

INSURANCE
DEPARTMENT OF BANKING AND INSURANCE
OFFICE OF PROPERTY AND CASUALTY

Orderly Withdrawal of Insurance Business

Adopted Amendment: N.J.A.C. 11:2-29.1

Adopted Repeal: N.J.A.C. 11:2-29.8

Adopted Repeals and New Rules: N.J.A.C. 11:2-29.3 through 29.7

Proposed: March 3, 2008 at 40 N.J.R. 1058(a)

Adopted: June 30, 2008 by Steven M. Goldman, Commissioner, Department of Banking and Insurance.

Filed: July 2, 2008 as R. 2008 d.220, with a substantive change not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 17:1-8.1, 17:1-15e, 17:17-10 and 17:33B-30

Effective Date: August 4, 2008.

Expiration Date: September 21, 2010.

Summary of Public Comments and Agency Responses:

The Department of Banking and Insurance (Department) timely received written comments from the Independent Insurance Agents of New Jersey and New Jersey Manufacturers Insurance Group.

COMMENT: One commenter requested that N.J.A.C. 11:2-29.3(h)2v, which specifies information that the one-year non-renewal notice and final notice of non-renewal shall contain, be revised to read as follows when the policy is written through an independent agency that represents the insurer: "... for information that will assist you in shopping for coverage, contact your insurance agent or you may contact the New Jersey Department of Banking and Insurance

...” (boldface language is suggested to be added) The commenter stated that, in most cases, the agent represents several companies and will work with the consumer to place coverage with another company. The commenter believed that the agent should be the first contact made by a consumer, and that including this statement will reduce the number of unnecessary phone calls to the Department. The commenter also stated that independent insurance agents own the expirations to their business and should remain the first contact for assistance.

RESPONSE: Upon review, the Department has determined to make the suggested change upon adoption. The requirements set forth in the amendments prescribing the content of notices in question are minimums, and insurers may include additional information in the notice to policyholders pursuant to N.J.A.C. 11:2-29.3(j). The Department agrees that agents, particularly independent agents that may represent more than one insurer, would be in a position to assist insureds in shopping for replacement coverage. The Department recognizes this fact, and has placed similar wording in sample notices that will be posted on the Department’s website. Thus, it was never the Department’s intent for the amendment to imply that insureds should not be advised to contact their agents. Indeed, the notice in the rule states that insureds may contact the Department for assistance in shopping for coverage. For these reasons, the rule has been changed upon adoption to reflect the suggestion of the commenter. However, rather than provide that an insured may contact either the agent or the Department, the rule as revised upon adoption provides that insureds may contact their agent as well as the Department, so as not to imply that such contacts are mutually exclusive.

COMMENT: One commenter stated that it is important that insurers who remain in the market be informed as soon as possible of a potential withdrawal so that they can prepare for a potential influx of business. Accordingly, the commenter requested that the following provision be added to the rule: “Where the informational withdrawal filing would affect [five percent] or more of the market, the Department shall provide notice to all of the insurers authorized to write business in the affected line(s) no later than [10] days following the submission of an informational filing to the Commissioner that has not been disapproved.”

RESPONSE: Upon review, the Department has determined that no change is required. The existing and prior rules governing withdrawal provided for no such notification. This was true even at a time when the impact upon insurers could have been more significant. The requirement that private passenger automobile insurers insure all eligible persons becomes inoperative January 1, 2009. The Department does not believe that this has been an issue in the past nor should it be an issue in the future. The Department, however, will monitor the situation and propose amendments to the rules in the future if deemed necessary to address this issue.

Federal Standards Statement

A Federal standards analysis is not required because the adopted amendment, repeals and new rules are not subject to any Federal requirements or standards.

Full text of the adopted amendment and new rules follows (additions to proposal indicated in boldface with asterisks **thus**):

11:2-29.3 Informational filing withdrawals

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

(h) The minimum requirements for the Notice of Intent to Withdraw and non-renewal notices referenced above are set forth below. A sample of the notices shall be posted on the Department's web site at www.njdobi.org, as may be modified from time to time.

1. (No change from proposal.)

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

i. - iv. (No change from proposal.)

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"; and

vi. - (No change from proposal.)

3. (No change from proposal.)

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