1. The existence of an outstanding felony (high misdemeanor) arrest warrant for any crime not set forth at (a)1 above shall not be sufficient to deny SNAP benefits based upon fleeing felon status, even if the individual is aware of an outstanding warrant.

2. If an individual self-declares that they are a fleeing felon or a probation or parole violator, the CSSA must verify such information from an independent source before accepting any self-declaration as true.

3. If an individual declares that a warrant has been satisfied, the individual shall be given the opportunity to submit documentation of such warrant having been satisfied.

INSURANCE

(a)

OFFICE OF SOLVENCY REGULATION

Term and Universal Life Insurance Reserve Financing

Proposed New Rules: N.J.A.C. 11:2-30

Authorized By: Justin Zimmerman, Commissioner, Department of Banking and Insurance.

Authority: N.J.S.A. 17:1-8.1, 17:1-15.e, and 17:51B-4.

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

Proposal Number: PRN 2025-025.

Submit comments by May 16, 2025, to:

Denise M. Illes, Chief
Office of Regulatory Affairs
New Jersey Department of Banking and Insurance
20 West State Street
PO Box 325
Trenton, NJ 08625-0325
Fax: (609) 292-0896
Email: RuleComments@dobi.nj.gov

The agency proposal follows:

Summary

The Department of Banking and Insurance (Department) proposes new rules at N.J.A.C. 11:2-30, regarding term and universal life insurance reserve financing, to reflect the National Association of Insurance Commissioners (NAIC) Term and Universal Life Insurance Reserve Financing Model Regulation #787 (Model Regulation #787). The proposed new rules conform New Jersey law to established uniform national standards governing reserve financing arrangements pertaining to term life and universal life insurance policies with secondary guarantees and ensure that funds consisting of primary security and other security are held in the forms and amounts required. State adoption of Model Regulation #787 is a standard for accreditation pursuant to the NAIC Financial Regulation Standards and Accreditation Program (Accreditation).

The proposed new rules codify "Actuarial Guideline XLVIII Actuarial Opinion and Memorandum Requirements for the Reinsurance of Policies Required to be Valued under Sections 6 and 7 of the NAIC Valuation of Life Insurance Policies Model Regulation" (AG 48). AG 48, which is included in the NAIC Accounting Practices and Procedures Manual, addresses the standards for reserve financing arrangements pertaining to term life insurance and universal life insurance policies (known as "XXX reserves" for term life insurance policies and "AXXX reserves" for universal life insurance policies). New Jersey has adopted AG 48 through its adoption of the NAIC Accounting Practices and Procedures Manual pursuant to N.J.S.A. 17:23-1, which requires all insurers transacting business in the State to file annual financial statements prepared in accordance with the manual.

The proposed new rules reflect Model Regulation #787, commonly known as the XXX/AXXX Model Regulation, which was adopted by the NAIC on December 13, 2016. As with AG 48, Model Regulation #787 provides standardized tools and processes to be used by all regulators when reviewing such transactions. Prior to the adoption of AG 48, insurers would enter into various captive reinsurance transactions to "finance" different portions of the statutory reserve using different kinds of assets, based on what insurers believed to be a better correlation between the kind of asset used and the probability that it would be needed. While many state regulators were comfortable with these transactions in theory, there was significant unease regarding how these transactions were being implemented, specifically related to the lack of consistency from insurer to insurer and regulator to regulator regarding key aspects as to how these transactions may have been approved. Model Regulation #787 permits such transactions and provides a clear and consistent process to ensure that the proper amount and type of assets have been applied with respect to these transactions to meet appropriate financial solvency standards.

On January 10, 2022, New Jersey enacted P.L. 2021, c. 354, amending N.J.S.A. 17:51B-1 et seq., to incorporate amendments made to the NAIC Credit for Reinsurance Model Law. Language was added at N.J.S.A. 17:51B-4.b, granting specific authority for the Commissioner of Banking and Insurance (Commissioner) to issue regulations codifying AG 48 and the XXX/AXXX reinsurance framework. The proposed new rules, which reflect Model Regulation #787, therefore, serve to implement P.L. 2021, c. 354, conforming New Jersey law with the national standard.

In December 2019, the NAIC adopted Model Regulation #787 as an accreditation standard effective September 1, 2022, with enforcement to begin on January 1, 2023. However, the NAIC deemed AG 48 substantially similar to the required elements of Model Regulation #787, which, therefore, satisfies the accreditation standard. New Jersey has satisfied the standard by its adoption of the NAIC Accounting Practices and Procedures Manual, which includes AG 48, pursuant to N.J.S.A. 17:23-1. The Department now seeks to formalize these standards through the proposed new rules, which reflect Model Regulation #787.

A summary of the proposed new rules follows:

Proposed new N.J.A.C. 11:2-30.1 sets forth the purpose and scope of the subchapter. Proposed new N.J.A.C. 11:2-30.1 also describes characteristics of reinsurance ceded for reserve financing purposes.

Proposed new N.J.A.C. 11:2-30.2 lists exemptions to the requirements of the subchapter. The exemptions include reinsurance of policies that meet the criteria for exemption pursuant to N.J.A.C. 11:4-32.4(f) or (g) that are issued after the effective date of the proposed new rules; portions of policies that meet the criteria for exemption pursuant to N.J.A.C. 11:4-32.4(e) that are issued after the effective date of the proposed new rules; universal life policies that meet certain requirements concerning secondary guarantee periods; credit life insurance; variable life insurance policies with benefit amounts or durations that vary according to the investment experience separate accounts; and group life insurance certificates, except those subject to maximum gross premium requirements. Proposed new N.J.A.C. 11:2-30.2 also exempts reinsurance ceded to an assuming insurer that meets the applicable requirements for reinsurance credit pursuant to N.J.S.A. 17:51B-2.a through 2.d, subject to certain limitations and requirements. Finally, reinsurance not otherwise exempt pursuant to proposed new N.J.A.C. 11:2-30.2, may be exempted upon a determination by the Commissioner, after consultation with the NAIC or other designated group of regulators, regarding certain risk assessment factors.

Proposed new N.J.A.C. 11:2-30.3 sets forth definitions applicable to the subchapter.

Proposed new N.J.A.C. 11:2-30.4 provides the actuarial method that must be used to establish the required level of primary security for each reinsurance treaty subject to the proposed new rules. Proposed new N.J.A.C. 11:2-30.4 sets forth requirements applicable to the valuation used for purposes of both calculating the required level of primary security pursuant to the actuarial method and determining the amount of primary security and other security, as applicable, held by or on behalf of the ceding insurer.

Proposed new N.J.A.C. 11:2-30.5 lists certain requirements applicable to covered policies to obtain credit for reinsurance and provides the criteria for insurers to remedy deficiencies and receive reinsurance credit.

Proposed new N.J.A.C. 11:2-30.6 states that if any of the proposed new rules are held invalid, the remaining rules within the subchapter shall not be affected.

Proposed new N.J.A.C. 11:2-30.7 prohibits insurers subject to the proposed new rules from taking any action to circumvent the requirements in this subchapter.

As the Department has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The proposed new rules reflect the national standard as adopted by the NAIC regarding term and universal life insurance reserve financing. Adoption of the proposed new rules will, thus, help ensure uniformity in the application of regulatory standards governing reserve financing for life insurance with other states and ensure the Department meets the standards for accreditation. As the proposed new rules codify existing practices and requirements currently in place for insurers transacting business in New Jersey, adoption will not impose any significant impact on the Department, insurers, or the public.

Economic Impact

Specific costs for insurance companies to comply with the proposed new rules and the impact on the Department to enforce them are not reasonably quantifiable. The proposed new rules do not significantly deviate from the manner in which insurance companies have been financing XXX/AXXX captive reinsurance transactions since the NAIC's adoption of AG 48. Therefore, the Department does not anticipate any significant economic impact resulting from the adoption of this rulemaking.

The proposed new rules reflect the national standard and have been adopted by the NAIC, as a required standard for state accreditation. The purpose of the accreditation program is to establish and maintain standards to promote sound insurance company financial solvency regulation across the United States. The accreditation program allows for inter-state cooperation and reduces regulatory redundancies. That is, if a company is domiciled in an accredited state, the other states in which that company is licensed and/or writes business may be assured that, because of its accredited status, the domiciliary state insurance department is adequately monitoring the financial solvency of that company. Accordingly, the benefits to be achieved by the proposed new rules as set forth above outweigh any costs that may be imposed.

Federal Standards Statement

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

Jobs Impact

The Department does not anticipate that any jobs will be generated or lost due to the proposed new rules. The Department invites commenters to submit any data or studies concerning the jobs impact of the proposed new rules, together with their comments, on other aspects of the proposed new rules.

Agriculture Industry Impact

The proposed new rules will not have any impact on the agricultural industry in New Jersey.

Regulatory Flexibility Analysis

The proposed new rules do not apply to small businesses, as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. No New Jersey insurers subject to the proposed new rules qualify as small businesses pursuant to N.J.S.A. 52:14B-17, because they are not residents of New Jersey, are not independently owned and operated, and do not employ 100 or fewer full-time employees. Therefore, the Department believes that these proposed new rules should be applied uniformly, and accordingly, no difference in the compliance requirements is provided based on business size.

Housing Affordability Impact Analysis

The proposed new rules will not have an impact on housing affordability and are unlikely to evoke a change in the average costs associated with housing in this State because the proposed new rules relate to reserve financing for term and universal life insurance.

Smart Growth Development Impact Analysis

The proposed new rules will not have an impact on smart growth in this State and there is an extreme unlikelihood that the proposed new rules would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, pursuant to the State Development and Redevelopment Plan in New Jersey as the proposed new rules relate to reserve financing for term and universal life insurance.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The proposed new rules will have no impact on pretrial detention, sentencing, probation, or parole policies concerning juveniles and adults in the State because the proposed new rules concern reserve financing for term and universal life insurance. Accordingly, no further analysis is required.

Full text of the proposed new rules follows:

SUBCHAPTER 30. TERM AND UNIVERSAL LIFE INSURANCE RESERVE FINANCING

11:2-30.1 Purpose and scope

(a) This subchapter establishes uniform, national standards governing reserve financing arrangements pertaining to life insurance policies including guaranteed non-level gross premiums, guaranteed non-level benefits, and universal life insurance policies with secondary guarantees; and ensures that, with respect to each such financing arrangement, funds consisting of Primary Security and Other Security, as defined at N.J.A.C. 11:2-30.3, are held by, or on behalf of, ceding insurers in the forms and amounts required in this subchapter.

(b) In general, reinsurance ceded for reserve financing purposes characteristically involves arrangements where some or all the assets used to secure the reinsurance treaty or to capitalize the reinsurer:

1. Are issued by the ceding insurer or its affiliates;

2. Are not unconditionally available to satisfy the general account obligations of the ceding insurer; or

3. Create a reimbursement, indemnification, or other similar obligation on the part of the ceding insurer or any of its affiliates (other than a payment obligation pursuant to a derivative contract acquired in the normal course and used to support and hedge liabilities pertaining to the actual risks in the policies ceded pursuant to the reinsurance treaty).

(c) This subchapter shall apply to reinsurance treaties that cede liabilities pertaining to covered policies, issued by any life insurance company domiciled in this State.

(d) This subchapter and N.J.A.C. 11:2-28 shall both apply to such reinsurance treaties, provided, that in the event of a direct conflict between the provisions of this subchapter and N.J.A.C. 11:2-28, the provisions of this subchapter shall apply, but only to the extent of the conflict.

11:2-30.2 Exemptions

(a) This subchapter does not apply to the situations described in this subsection.

1. Reinsurance of:

i. Policies that satisfy the criteria for exemption set forth at N.J.A.C. 11:4-32.4(f) or (g), and that are issued before (the effective date of this subchapter);

ii. Portions of policies that satisfy the criteria for exemption set forth at N.J.A.C. 11:4-32.4(e) and that are issued before (the effective date of this subchapter);

iii. Any universal life policy that meets all of the following requirements:

(1) Secondary guarantee period, if any, is five years or less;

(2) Specified premium for the secondary guarantee period is not less than the net level reserve premium for the secondary guarantee period based on the Commissioners Standard Ordinary (CSO) valuation tables and valuation interest rate applicable to the issue year of the policy; and

(3) The initial surrender charge is not less than 100 percent of the first-year annualized specified premium for the secondary guarantee period;

iv. Credit life insurance;

v. Any variable life insurance policy that provides for life insurance, the amount or duration of which varies according to the investment experience of any separate account or accounts; or

vi. Any group life insurance certificate unless the certificate provides for a stated or implied schedule of maximum gross premiums required in order to continue coverage in force for a period in excess of one year.

2. Reinsurance ceded to an assuming insurer that meets the applicable requirements at N.J.S.A. 17:51B-2.d; or

3. Reinsurance ceded to an assuming insurer that meets the applicable requirements at N.J.S.A. 17:51B-2.a, b, or c, and that, in addition:

i. Prepares statutory financial statements in compliance with the NAIC Accounting Practices and Procedures Manual, without any departures from NAIC statutory accounting practices and procedures pertaining to the admissibility or valuation of assets or liabilities that increase the assuming insurer's reported surplus and are material enough that they need to be disclosed in the financial statement of the assuming insurer pursuant to the Statement of Statutory Accounting Principles No. 1 (SSAP 1); and

ii. Is not in a Company Action Level Event, Regulatory Action Level Event, Authorized Control Level Event, or Mandatory Control Level Event, as those terms are defined at N.J.A.C. 11:2-39.2 when its risk-based capital (RBC) is calculated in accordance with the life RBC report, including an overview and instructions for companies, as the same may be amended by the NAIC from time to time, without deviation;

4. Reinsurance ceded to an assuming insurer that meets the applicable requirements of N.J.S.A. 17:51B-2.a, b, or c, and that, in addition:

i. Is not an affiliate, as that term is defined at N.J.S.A. 17:27A-1.a, of:

(1) The insurer ceding the business to the assuming insurer; or

(2) Any insurer that directly or indirectly ceded the business to that ceding insurer;

ii. Prepares statutory financial statements in compliance with the NAIC Accounting Practices and Procedures Manual;

iii. Is both:

(1) Licensed or accredited in at least 10 states (including its state of domicile); and

(2) Not licensed in any state as a captive, special purpose vehicle, special purpose financial captive, special purpose life reinsurance company, limited purpose subsidiary, or any other similar licensing regime; and

iv. Is not, or would not be, below 500 percent of the Authorized Control Level RBC as that term is defined at N.J.A.C. 11:2-39.2 when its RBC is calculated in accordance with the life risk-based capital report, including an overview and instructions for companies, as the same may be amended by the NAIC from time to time, without deviation, and without recognition of any departures from NAIC statutory accounting practices and procedures pertaining to the admission or valuation of assets or liabilities that increase the assuming insurer's reported surplus;

5. Reinsurance ceded to an assuming insurer that meets the requirements at N.J.S.A. 17:51B-4.b(4); or

6. Reinsurance not otherwise exempt pursuant to (a)1 through 5 above, if the Commissioner, after consulting with the NAIC Financial Analysis Working Group (FAWG) or other group of regulators designated by the NAIC, as applicable, determines through all the facts and circumstances that all of the following apply:

i. The risks are clearly outside of the intent and purpose of this subchapter (as described at N.J.A.C. 11:2-30.1);

ii. The risks are included within the scope of this subchapter only as a technicality; and

iii. The application of this subchapter to those risks is not necessary to provide appropriate protection to policyholders. The Commissioner shall publicly disclose any decision made pursuant to this subsection to exempt a reinsurance treaty from this subchapter, as well as the general basis therefor (including a summary description of the treaty).

11:2-30.3 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Actuarial method" means the methodology used to determine the required level of primary security, as described at N.J.A.C. 11:2-30.4.

"Commissioner" means the Commissioner of the New Jersey Department of Banking and Insurance.

"Covered policies" means the following, subject to the exemptions described at N.J.A.C. 11:2-30.2, covered policies are those policies, other than grandfathered policies, of the following policy types:

1. Life insurance policies with guaranteed non-level gross premiums and/or guaranteed non-level benefits, except for flexible premium universal life insurance policies; or

2. Flexible premium universal life insurance policies with provisions resulting in the ability of a policyholder to keep a policy in force over a secondary guarantee period.

"Grandfathered policies" means policies of the types described above that were issued prior to January 1, 2015; and ceded, as of December 31, 2014, as part of a reinsurance treaty that would not have met one of the exemptions set forth at N.J.A.C. 11:2-30.2 had that section then been in effect.

"NAIC" means the National Association of Insurance Commissioners.

"Non-covered policies" means any policy that does not meet the definition of "covered policies," including grandfathered policies.

"Other security" means any security acceptable to the Commissioner other than security meeting the definition of primary security.

"Primary security" means the following forms of security:

1. Cash meeting the requirements at N.J.S.A. 17:51B-3.a;

2. Securities listed by the NAIC Securities Valuation Office meeting the requirements at N.J.S.A. 17:51B-3.b, but excluding any synthetic letter of credit, contingent note, credit-linked note, or other similar security that operates in a manner similar to a letter of credit, and excluding any securities issued by the ceding insurer or any of its affiliates; and

3. For security held in connection with funds withheld and modified coinsurance reinsurance treaties:

i. Commercial loans in good standing of CM3 quality and higher;

ii. Policy loans; and

iii. Derivatives acquired in the normal course and used to support hedge liabilities pertaining to the actual risks in the policies ceded, pursuant to the reinsurance treaty.

"Required level of primary security" means the dollar amount determined by applying the actuarial method to the risks ceded with respect to covered policies, but not more than the total reserve ceded.

"Valuation Manual" means the Valuation Manual adopted by the NAIC, as described at Section 11B(1) of the Standard Valuation Law, with all amendments adopted by the NAIC that are effective for the financial statement date on which credit for reinsurance is claimed.

"VM-20" means "Requirements for Principle-Based Reserves for Life Products," including all relevant definitions, from the Valuation Manual.

11:2-30.4 The actuarial method

(a) The actuarial method to establish the required level of primary security for each reinsurance treaty subject to this subchapter shall be VM-20, applied on a treaty-by-treaty basis, including all relevant definitions, from the Valuation Manual as then in effect, applied as follows:

1. For covered policies described in this subchapter, the actuarial method is the greater of the Deterministic Reserve or the Net Premium Reserve (NPR), regardless of whether the criteria for exemption testing can be met. However, if the covered policies do not meet the requirements of the Stochastic Reserve exclusion test in the Valuation Manual, then the actuarial method is the greatest of the Deterministic Reserve, the Stochastic Reserve, or the NPR. In addition, if such covered policies are reinsured in a reinsurance treaty that also includes covered policies described in this subchapter, the ceding insurer may elect to instead use

(a)2 below as the actuarial method for the entire reinsurance agreement. Whether this paragraph or (a)2 below are used, the actuarial method must comply with any requirements or restrictions that the Valuation Manual imposes when aggregating these policy types for purposes of principle-based reserve calculations.

2. For covered policies described in this subchapter, the actuarial method is the greatest of the Deterministic Reserve, the Stochastic Reserve, or the NPR, regardless of whether the criteria for exemption testing can be met.

3. Except as provided at (a)4 below, the actuarial method is to be applied on a gross basis to all risks with respect to the covered policies, as originally issued or assumed, by the ceding insurer.

4. If the reinsurance treaty cedes less than 100 percent of the risk with respect to the covered policies, then the required level of primary security may be reduced as follows:

i. If a reinsurance treaty cedes only a quota share of some or all of the risks pertaining to the covered policies, the required level of primary security, as well as any adjustment pursuant to (a)4iii below, may be reduced to a *pro rata* portion in accordance with the percentage of the risk ceded;

ii. If the reinsurance treaty in a non-exempt arrangement cedes only the risks pertaining to a secondary guarantee, the required level of primary security may be reduced by an amount determined by applying the actuarial method on a gross basis to all risks, other than risks related to the secondary guarantee, pertaining to the covered policies, except that for covered policies for which the ceding insurer did not elect to apply the provisions of VM-20 to establish statutory reserves, the required level of primary security may be reduced by the statutory reserve retained by the ceding insurer on those covered policies, where the retained reserve of those covered policies should be reflective of any reduction pursuant to the cession of mortality risk on a yearly renewable term basis in an exempt arrangement;

iii. If a portion of the covered policy risk is ceded to another reinsurer on a yearly renewable term basis in an exempt arrangement, the required level of primary security may be reduced by the amount resulting from applying the actuarial method, including the reinsurance section of VM-20, to the portion of the covered policy risks ceded in the exempt arrangement, except that for covered policies issued prior to January 1, 2017, this adjustment is not to exceed [cx/ (2 * number of reinsurance premiums per year)] where cx is calculated using the same mortality table used in calculating the Net Premium Reserve;

iv. For any other treaty ceding a portion of risk to a different reinsurer, including, but not limited to, stop loss, excess of loss, and other non-proportional reinsurance treaties, there will be no reduction in the required level of primary security;

v. It is possible for any combination at (a)4i, ii, iii, or iv above to apply. Such adjustments to the required level of primary security will be done in the sequence that accurately reflects the portion of the risk ceded through the treaty. The ceding insurer should document the rationale and steps taken to accomplish the adjustments to the required level of primary security due to the cession of less than 100 percent of the risk; and

vi. The adjustments for other reinsurance will be made only with respect to reinsurance treaties entered into directly by the ceding insurer. The ceding insurer will make no adjustment as a result of a retrocession treaty entered into by the assuming insurers.

5. In no event will the required level of primary security resulting from the application of the actuarial method exceed the amount of statutory reserves ceded.

6. If the ceding insurer cedes risks with respect to covered policies, including any riders, in more than one reinsurance treaty subject to this subchapter, in no event will the aggregate required level of primary security for those reinsurance treaties be less than the required level of primary security calculated using the actuarial method as if all risks ceded in those treaties were ceded in a single treaty subject to this subchapter.

7. If a reinsurance treaty subject to this subchapter cedes risk on both covered and non-covered policies, credit for the ceded reserves shall be determined as follows:

i. The actuarial method shall be used to determine the required level of primary security for the covered policies, and N.J.A.C. 11:2-30.5 shall be used to determine the reinsurance credit for the covered policy reserves; and

ii. Credit for the non-covered policy reserves shall be granted only to the extent that security, in addition to the security held to satisfy the requirements at (a)7i above, is held by or on behalf of the ceding insurer in accordance with N.J.S.A. 17:51B-2 and 3. Any primary security used to meet the requirements of this subparagraph may not be used to satisfy the required level of primary security for the covered policies.

(b) For the purposes of both calculating the required level of primary security pursuant to the actuarial method and determining the amount of primary security and other security, as applicable, held by or on behalf of the ceding insurer, the following shall apply:

1. For assets, including any such assets held in trust, that would be admitted pursuant to the NAIC Accounting Practices and Procedures Manual if they were held by the ceding insurer, the valuations are to be determined according to statutory accounting procedures as if such assets were held in the ceding insurer's general account and without taking into consideration the effect of any prescribed or permitted practices; and

2. For all other assets, the valuations are to be those that were assigned to the assets for the purpose of determining the amount of reserve credit taken. In addition, the asset spread tables and asset default cost tables required by VM-20 shall be included in the actuarial method if adopted by the NAIC's Life Actuarial (A) Task Force no later than December 31st on or immediately preceding the valuation date for which the required level of primary security is being calculated. The tables of asset spreads and asset default costs shall be incorporated into the actuarial method in the manner specified in VM-20.

11:2-30.5 Requirements applicable to covered policies to obtain credit for reinsurance; opportunity for remediation

(a) Subject to the exemptions described at N.J.A.C. 11:2-30.2 and the provisions at (b) below, credit for reinsurance shall be allowed with respect to ceded liabilities pertaining to covered policies pursuant to N.J.S.A. 17:51B-2 and 3, if, and only if, in addition to all other requirements imposed by law or regulation, the following requirements are met on a treaty-by-treaty basis:

1. The ceding insurer's statutory policy reserves with respect to the covered policies are established in full and in accordance with the applicable requirements at N.J.S.A. 17B:19-8 and related rules and actuarial guidelines, and credit claimed for any reinsurance treaty subject to this subchapter does not exceed the proportionate share of those reserves ceded pursuant to the contract;

2. The ceding insurer determines the required level of primary security with respect to each reinsurance treaty subject to this subchapter and provides support for its calculation as determined to be acceptable to the Commissioner;

3. Funds consisting of primary security, in an amount at least equal to the required level of primary security, are held by or on behalf of the ceding insurer, as security pursuant to the reinsurance treaty within the meaning at N.J.S.A. 17:51B-3, on funds withheld, trust, or modified coinsurance basis;

4. Funds consisting of other security, in an amount at least equal to any portion of the statutory reserves as to which primary security is not held pursuant to (a)3 above, are held by or on behalf of the ceding insurer as security, pursuant to the reinsurance treaty within the meaning at N.J.S.A. 17:51B-3;

5. Any trust used to satisfy the requirements of this section shall comply with all of the conditions and qualifications at N.J.A.C. 11:2-28.9, except that:

i. Funds consisting of primary security or other security held in trust, shall for the purposes identified at N.J.A.C. 11:2-30.4(b), be valued according to the valuation rules set forth at N.J.A.C. 11:2-30.4(b), as applicable;

ii. There are no affiliate investment limitations with respect to any security held in such trust if such security is not needed to satisfy the requirements at (a)3 above;

iii. The reinsurance treaty must prohibit withdrawals or substitutions of trust assets that would leave the fair market value of the primary security within the trust (when aggregated with primary security outside the trust that is held by or on behalf of the ceding insurer in the manner required pursuant to (a)3 above) below 102 percent of the level required pursuant to (a)3 above at the time of the withdrawal or substitution; and

iv. The determination of reserve credit pursuant to N.J.A.C. 11:2-28.9(d) shall be determined according to the valuation rules set forth at N.J.A.C. 11:2-30.4(b), as applicable; and

6. The reinsurance treaty has been approved by the Commissioner.

(b) Requirements at inception date and on an ongoing basis; remediation shall be as follows:

1. The requirements at (a) above must be satisfied as of the date that risks pursuant to the covered policies are ceded (if such date is on or after (the effective date of this subchapter)) and on an ongoing basis thereafter. Under no circumstances shall a ceding insurer take or consent to any action or series of actions that would result in a deficiency pursuant to (a)3 or 4 above, with respect to any reinsurance treaty pursuant to which covered policies have been ceded, and in the event that a ceding insurer becomes aware at any time that such a deficiency exists, it shall use its best efforts to arrange for the deficiency to be eliminated as expeditiously as possible.

2. Prior to the due date of each quarterly or annual statement, each life insurance company that has ceded reinsurance within the scope of this subchapter, as described at N.J.A.C. 11:2-30.1, shall perform an analysis, on a treaty-by-treaty basis, to determine, as to each reinsurance treaty pursuant to which covered policies have been ceded, whether as of the end of the immediately preceding calendar quarter (the valuation date), the requirements at (a)3 and 4 above were satisfied. The ceding insurer shall establish a liability equal to the excess of the credit for reinsurance taken over the amount of primary security actually held pursuant to (a)3 above, unless either:

i. The requirements at (a)3 and 4 above were fully satisfied as of the valuation date as to such reinsurance treaty; or

ii. Any deficiency has been eliminated before the due date of the quarterly or annual statement to which the valuation date relates through the addition of primary security and/or other security, as the case may be, in such amount and in such form as would have caused the requirements at (a)3 and 4 above to be fully satisfied as of the valuation date.

3. Nothing at (b)2 above shall be construed to allow a ceding company to maintain any deficiency pursuant to (a)3 and 4 above for any period of time longer than is reasonably necessary to eliminate it.

11:2-30.6 Severability

If any provision of this subchapter is held invalid, the remainder shall not be affected.

11:2-30.7 Prohibition against avoidance

No insurer that has covered policies as to which this subchapter applies (as set forth at N.J.A.C. 11:2-30.1) shall take any action or series of actions, or enter into any transaction or arrangement, or series of transactions or arrangements, if the purpose of such action, transaction, or arrangement, or series thereof is to avoid the requirements of this subchapter, or to circumvent its purpose and intent, as set forth at N.J.A.C. 11:2-30.1.

LAW AND PUBLIC SAFETY

(a)

JUVENILE JUSTICE COMMISSION

Detention of Juveniles in Municipal and Other Adult Facilities

Proposed Readoption with Amendments: N.J.A.C. 13:94

Authorized By: Executive Board of the Juvenile Justice Commission, by the Honorable Matthew J. Platkin, Attorney General and Chair, through Daniel S. Hafetz, Attorney General Designee.

Authority: N.J.S.A. 2A:4A-31, 2A:4A-32, 2A:4A-33, 2A:4A-37, 2A:4A-60, 2A:4A-88, 47:1A-1 et seq., 52:17B-170, and 52:17B-171.

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

Proposal Number: PRN 2025-020.

Submit written comments by May 16, 2025, to:

Christina O. Broderick
Chief, Legal & Regulatory Affairs
New Jersey Juvenile Justice Commission
1001 Spruce Street—Suite 202
Trenton, New Jersey 08638
or electronically at: regulatory.affairs@jjc.nj.gov

The agency proposal follows:

Summary

The Juvenile Justice Commission (Commission) is the New Jersey agency responsible for planning, policy development, and provision of services in the juvenile justice system. For those youth within its care and custody, the Commission seeks to ensure that its facilities maintain a safe and respectful environment, while at the same time delivering effective educational and rehabilitative services individually tailored to each youth.

Pursuant to the Code of Juvenile Justice, part of the Commission's responsibilities includes specifying the places where young people may be detained. Part of this role includes the development of standards for, and oversight of, juvenile detention facilities. The Commission is also designated as the agency to ensure compliance with the Federal Juvenile Justice and Delinquency Prevention Act of 1974 (JJDPA), including three of the JJDPA's four core requirements—deinstitutionalization of status offenders, separation of juveniles from adult offenders, and removal of juveniles from adult facilities. These standards and requirements, addressing numerous areas including custody limitations, separation requirements, youth supervision, and reporting requirements, have been developed by the Commission to ensure that all facilities receiving young people maintain the required standards and provide the proper care, in compliance with applicable Federal and State laws, and as set forth at N.J.A.C. 13:94, Detention of Juveniles in Municipal and Other Adult Facilities.

Pursuant to N.J.S.A. 52:14B-5.1.c, N.J.A.C. 13:94 was scheduled to expire on February 5, 2025. Therefore, as this notice of rules proposed for readoption was filed prior to that date, this notice shall extend the expiration date 180 days to August 4, 2025, pursuant to N.J.S.A. 52:14B-5.1.c(2).

The Commission has reviewed these rules and has determined them to be necessary, reasonable, and proper for the purpose for which they were originally promulgated. Accordingly, in addition to minor clarifying and technical amendments that do not affect the substantive meaning of the rules, the Commission proposes to readopt the rules at N.J.A.C. 13:94 in their entirety, with proposed amendments at N.J.A.C. 13:94-1 and 2. The substantive provisions of the rules proposed to be readopted by the Commission are summarized below.

N.J.A.C. 13:94-1 sets forth general requirements, including the chapter's purpose and scope (N.J.A.C. 13:94-1.1); relevant definitions (N.J.A.C. 13:94-1.2); legal requirements (N.J.A.C. 13:94-1.3); the Commission's oversight authority (N.J.A.C. 13:94-1.4); and