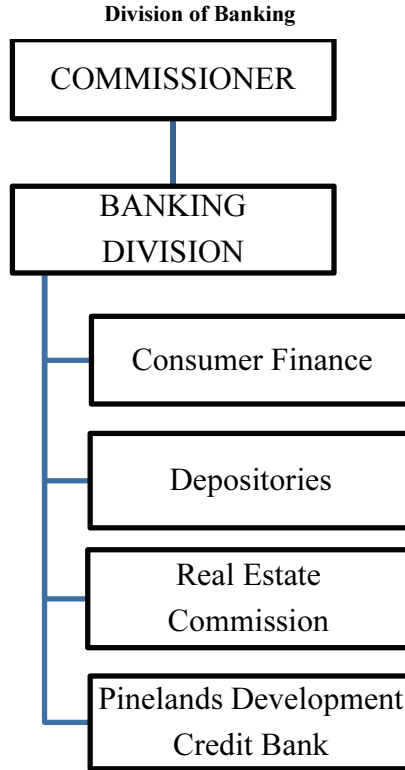


DEPARTMENT OF BANKING AND INSURANCE



SUBCHAPTER 2. [NONPUBLIC] CONFIDENTIAL RECORDS

3:3-2.1 [Nonpublic] **Confidential** records  
 (a) Throughout the Department of Banking and Insurance, the following shall [not] be deemed to be [public] **confidential and not government** records pursuant to N.J.S.A. 47:1A-1 et seq.  
 1.-7. (No change.)  
 8. Personnel or pension records of an individual employed by the Department, except that the following **information** shall **not** be deemed [public records] **confidential**:  
 i.-ii. (No change.)  
 9.-10. (No change.)  
 (b) The fact that a document is not listed in (a) above shall not be construed as evidence that the document is a [public] **government** record for purposes of N.J.S.A. 47:1A-1 et seq.

SUBCHAPTER 4. PETITIONS FOR RULES; RULEMAKING NOTICE

3:3-4.4 Rulemaking activity  
 (a) The Department shall provide notice of new rules, amendments, repeals, or adoptions by posting these rules on its website at [<http://www.state.nj.us/dobi/legsregs.htm>] <http://www.nj.gov/dobi/legsregs.htm> and to the news media maintaining a press office in the State House Complex.  
 (b) (No change.)

INSURANCE

(a)

DEPARTMENT OF BANKING AND INSURANCE  
DIVISION OF INSURANCE

Insurance Group

Proposed Readoption with Amendments: N.J.A.C. 11:2

Authorized By: Richard J. Badolato, Commissioner, Department of Banking and Insurance.  
 Authority: N.J.S.A. 17:1-8.1, 17:1-15.e, 17:17-1 et seq., 17B:17-1 et seq., 34:15-77, and 54:18A-1 et seq.  
 Calendar Reference: See Summary below for explanation of exception to calendar requirement.  
 Proposal Number: PRN 2017-267.

Submit comments by February 2, 2018, to:

Denise M. Illes, Chief  
 Office of Regulatory Affairs  
 Department of Banking and Insurance  
 PO Box 325  
 Trenton, New Jersey 08625-0325  
 Fax: (609) 292-0896  
 E-mail: [legsregs@dobi.nj.gov](mailto:legsregs@dobi.nj.gov)

The agency proposal follows:

Summary

The Department of Banking and Insurance (Department) proposes to readopt with amendments N.J.A.C. 11:2, concerning insurance group rules as discussed below. This chapter was due to expire on January 6,

2018. In accordance with N.J.S.A. 52:14B-5.1.c(2), the submission of this notice of proposal to the Office of Administrative Law extends the expiration date 180 days to July 5, 2018.

This chapter includes rules that relate to life and health and property and casualty insurance, the financial integrity of insurers, and workers' compensation self-insurers, risk retention groups, and purchasing groups. Several of these rules are specifically required for a state to obtain or retain accreditation by the National Association of Insurance Commissioners (NAIC) or to implement statutes that are required for accreditation. Rules concerning the following subjects are codified in this chapter:

1. Admission requirements for life and health insurers;
2. Insurance on financed automobiles;
3. Credit life and health insurance;
4. Electronic data processing equipment;
5. Proxies, consents, and authorizations;
6. Information required in proxy statements;
7. Information required by participants in proxy solicitation in election contests;
8. Insider trading of domestic stock insurance company equity securities;
9. Advertisement of health insurance;
10. Mass marketing of property and liability insurance;
11. Group coverage discontinuance and replacement;
12. Procedures for the conduct of voting on a plan of reorganization of a domestic mutual life insurer;
13. Insolvent insurers;
14. Guaranteed arrest bond certificates of automobile club undertaking;
15. Unfair claims settlement practices;
16. Readable policies;
17. Designation of third party for certain notification by senior citizen insureds;
18. Advertisement of life insurance and annuities;
19. Military sales practices;
20. Annual audited financial reports;
21. Determination of insurers in a hazardous financial condition;
22. Credit for reinsurance;
23. Orderly withdrawal of insurance business;
24. Determining premium for perpetual homeowners insurance;
25. Custodial deposits;
26. Workers' compensation self-insurance;
27. Allocation of surplus lines insurance premium tax and surcharge;
28. Relief from obligations under the Fair Automobile Insurance Reform Act of 1990;
29. Risk retention groups and purchasing groups;
30. Producer-controlled insurers;
31. Increase in capital and surplus requirements for property and casualty insurers;
32. Increase in capital and surplus requirements for insurers;
33. Life, health, and annuity reinsurance agreements;
34. Windstorm market assistance program;
35. Standard hurricane deductibles and expedited process for homeowners' insurance rate changes; and
36. Treatment of allocated deposit-type deferred annuity contract funds for purposes of calculating the special purpose apportionment and the fraud assessment.

The rules in this chapter were promulgated to implement many of the statutory requirements in Titles 17, 17B, 34, and 54 of the New Jersey Statutes. The Department has undertaken a review of these rules to determine their current effectiveness and viability. Participating in this review were the Offices of Consumer Protection Services, Property/Casualty, Life/Health, Solvency Regulation, and Regulatory Affairs.

The rules continue to provide the insurance industry, other regulated entities, and consumers with vital information and useful standards concerning many aspects of insurance. The Department believes that the original purpose for each rule, as stated in the rule itself, continues to exist.

The Department believes that the rules in this chapter primarily serve two general purposes in implementing insurance laws of this State. First, the rules protect current and prospective policyholders by addressing issues such as unfair claims settlement practices, advertising, readability of insurance policies and forms, and mass marketing of property and liability insurance. Secondly, they provide guidance to insurers and other regulated entities with respect to such business-related matters as admission requirements for life/health insurers, insolvencies, proxies, insider trading of stock, annual audited financial reports, deposits, withdrawal from transacting business, reinsurance, capital and surplus requirements, and approval for employers to self-insure workers' compensation. Several rules serve both purposes, such as those pertaining to advertising, unfair claims settlement practices, withdrawal from transacting business, capital and surplus requirements, deposits, and workers' compensation self-insurance. The Department believes that through their re-adoption, these rules will continue to provide the regulatory framework by which the Department may effectively monitor and evaluate the financial condition of insurers and other regulated entities, ensure that such entities continue to comply with the insurance laws and other applicable laws of this State, and provide for consistent evaluation and treatment by the Department of these entities. Moreover, through re-adoption, these rules will continue to provide insurers and other regulated entities with guidance and specific standards for compliance with New Jersey laws, thereby avoiding confusion regarding such requirements. This, in turn, should continue to benefit insurers, other regulated entities, policyholders, the market, and the public generally.

The Department is proposing to amend N.J.A.C. 11:2-1.4(a)5iii, which provides a five-year seasoning requirement for a foreign or alien company seeking admission to transact life/health insurance in this State to provide an additional avenue through which an insurer can seek a waiver or reduction of this seasoning requirement. Specifically, the Department is proposing new sub-subparagraph (a)5iii(6) to provide the ability to seek a waiver on the grounds that the applicant can demonstrate to the Commissioner that the line or lines of insurance for which it is seeking authority is/are underserved in this State. This will require a showing that there is no reasonable or adequate market among authorized insurers, there is a market for the type of coverage involved, and the applicant possesses the requisite underwriting, managerial, etc., expertise to write the particular coverage. Additionally, the Department is proposing in new sub-subparagraph (a)5iii(7) to add the ability to seek a waiver on the grounds that admission of the applicant would assist the Commissioner in helping to prevent or ameliorate disruptions in the life/health insurance market to be served by the insurer seeking admission. Under this waiver, the Commissioner will take into consideration the financial strength of the applicant as evidenced by various factors, whether the applicant is a member of a holding company system of which members have been successfully engaged in the business of insurance, excessive market volatility, inadequate competition, trends in restrictions in underwriting, or limitations or restrictions in coverage by admitted companies. These proposed waivers are based on the existing rules governing waivers from the seasoning requirements for property/casualty insurers set forth in existing N.J.A.C. 11:1-10.4(a)5iii.

In addition, the Department is proposing technical amendments to various rules as follows.

N.J.A.C. 11:2-18.1 is proposed to be amended to change the reference to N.J.S.A. 39:6A-23 to N.J.S.A. 39:6A-23.g, to provide the proper cross-reference to the applicable section of that statute.

N.J.A.C. 11:2-18.4(b) is proposed to be amended to change the word "contract" to "contrast" to correct a typographical error.

N.J.A.C. 11:2-18.4(d) is proposed to be amended to change the reference to N.J.S.A. 56:12b.(1) to N.J.S.A. 56:12-10.b(3) to reflect the proper statutory cross-reference.

N.J.A.C. 11:2-18.5(e) is proposed to be amended to change the cross-reference to N.J.S.A. 56:12-5 to N.J.S.A. 56:12-8.b to reflect the correct citation.

N.J.A.C. 11:2-28.4(h) is proposed to be amended to reflect the proper website address for the Department.

N.J.A.C. 11:2-28.7B(a)1 is proposed to be amended to reflect the correct title and e-mail address for submissions required by that rule.

N.J.A.C. 11:2-29.3(c)5 is proposed to be amended to change the cross-reference to homeowners' insurance exposures "by Windstorm Market Survey" by replacing that reference to exposures as set forth in N.J.A.C. 11:2-42.10. As a part of the proposed re-adoption of this chapter in 2010, the Department repealed Subchapter 41 related to the Windstorm Market Assistance Program (Windstorm MAP), which had not been operational for several years. The Department added new rules to N.J.A.C. 11:2-42, which relate to homeowners' insurance hurricane deductibles and the expedited process for homeowners' insurance rate changes; specifically, the Department added new N.J.A.C. 11:2-42.10, to retain the reporting requirements relative to the amount of homeowners' insurance in-force and new business written that was set forth in N.J.A.C. 11:2-41.9.

N.J.A.C. 11:2-29.3(h) and (h)2v are proposed to be amended to provide the proper website for the Department.

A 60-day comment period is provided for this notice of proposal, therefore, pursuant to N.J.A.C. 1:30-3.3(a)5, this notice is excepted from the provisions of N.J.A.C. 1:30-3.1 and 3.2 governing rulemaking calendars.

#### **Social Impact**

As noted in the Summary above, the rules in this chapter address a myriad of subjects regarding the business of insurance in this State and impose requirements governing other regulated entities (workers' compensation self-insurers, and risk retention groups and purchasing groups). The rules concerning advertising content help ensure that consumers are fully informed about insurance products, so that they can choose products best suited to their needs. The rules concerning unfair claims settlement practices enable insureds to receive prompt, efficient, and appropriate consideration of their claims. The rules concerning readable policies help to enable insureds and prospective insureds to understand more easily the highly technical aspects of insurance in insurance contracts. The rules concerning mass marketing of property and liability insurance prevent abuses in the sale of such insurance pursuant to a mass marketing plan, while preserving for consumers the benefits of this form of marketing.

These rules protect consumers in this State by ensuring that insurers are qualified to transact business from the perspectives of their operations and financial condition. Through these rules, insurers are provided with standards concerning certain trade practices as noted above, and with requirements for licensure, the filing of financial reports, and monitoring of their financial condition on a going-forward basis - including insolvency and determinations of hazardous financial condition, standards for the cancellation of property/liability policies, proxies, and sale of credit life and health insurance, as well as requirements governing producer-controlled property/liability insurers, risk retention, and purchasing groups, workers' compensation self-insurers, and capital and surplus requirements. The rules in this chapter implement various statutory requirements and enable the Department to fulfill its regulatory duties under the law. Failure to re-adopt these rules would impair the Department's ability to properly license and oversee insurers; would unsettle established relations between insurers and the general public, as well as between these two groups and the Department; and could jeopardize the Department's accreditation by the NAIC.

The protections that these rules afford to the consumer and the operational guidance that they afford to the insurance industry support their continued existence, both to implement statutory provisions and to foster and promote an effective regulatory system and sound insurer business practices.

The proposed amendments that correct errors in cross-references and e-mail addresses and websites will help avoid confusion with respect to the filings of required documents. To the extent the proposed amendments to N.J.A.C. 11:2-1.4, which provide additional waivers from seasoning requirements as set forth in the Summary above, encourage insurers to enter the New Jersey market to provide coverage for underserved markets, the market for any such coverage(s) will be expanded, thereby expanding competition and consumer choice. This will benefit policyholders and the market generally. The Department

notes that any insurer transacting business under such a waiver must nevertheless satisfy all other requirements for admission set forth in N.J.A.C. 11:2-1, and the authority to transact business is limited only to those coverages subject to the waiver request. Accordingly, the policyholders of this State will continue to be afforded the safeguards of the general admission requirements for life/health insurers set forth in N.J.A.C. 11:2-1.

#### **Economic Impact**

Insurers and other regulated entities will continue to incur any costs associated with continued compliance with the requirements set forth in this chapter. These requirements include: the requirement that insurers file an annual audited financial report completed by an independent certified public accountant; the requirement that insurers maintain files for the Department's review concerning advertising activities; the requirement that insurers file a risk-based capital report with the Department annually; the requirement that risk retention groups and purchasing groups register with the Department and file specified information in order to enable the Department to properly monitor their activity consistent with the Federal Liability Risk Retention Act and N.J.S.A. 17:47A-1 et seq.; the requirement that producer-controlled property/casualty insurers file an actuarial opinion or other information annually with the Department as required by N.J.S.A. 17:22D-1 et seq.; the requirement that insurers continue to comply with all requirements regarding claims settlement practices; the requirement that insurers comply with any order of the Commissioner upon a finding of hazardous financial conditions as set forth in N.J.A.C. 11:2-27; the requirement that insurers seeking to withdraw from transacting business in this State file required information and comply with all requirements set forth in N.J.A.C. 11:2-29; the requirement that insurers pay all custodian fees for custodial deposits; the requirement that employers seeking to self-insure workers' compensation or to continue to self-insure that coverage file required information with the Department and maintain a surety bond as set forth in N.J.A.C. 11:2-33; the requirement that surplus lines agents file required periodic reports and properly allocate premiums subject to tax and applicable surcharge in this State pursuant to N.J.A.C. 11:2-34; and the requirement that insurers seeking relief from certain statutory obligations file required information with the Department. The use of professional services currently required by the rules (for example, actuaries, claims professionals, certified public accountants, underwriting professionals, etc.) will continue to be necessary. The costs for these services will vary depending on the insurer and the professionals needed to comply, but should be consistent with current annual costs of compliance. The Department notes, however, that no additional costs should be imposed as this rulemaking merely continues requirements that are currently in effect.

The Department will continue to incur any costs associated with reviewing information filed pursuant to this chapter and ensuring compliance with all of the rules set forth in this chapter.

Finally, as noted in the Social Impact above, the rules in this chapter address a myriad of aspects of the business of insurance in this State and provide requirements governing other regulated entities. These rules will continue to provide a regulatory framework by which the Department may continue to monitor the business of insurers and other regulated entities to help ensure that such entities will be in a position to pay claims when they are due. This, in turn, should benefit insureds, insurers, taxpayers, and the public generally.

The failure to re-adopt this chapter would require the insurance industry to perform many significant statutory functions without guidance from, or oversight by, the Department. This would impose significant costs on the industry because current compliance requirements would not be readily available to the industry, requiring them to utilize procedures that may or may not be acceptable to the Department. This, in turn, could result in disruption to the market with attendant additional costs.

Further, the re-adoption of the existing rules will enable the Department to continue to monitor insurers and other regulated entities in a manner that appropriately meets its current fiscal resources and capabilities. The use of current procedures that have been proven effective over time produces economies for the Department. Thus, the

benefits to be achieved from readoption of the rules, as set forth above, outweigh the minimal costs insurers will incur as a result of the readoption and the significant costs that would be imposed from the failure to readopt the rules. Similarly, the benefits to be achieved by the proposed amendments will encourage the entry of new insurers in the State, thus increasing competition and availability among insurance products and increasing the likelihood for consumers to more easily find insurance products that fit their needs and their budgets.

Most of the proposed amendments either correct errors in citations or e-mail addresses and do not impose any new costs on insurers or the Department. The proposed amendments to N.J.A.C. 11:2-1.4 regarding the additional basis upon which an applicant for admission as a life/health insurer may request a waiver from the seasoning requirements similarly will not impose undue additional costs on applicants. As noted in the Social Impact above, to the extent that the proposed amendments encourage insurers to enter the New Jersey market to provide coverage that is presently underserved, the market for those coverages will be expanded, thereby increasing competition. Applicants seeking a waiver under the proposed amendments will be required to bear any costs associated with compiling and filing the required information and documentation. The Department, however, does not believe that any negative economic impact would be imposed because the information required should be readily available. Moreover, the proposed amendment applies only to applicants seeking a waiver from the five-year seasoning requirement. Accordingly, the decision whether to incur the minimal additional costs are within the applicant’s discretion, and without such additional waivers, applicants not meeting the existing seasoning requirements would be required to have capital and surplus guarantees instead—which is clearly an additional cost. Thus, this will ease the economic burden of entry into the New Jersey market for companies not meeting existing seasoning requirements if they can demonstrate application of the newly proposed waiver provisions.

**Federal Standards Statement**

A Federal standards analysis is not required as the rules set forth in this chapter and the proposed amendments are not subject to any Federal requirements or standards.

**Jobs Impact**

As set forth in the Summary above, the rules in this chapter address a myriad of aspects of the business of insurance. Regulated entities may be required to continue to employ or contract with professional staff. The readoption of these rules will continue long-standing procedures with respect to various requirements for insurers and other regulated entities, as well as the Department’s ability to properly oversee the operations of these entities. Similarly, many of the proposed amendments are technical in nature, and, thus, should not have any substantive impact.

However, to the extent that the rules in this chapter, and proposed amendments provide an additional ground upon which the Commissioner may grant a waiver from the five-year seasoning requirement, help promote or increase a healthy insurance marketplace in New Jersey, the climate for business and job growth is improved.

**Agriculture Industry Impact**

The rules proposed for readoption and the proposed amendments will have no impact on the agriculture industry in New Jersey.

**Regulatory Flexibility Analysis**

In some instances, entities regulated by the rules in this chapter are “small businesses” as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Several rules (for example, replacement of life insurance) relate to the conduct of insurance producers, most of whom are small businesses. In addition, the rules governing workers’ compensation self-insurance affect employers seeking to self-insure their workers’ compensation obligations, many of whom may be small businesses.

Numerous recordkeeping, reporting, and compliance requirements will continue to be imposed by this chapter, as set forth in the Economic Impact above. The rules continue to apply to all insurers, insurance producers, risk retention groups, purchasing groups, or employers, as the case may be, without regard to size, since they implement statutory provisions and/or regulatory tenets that allow for no exceptions or

differentiation based on business size. The Department notes, however, that the rules proposed for readoption and the proposed amendments impose no new recordkeeping, reporting, or other compliance requirements, but merely continue those requirements that have existed for many years, in some cases for over 25 years. As noted above, the rulemaking should impose minimal, if any, additional costs on insurers and producers. The Department, therefore, believes that the readoption of these rules and the proposed amendments should not impose any adverse or undue burdens on “small businesses” for the reasons set forth previously. The Department anticipates that future annual costs of compliance with these rules should be consistent with current annual costs.

The use of professional services currently required by the rules proposed for readoption (for example, actuaries, claims professionals, underwriting professionals, etc.) will continue to be necessary, at costs which vary with the individual professional.

**Housing Affordability Impact Analysis**

The rules proposed for readoption and the proposed amendments will not have an impact on housing affordability in this State and are unlikely to evoke a change in the average costs associated with housing in that the rules proposed for readoption and the proposed amendments relate to the business of insurance.

**Smart Growth Development Impact Analysis**

The rules proposed for readoption and the proposed amendments will not have an impact on smart growth in this State and there is an extreme unlikelihood that the rules proposed for readoption, or proposed amendments, 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 rules proposed for readoption and the proposed amendments relate to the business of insurance.

**Full text** of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 11:2.

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

SUBCHAPTER 1. ADMISSION REQUIREMENTS FOR FOREIGN AND ALIEN LIFE AND HEALTH INSURERS

11:2-1.4 General eligibility requirements

(a) In order for a foreign or alien insurer to be admitted as a life and health insurer in this State, the requirements in this section shall be satisfied in addition to any other requirements in this subchapter or any other provision of law.

1.-4. (No change.)

5. The applicant shall satisfy the following seasoning requirements:

i.-ii. (No change.)

iii. The Commissioner may, upon request of an applicant, on a case by case basis, waive in the case of (a)5iii(1), (2), and (3) below, or reduce in the case of (a)5iii(4) [and (5)] **through (7)** below, the five-year seasoning requirements of (a)5i and ii above. In determining whether a reduction or waiver is appropriate in a particular case, the Commissioner shall consider whether the requirements of this section have been satisfied, and, in addition, whether **any** of the requirements described in (a)5iii(1) through [(5)] **(7)** below[, if applicable,] have been satisfied **to permit waiver or reduction of the seasoning requirements**. These requirements relate, respectively, to the following circumstances:

(1) The applicant is a wholly-owned subsidiary of a life and health insurer [which] **that** has been authorized to transact the business of insurance in this State for at least five years or is an affiliate of an insurer [which] **that** has the same ultimate parent and [which] **that** has been authorized to transact the business of insurance in this State for at least five years. The Commissioner shall be satisfied as to the financial condition and methods of operation of the authorized insurer who shall effectively guarantee, by a resolution in a form prescribed by the Commissioner and passed by its board of directors, the minimum capital and surplus requirements required by law of the applicant during the first 10 years of its operation in this State. In the case of an authorized

affiliate with the same ultimate parent, the Commissioner may require that the guarantee be provided by the ultimate parent. The applicant shall also be required to demonstrate a sound plan of operation and that surplus has not decreased over the five-year period in question, or such shorter time as the applicant has been operating under current control, except as provided in (a)5ii(2) above[.];

(2) The applicant is a wholly-owned subsidiary of an insurer [which] **that** has been authorized to transact the business of insurance in this State for at least one year, and secured admission into this State by having been in operation for at least five years pursuant to (a)5i and ii above. The Commissioner shall be satisfied as to the financial condition and methods of operation of the authorized insurer, which shall effectively guaranty, by a resolution in a form prescribed by the Commissioner and passed by its board of directors, the minimum capital and surplus requirements required by law of the applicant during the first 10 years of its operation in this State. The insurer parent shall also be required to have either an evaluation acceptable to the Department from Dun and Bradstreet, or one of the top two ratings from at least one of the following: Standard and Poor's, Duff and Phelps, Moody's, A.M. Best, or other nationally recognized rating agency[.];

(3) The applicant is the continuing corporation resulting from a merger or consolidation of insurers, at least one of which has been authorized in this State to transact the kind(s) of insurance business for which the applicant seeks a New Jersey certificate of authority and has been actively engaged in such insurance business for at least five years and is currently in good standing. The applicant shall also be required to demonstrate a sound plan of operation[.];

(4) The applicant, being an insurance company with a non-insurance company parent, has completed three full years of operation without a change in control, and, subsequent to its first two years of operation, has available a filed examination report conducted by its state of domicile, which report is in accordance with Department standards for examinations. The first two full years of operation covered by the examination report shall be sufficient to make the report useful and meaningful to the Department. The applicant shall also be required to have experienced profitable operations in two of the three years, including the most current year of business, and shall demonstrate a sound plan of operation. Additionally, the applicant shall obtain or satisfy all of the following:

(A)-(C) (No change.)

(D) The ultimate parent shall have a net worth of at least \$25,000,000, excluding investments in insurance or insurance related subsidiaries, which amount shall be set by the Commissioner upon his or her consideration of the general financial condition of the parent and relevant underwriting factors such as, but not limited to, the volume to be written and the type of risk, and any other factors [which] **that** the Commissioner, in his or her discretion, shall consider to be appropriate[.];

(5) The applicant is a licensed health insurer writing Medicare Part D business only. The applicant shall have completed at least one full year of operation and experienced a profitable operation for that year[.];

**(6) Whether the applicant demonstrates to the Commissioner that a line or lines of insurance in this State for which the applicant is seeking authority is underserved in this State at the time the request for waiver is made. For purposes of this provision, "line of insurance" shall be construed to mean a sub-line of business or category of business within the line and shall not be construed to mean an entire line of business. Any applicant seeking a waiver of the five-year seasoning requirement set forth in (a)5i and ii above pursuant to this provision shall submit a written request for such waiver, which shall include the following:**

**(A) Such information and documentation as may be necessary to demonstrate to the Commissioner that there is no reasonable or adequate market among authorized insurers for the type of insurance coverage involved. In making this showing, the applicant shall demonstrate that there is, in fact, a market for the type of coverage involved in the request, it is presently underserved, and the applicant will serve that market;**

**(B) Documentation that the applicant possesses the requisite underwriting, managerial, and financial capability and expertise to**

**write the particular business involved in the request, to the extent the original application for admission does not so demonstrate; and**

**(C) A certification that the applicant acknowledges that if the request is granted and the applicant is admitted to transact business under such waiver, the applicant's authority to transact business shall be limited only to the type of coverage involved in the request, and that the applicant may not write any other business, so long as it does not satisfy the seasoning requirements set forth in (a)5i and ii above, or any waiver therefrom set forth in (a)5iii(1) through (5) above. This shall not be construed to limit the ability of the applicant to request that the Commissioner remove the restriction upon a showing that it satisfies the seasoning requirements pursuant to (a)5i and ii above, or waiver therefrom set forth in (a)5iii(1) through (5) above, and that it is otherwise qualified to write such business pursuant to law, including, but not limited to, this subchapter; or**

**(7) Whether the Commissioner finds that admission of the applicant would assist the Commissioner in helping to prevent or ameliorate disruptions in the life/health insurance market. In making this determination, the Commissioner may consider relevant factors in support of such a finding, including, but not limited to, the financial strength of the applicant as evidenced by such factors as its level of capitalization, RBC score, and whether the applicant is part of a holding company system the members of which have been successfully engaged in the business of insurance, excessive marketplace volatility, inadequate competition, trends in restrictions in underwriting or acceptance criteria, or limitations or restrictions in coverage by companies admitted to transact the relevant line(s) of insurance.**

iv. (No change.)

6. (No change.)

(b) (No change.)

#### SUBCHAPTER 18. READABLE POLICIES

##### 11:2-18.1 Purpose

The Plain Language Law, [(N.J.S.A. 56:12-1 et seq., [as amended])] requires certain insurance policies to be written in a "simple, clear, understandable and easily readable way." N.J.S.A. 39:6A-23.g requires that each buyer's guide and coverage selection form required by that section to be issued to insureds and prospective insureds for automobile insurance be written in plain language. This subchapter provides rules for the implementation of these provisions.

##### 11:2-18.4 Minimum readability standards

(a) (No change.)

(b) A policy, Buyer's Guide, and Coverage Selection Form shall be printed in legible type style with adequate [contract] **contrast** between paper and ink. Captions, headings, and spacing shall be used to increase overall readability.

(c) (No change.)

(d) Applications to be signed by the applicant shall be printed in not less than [8 point] **8-point** type, one point leading. Provided, however, that conditions or exceptions to the main promise of the agreement contained in an application shall be printed in at least [10 point] **10-point** type. (See N.J.S.A. [56:12b.(1)] **56:12-10.b(3)**.)

1. (No change.)

(e)-(j) (No change.)

##### 11:2-18.5 Procedures for requesting an opinion of compliance with the Plain Language Law

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

(e) Pursuant to N.J.S.A. 56:12-[5]**8.b**, an insurer need not request an opinion as to compliance with the Plain Language Law for policy forms identical to those [which] **that** have already been certified for some other insurer or rating organization.

(f) (No change.)

#### SUBCHAPTER 28. CREDIT FOR REINSURANCE

##### 11:2-28.4 Reinsurer accredited in New Jersey

(a)-(g) (No change.)

(h) The Department shall maintain and publish a current list of accredited reinsurers on the Department’s website: [[www.njdobi.org](http://www.njdobi.org)]  
[www.dobi.nj.gov](http://www.dobi.nj.gov).

(i) (No change.)

11:2-28.7B Certification procedure

(a) The Commissioner shall issue a written notice to an assuming insurer that has made application and been approved as a certified reinsurer. Included in such notice shall be the rating assigned the certified reinsurer in accordance with N.J.A.C. 11:2-28.7A. The Department shall publish a list on its website of all certified reinsurers and their ratings.

1. Promptly upon its receipt of an application from an insurer to be designated as a certified reinsurer pursuant to this section, the Department shall post on its website notice of such application. Interested parties may respond in writing to the application within 30 days of the date of such posting, directed to: Chief [of Reinsurance and Surplus Lines] **Insurance Examiner**, 20 West State St., PO Box 325, Trenton, NJ 08625-0325, or via e-mail at [[dobi.reinsurance@dobi.state.nj.us](mailto:dobi.reinsurance@dobi.state.nj.us)] [dobi.reinsurance@dobi.nj.gov](mailto:dobi.reinsurance@dobi.nj.gov). The Department shall take no action on an application for certification prior to the expiration of the 30-day period referenced above.

(b)-(j) (No change.)

SUBCHAPTER 29. ORDERLY WITHDRAWAL OF INSURANCE BUSINESS

11:2-29.3 Informational filing withdrawals

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

(c) An informational filing shall contain the following:

1.-4. (No change.)

5. The insurer’s market share by line and, in addition, for private passenger automobile insurance, exposures by territory, and for homeowners’ insurance, exposures [by Windstorm Market Survey Report] **as reported pursuant to the reports required by N.J.A.C. 11:2-42.10** and, separately, any additional zip codes that fall within the insurer’s definition of “coastal area”;

6.-7. (No change.)

(d)-(g) (No change.)

(h) The minimum requirements for the Notice of Intent to Withdraw and non-renewal notices referenced [above] **in this section** are set forth below. A sample of the notices shall be posted on the Department’s web site at [[www.njdobi.org](http://www.njdobi.org)] [www.dobi.nj.gov](http://www.dobi.nj.gov), as may be modified from time to time.

1. (No change.)

2. The one-year non-renewal notice and final notices of non-renewal shall:

i.-iv. (No change.)

v. Include the following statement: “For information that will assist you in shopping for coverage, you may contact your insurance agent, as well as the New Jersey Department of Banking and Insurance at 1-800-446-SHOP (7467) or visit the Department on the web at [[www.njdobi.org](http://www.njdobi.org)] [www.dobi.nj.gov](http://www.dobi.nj.gov)”; and

vi. (No change.)

3. (No change.)

(i)-(j) (No change.)

**LAW AND PUBLIC SAFETY**

**(a)**

**NEW JERSEY HORSE RACING INJURY COMPENSATION BOARD**

**Workers’ Compensation Insurance Coverage for Horse Racing Industry Employees**

**Proposed Readoption with Amendments: N.J.A.C. 13:73**

Authorized By: New Jersey Horse Racing Injury Compensation Board, Frank Zanzuccki, Chairman.

Authority: N.J.S.A. 34:15-129 et seq.

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

Proposal Number: PRN 2017-262.

Submit written comments by February 2, 2018, to:

Frank Zanzuccki, Chairman  
Department of Law and Public Safety  
New Jersey Horse Racing Injury Compensation Board  
PO Box 088  
Trenton, NJ 08625-0088  
or via e-mail to: [NJRCWebinfo@lps.state.nj.us](mailto:NJRCWebinfo@lps.state.nj.us).

The agency proposal follows:

**Summary**

N.J.A.C. 13:73 sets forth the rules of the New Jersey Horse Racing Injury Compensation Board (Board) relating to the establishment of workers’ compensation insurance coverage for horse racing industry employees, as well as codification of the powers of the Board, whose purpose is to provide said coverage. The Board believes that the rules proposed for readoption with amendments are necessary, reasonable, understandable, and responsive to the purpose for which they were originally promulgated. The chapter was set to expire on November 24, 2017. As the Board submitted this notice of proposal to the Office of Administrative Law prior to that date, the expiration date was extended 180 days to May 23, 2018, pursuant to N.J.S.A. 52:14B-5.1.c(2). The following is a summary of the rules proposed for readoption with amendments (which are proposed as a result of statutory changes enacted by the Legislature).

In enacting the New Jersey Horse Racing Injury Compensation Act (the Act), N.J.S.A. 34:15-129 et seq., the Legislature requires the Board to secure workers’ compensation insurance coverage for horse racing industry employees, who were defined as “a jockey, jockey apprentice, exercise personnel, driver, driver/trainer performing services for an owner in connection with the exercising or racing of a horse in New Jersey.” N.J.S.A. 34:15-131.

In doing so, the Legislature authorizes the Board to assess and collect sufficient funds to pay the costs of the workers’ compensation insurance, or provide self-insurance coverage, required by the Act and by the workers’ compensation law of this State, including sufficient funds to pay any additional costs necessary to carry out the Board’s other duties. N.J.S.A. 34:15-134. The Board ascertains the total funding necessary, establishes the sums that are to be paid and establishes, by regulation, the method of assessing and collecting these funds. *Ibid*.

In 1997, the Legislature amended the Act to require the Board to also secure workers’ compensation insurance for horse racing industry employees of trainers. Subsequently, the Board prepared new rules regarding the horse racing industry employees of both owners and trainers that contain, in addition to the method of assessment and collection of funds, rules concerning scope, purpose, definitions, power of the Board, calculation, purchase, penalties, and appeals.

In 2001, the Legislature again amended the Act to eliminate coverage of employees of trainers at the request of the industry that resulted in the definition of horse racing industry employee for the purpose of the Act to be a jockey, jockey apprentice, or driver engaged in performing services for an owner in connection with the racing of a horse in New Jersey.