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Title 11. Department of Banking and Insurance Division of Insurance

Chapter 15. Group Self-Insurance (Refs & Annos)

▣ Subchapter 2. Joint Insurance Funds for Local Governmental Units Providing Property and Liability Coverages

→→ **11:15-2.1 Purpose and scope**

(a) N.J.S.A. 40A:10-36 et seq. authorizes two or more local units of government to join together to establish a joint insurance fund for the purpose of insuring against liability, property damage, workers' compensation, and loss or theft of money or securities, providing blanket bond coverage, the sole purpose of insuring against bodily injury and property damage claims arising from environmental impairment liability and legal representation therefor to the extent and for coverage approved by the Commissioner, and insuring against loss from liability associated with sick leave payment for service connected disability as provided by N.J.S.A. 18A:30-2.1. A fund may also provide its members with safety and loss control programs and may jointly purchase, on behalf of its membership, safety and loss control services, training equipment and apparatus, in connection with the provision of the coverages set forth above. This subchapter provides rules for the establishment, operation, oversight, modification and dissolution of such funds.

(b) No local unit of government shall join together with any local unit or units to act as a joint insurance fund except as authorized by the Commissioner in accordance with the provisions of N.J.S.A. 40A:10-36 et seq. and this subchapter.

(c) Except as otherwise specifically provided, all of the requirements of this subchapter shall apply to any joint insurance fund formed to insure against liability, property damage, loss or theft of money or securities, providing blanket bond coverage, or workers' compensation, or for the sole purpose of insuring against bodily injury and property damage claims arising from environmental impairment liability and legal representation therefor.

Amended by R.1991 d.16, effective January 7, 1991; R.1995 d.408, effective August 7, 1995; R.1999 d.350, effective October 18, 1999; R.2005 d.112, effective April 4, 2005.

CHAPTER EXPIRATION DATE

<Chapter 15, Group Self-Insurance, expires on July 2, 2015.>

HISTORICAL NOTES**Source:**

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→ → **11:15-2.2 Definitions**

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

“Actuary” means a person who is a Fellow in good standing of the Casualty Actuarial Society with three years recent experience in loss reserving; an Associate in good standing of the Casualty Actuarial Society with five years recent experience in loss reserving; or a Member in good standing of the American Academy of Actuaries who has been approved as qualified for signing casualty loss reserve opinions by the Casualty Practice Council of the American Academy of Actuaries and who has seven years recent experience in loss reserving.

“Administrator” means a person, partnership, corporation or other legal entity engaged by the joint insurance fund commissioners or executive committee, as defined herein, to act as executive director to carry out the policies established by the joint insurance fund commissioners or executive committee and to otherwise administer and provide day-to-day management of the joint insurance fund. The administrator may also be the lead agency, an employee of the fund, a fund member, or an independent contractor.

“Automobile and equipment liability” means liability resulting from the use or operation of motor vehicles, equipment or apparatus owned by or controlled by the local unit or owned by or under the control of any subdivisions thereof including its departments, boards, agencies, commissions or other entities which the local unit may provide coverage for under N.J.S.A. 40A:10-2.

“Blanket bond coverage” means coverage of certain county or municipal officers and employees for faithful performance and discharge of their duties as provided under N.J.S.A. 40A:5-34.1.

“Chairman” means the chairman of the fund commission, elected by the commission pursuant to N.J.S.A. 40A:10-37.

“Commissioner” means the Commissioner of the Department of Banking and Insurance.

“Department” means the New Jersey Department of Banking and Insurance.

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“Employers' liability” means the legal liability of a public employer to pay damages because of bodily injury or death by accident or disease at any time resulting therefrom sustained by an employee arising out of and in the course of his employment by the public employer, which is not covered by a workers' compensation law.

“Environmental impairment liability fund” means a joint insurance fund formed for the sole purpose of insuring against bodily injury and property damage claims arising from environmental liability and legal representation therefor to the extent and for coverages set forth in this subchapter.

“Excess carrier” means an insurer that provides excess insurance or reinsurance to a fund.

“Excess insurance” means insurance, purchased from an insurance company authorized or admitted in the State of New Jersey or deemed eligible by the Commissioner as a surplus lines insurer, or from any other entity authorized to provide such coverage in this State pursuant to law, covering losses in excess of an amount established between the joint insurance fund and the insurer up to the limits of coverage set forth in the insurance contract on a specific per occurrence, or per accident, or annual aggregate basis.

“Executive committee” means the committee of insurance fund commissioners, as provided in N.J.S.A. 40A:10-36 et seq.

“Fiscal year” or “fund year” means the calendar year January 1 through December 31.

“General liability” means any and all liability which may be insured under the laws of the State of New Jersey, excluding workers' compensation and employers' liability.

“Hazardous financial condition” means that, based on its present or reasonably anticipated financial condition, a fund, although not yet financially impaired or insolvent, is unlikely to be able:

1. To meet obligations to claimants with respect to known claims and reasonably anticipated claims; or
2. To pay other obligations in the normal course of business.

“Indemnity and trust agreement” means a written contract signed by the members of the joint insurance fund under which each agrees to jointly and severally assume and discharge the liabilities of each and every party to such agreement arising from their participation in the fund.

“Insolvent fund” means a joint insurance fund which has been determined by a court of competent jurisdiction to be unable to pay its outstanding lawful obligations as they mature in the regular course of business, as may be shown either by an excess of its required reserves and other liabilities over its assets or by its not having sufficient assets to reinsure all of its outstanding liabilities after paying all accrued claims owed by it, or for which,

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or for the assets of which, a receiver or liquidator, however entitled, has been appointed by a court of competent jurisdiction and authority, after the effective date of this subchapter.

“Insurer” means any corporation, association, partnership, reciprocal exchange, interinsurer, Lloyd's insurer or other person engaged in the business of insurance pursuant to Subtitle 3 of Title 17 of the Revised Statutes.

“Intertrust fund transfer” means an actual transfer of funds from one claim or loss retention fund account in a fiscal year to another account within the same fiscal year.

“Interyear fund transfer” means the transfer of funds from a claim or loss retention trust account for a fiscal year, to a claim or loss retention trust account of similar risk or liability for a different fiscal year.

“Joint insurance fund” or “Fund” means a group organized by two or more local units of government to establish an insurance fund for the purposes of insuring and/or self-insuring against liability, property damage, and workers' compensation, or for the sole purpose of insuring against bodily injury and property damage claims arising from environmental impairment liability and legal representation therefor, to the extent and for coverages approved by the Commissioner pursuant to the authority of N.J.S.A. 40A:10-36 et seq. and this subchapter.

“Joint insurance fund commissioners” means local unit representatives chosen to represent those units in the fund, as provided in N.J.S.A. 40A:10-36 et seq.

“Lead agency” means a member of the joint insurance fund responsible for the custody and maintenance of the assets of the fund and such other duties as may be designated by the joint insurance fund commissioners. The duties performed by a lead agency may include duties that may be performed by an administrator or servicing organization.

“Local unit of government” or “local unit” means a county, municipality, county vocational school (pursuant to N.J.S.A. 18A:18B-8 and 40A:10-50), county college (pursuant to N.J.S.A. 18A:64A-25.40 and 40A:10-51), any contracting unit as defined in N.J.S.A. 40A:11-2, boards of education of certain school districts, to the extent permitted pursuant to N.J.S.A. 40A:10-52 through 57, and non-profit housing entities as defined by and subject to the limitations and requirements of N.J.S.A. 40A:10-36.3, when such entities choose to establish a joint insurance fund with other non-profit housing entities pursuant to N.J.S.A. 40A:10-36.3 and in accordance with N.J.A.C. 11:15-6, or to join a joint insurance fund pursuant to N.J.S.A. 40A:10-36.3 et seq. and in accordance with N.J.A.C. 11:15-2.3.

“Net current surplus” or “surplus” means that amount of monies in a trust account established pursuant to N.J.A.C. 11:15-2.6(b)10 that is in excess of all costs, earned investment income, refunds made pursuant to N.J.A.C. 11:15-2.21, incurred losses and loss adjustment expenses and incurred but not reported reserves, including the associated loss adjustment expenses attributed to the fund net of any recoverable per occurrence or aggregate excess insurance or reinsurance for a particular year.

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“Producer” means any person engaged in the business of an insurance agent, insurance broker or insurance consultant as defined in N.J.S.A. 17:22A-1 et seq.

“Property damage” means any loss or damage, however caused, on property, motor vehicles, equipment or apparatus owned by the local unit or owned by or under the control of any of its departments, boards, agencies, commissions, or other entities which the local unit may provide coverage for under N.J.S.A. 40A:10-2.

“Secretary” means the secretary of the fund commission elected by the commission pursuant to N.J.S.A. 40A:10-37.

“Servicing organization” means an individual, partnership, association or corporation, other than the administrator, that has contracted with the fund to provide, on the fund's behalf, any function as designated by the fund commissioners including, but not limited to, actuarial services, claims administration, cost containment services, loss prevention/safety engineering services, legal services, auditing services, financial services, compilation and maintenance of the fund's underwriting file, coordination and preparation of coverage documents, risk selection and pricing, excess insurance or reinsurance producer services, which include producer negotiations on behalf of the fund for excess insurance or reinsurance from an insurer, member assessment and fee development, report preparation pursuant to N.J.S.A. 40A:10-36 et seq. and this subchapter, and such other duties as designated by the fund.

“Unpaid claims” or “unpaid losses” means case reserves and reserves for incurred but not reported claims attributed to the fund net of any recoverable per occurrence or aggregate excess insurance or reinsurance for a particular year.

“Workers' compensation law” means the provisions of N.J.S.A. 34:15-7 et seq.

Amended by R.1989 d.507, effective September 18, 1989; R.1991 d.16, effective January 7, 1991; R.1995 d.408, effective August 7, 1995; R.1996 d.534, effective November 18, 1996; R.1999 d.350, effective October 18, 1999; R.2005 d.112, effective April 4, 2005; R.2005 d.263, effective August 15, 2005.

CHAPTER EXPIRATION DATE

<Chapter 15, Group Self-Insurance, expires on July 2, 2015.>

HISTORICAL NOTES

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1989. See: 21 N.J.R. 3051(b), 21 N.J.R. 3017(a).

1991. See: 22 N.J.R. 16(a), 23 N.J.R. 112(a).

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→→ **11:15-2.3 Agreement to join joint insurance fund; duration**

(a) Pursuant to N.J.S.A. 40A:10-36, the governing body of any local unit of government may by resolution agree to join together with any other local unit or units to establish a joint insurance fund as defined in this subchapter. The resolution shall provide for execution of a written agreement specifically providing for acceptance of the fund's bylaws as approved and adopted pursuant to N.J.S.A. 40A:10-39. The agreement shall specify the extent of the local unit's participation in the fund with respect to the types of insurance coverage to be provided by the fund and shall include the duration of fund membership, which in no event shall exceed three years, pursuant to N.J.S.A. 40A:11-15(6). The agreement shall also specify that the fund members have never defaulted on claims if self-insured and have not been cancelled for non-payment of insurance premiums for a period of at least two years prior to application.

1. Pursuant to N.J.S.A. 40A:10-36.3 et seq., non-profit housing entities as defined by N.J.S.A. 40A:10-36.3 may establish a joint insurance fund comprised only of other non-profit housing entities. Any such joint insurance fund so established shall comply with the provisions of N.J.A.C. 11:15-6.

2. Non-profit housing entities, as defined by N.J.S.A. 40A:10-36.3, may join a joint insurance fund comprised either of other non-profit housing entities, housing authorities, or a combination thereof. No such joint insurance fund shall, however, have as its members local units that are municipalities, counties, boards of education, or fire districts. Any joint insurance fund comprised solely of non-profit housing entities shall comply with the provisions of N.J.A.C. 11:15-6.

3. Notwithstanding any provision of law to the contrary, a joint insurance fund established pursuant to N.J.S.A. 40A:10-36.3 that includes non-profit housing entities as members shall not join together with other local units as otherwise provided in N.J.S.A. 40A:10-36.3 for the purpose of providing contributory or non-contributory group health insurance or group term insurance, or both, to employees or their dependents or both.

4. Notwithstanding any provision of law to the contrary, a joint insurance fund established pursuant to N.J.S.A. 40A:10-36.3 that includes non-profit housing entities as members may participate in joint insurance funds:

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i. Where the membership is exclusively comprised of other joint insurance funds and whose purpose is to provide excess levels of coverage;

ii. Where the membership is exclusively comprised of other joint insurance funds and whose purpose is to accept the transfer of residual claims liabilities; or

iii. Whose purpose is to provide environmental impairment liability insurance.

5. A joint insurance fund that has as its members non-profit housing entities shall operate pursuant to the provisions of N.J.S.A. 40A:10-36 et seq.

(b) A joint insurance fund formed pursuant to N.J.S.A. 40A:10-36 et seq. and this subchapter shall have the power to insure, contract or provide for any insurable interest of the member solely for the purposes set forth in N.J.A.C. 11:15-2.1(a).

(c) Members may renew their participation by the execution of a new agreement to rejoin the joint insurance fund. If the existing resolution did not specify the duration of fund membership, the member shall affirm the new membership agreement by resolution. If the existing resolution specified the duration for fund membership, the member shall either amend the existing resolution, or adopt a new resolution, as appropriate, to authorize the continued participation in the joint insurance fund prior to the execution of the new membership agreement. In lieu of filing with the Department and the Department of Community Affairs copies of the new resolution and new indemnity and trust agreement referred to in N.J.A.C. 11:15-2.6(b)10 for each member's renewal of membership, the fund shall file a notice with the Department which sets forth the members that have renewed membership and the respective durations of such membership, as well as the members that have not rejoined the fund.

(d) For purposes of N.J.S.A. 40A:10-52, the governing body of any municipality and the board of education of the local school district operating within that municipality may, subject to N.J.S.A. 40A:10-52, by resolution, agree to join together for purposes of insuring coverages as set forth in that statute, provided that the district is not part of a limited purpose regional school district, an all purpose regional school district, or a consolidated school district. All purpose regional school districts, consolidated school districts, limited purpose regional school districts, the board of education of local school districts which are part of a limited purpose regional school district as described above, and county vocational school districts and the board of education of local school districts within a county vocational school district, may otherwise agree to join together with one or more constituent municipalities for the purposes of insuring coverages as described in and in accordance with N.J.S.A. 40A:10-53 to 57, as applicable. The board of education of a local or regional school district, consolidated school district or county vocational school district may not otherwise join with any municipality to form a fund pursuant to N.J.S.A. 40A:10-36 et seq. for the purpose of insuring coverages of the kinds set forth in N.J.S.A. 40A:10-52 to 57, except pursuant to this subsection. Notwithstanding any other provision to the contrary, no board of education, except the board of education of county vocational school districts, may join together with a municipality or other local unit for the purpose of providing contributory or non-contributory group health insurance or term life insurance, or both, to employees or their dependents, or both, as otherwise permitted pursuant

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→→ **11:15-2.4 General requirements**

(a) Every joint insurance fund shall be subject to and operate in compliance with the provisions of the “Local Fiscal Affairs Law” (N.J.S.A. 40A:5-1 et seq.), the “Local Public Contracts Law” (N.J.S.A. 40A:11-1 et seq.), regulations (including, but not limited to, N.J.A.C. 5:34), the various statutes authorizing the investment of public funds, including but not limited to, N.J.S.A. 40A:10-10(b), 40A:10-38, 17:12B-241 and 17:16I-1 et seq., and in the case of a joint insurance fund providing environmental impairment liability coverage, the “Local Bond Law” (N.J.S.A. 40A:2-1 et seq.), but shall not be subject to the debt limitation set forth in N.J.S.A. 40A:2-6.

(b) All monies, assessments, funds and other assets of a joint insurance fund shall be under the exclusive control of its board of insurance fund commissioners or executive committee, as applicable.

(c) A joint insurance fund shall be considered a local unit for purposes of the “Local Public Contracts Law” (N.J.S.A. 40A:11-1 et seq.) and shall be governed by the provisions of that law in the purchase of any goods, materials, supplies and services.

(d) Each joint insurance fund shall utilize as its fiscal year, the calendar year, January 1 through December 31.

(e) Each joint insurance fund shall adopt a resolution designating a public depository or depositories for its monies pursuant to N.J.S.A. 40A:5-14. Such resolution shall also designate a person to be custodian of funds for the joint insurance fund and shall authorize the custodian to invest the temporarily free balances of any claim/trust or administrative accounts periodically as authorized by law. The custodian of funds shall possess a certified municipal finance officer certificate issued pursuant to N.J.S.A. 40A:9-140.2, or to the extent the fund is comprised of entities other than municipalities, possess the appropriate professional credentials required by the Department of Community Affairs pursuant to the “Local Fiscal Affairs Law” (N.J.S.A. 40A:5-1 et seq.). The custodian shall report to the fund commissioners at least quarterly on investment and interest income.

(f) The joint insurance fund commissioners shall annually prepare in November of each year the proposed budget for the fund's subsequent fiscal year. The budget shall identify the proposed items and amounts of expenditure for its operations in the aggregate and allocated by member, the anticipated amounts and sources of assessments and other income to be received during the fiscal year, and the status of the self-insurance or loss retention trust accounts maintained by the joint insurance fund. The budget shall be prepared on a basis that does

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not recognize investment income or discounting of claim reserves, but recognizes all anticipated or forecasted losses and administrative expenses associated with that fiscal year.

1. A copy of the fund's proposed budget or any amendments thereto shall be made available to each member of the joint insurance fund at least two weeks prior to the time scheduled for its adoption. No budget or amendment shall be adopted until a public hearing has been held in accordance with N.J.S.A. 40A:4-1 et seq. giving all members of the joint insurance fund the opportunity to present comments or objections.

2. Not later than December 31 of each year, the joint insurance fund commissioners, or the executive committee thereof, shall adopt by majority vote the budget for the fund's operations for the subsequent fiscal year.

3. An adopted budget may be amended by majority vote of the membership of the joint insurance fund commissioners, or executive committee thereof.

4. A copy of each adopted budget shall be filed with the governing body of each participating local unit, the Commissioner and the Commissioner of the Department of Community Affairs within 30 days of its adoption, including a certification by an actuary that the budget is actuarially sound with respect to funding for the claim or loss retention fund accounts.

5. A copy of any amendment to a fund budget shall be filed quarterly with the governing body of each participating local unit.

6. A copy of any amendment to a fund budget shall be filed with the Commissioner and the Commissioner of the Department of Community Affairs within 30 days of the adoption of any budget amendment which either singly or cumulatively with other adopted budget amendments changes the total budget five percent from the original budget or the latest filed amended budget.

(g) All books, records, files, documents and equipment of the joint insurance fund are the property of the fund, except as provided at N.J.A.C. 11:15-2.22(e), and shall be retained by the secretary of the fund or fund administrator at the discretion of the fund commissioners or executive committee.

1. All claims information for a particular fund year and all financial information shall be retained for a period not less than the longer of either:

i. For financial information, seven years from the date of their creation; for claims information, seven years after all claims for that year have been fully paid; or

ii. Until the completion and filing of the next financial condition examination of the fund by the Commissioner.

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→→ **11:15-2.5 Bylaws and plan of risk management; filing requirements**

(a) Each joint insurance fund shall file with the Department for approval by the Commissioner and the Commissioner of the Department of Community Affairs, as provided in N.J.S.A. 40A:10-41, its bylaws and plan of risk management and any amendments thereto. In addition, the initial filing shall contain and be accompanied by the information and documentation specified at N.J.A.C. 11:15-2.6, and such other information as the Commissioner may request. All filings shall be in loose-leaf form inserted into standard two-ring or three-ring binders tabbed or otherwise indexed to correspond to the requirements set forth in N.J.A.C. 11:15-2.6. The loose-leaf sheets used shall be eight and one-half inches wide by 11 inches long and punched for two-ring and three-ring binders, as appropriate. The fund shall submit five copies of a filing in the format set forth in this subsection to the Department and one copy to the Department of Community Affairs. All information shall be submitted completely and accurately.

(b) All of the information and documentation set forth in N.J.A.C. 11:15-2.6 shall constitute the fund's bylaws and plan of risk management for purposes of N.J.S.A. 40A:10-41. No joint insurance fund shall begin providing insurance coverage to its member units until its bylaws and plan of risk management, including all of the information required pursuant to N.J.A.C. 11:15-2.6, have been approved by the Commissioner.

(c) No amendment to a fund's bylaws or plan of risk management shall take effect until such amendment is approved by the Commissioner.

(d) Within 10 days following any change in the information or documentation required to accompany the filing of the fund's bylaws or amendments thereto, as provided in (a) above, the fund shall file notice of the change, with the Department and the Department of Community Affairs.

(e) The bylaws and plan of risk management and all information required to accompany the initial filing shall set forth an identifying number or code and the filing date on each page of the specific document filed. For example, each page of the bylaws shall set forth an identifying number or code; each page of the plan of risk management shall set forth a different identifying number or code; the sample resolution and trust agreement shall set forth a different identifying number or code; etc. Any amendment or supplemental form to any information previously filed shall contain the original identifying number or code, indicate that the document is an amendment or supplement to the information previously filed, and set forth the date of revision.

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(f) In addition to the information set forth in N.J.A.C. 11:15-2.6, the fund shall provide a cover letter stating the name, telephone number(s) and telefax number(s) of two contact persons (one primary, one secondary) familiar with the filing to whom the Department may direct any questions, as well as the fund's official mailing address for the purpose of disseminating Department information, in accordance with N.J.A.C. 11:1-25.

(g) All information required to be submitted shall be sent to the Department and the Department of Community Affairs at:

1. New Jersey Department of Banking and Insurance

Division of Financial Examinations

Attn: Municipal JIF Admissions

20 West State Street

CN 325

Trenton, NJ 08625-0325; and

2. New Jersey Department of Community Affairs

Division of Local Government Services

101 South Broad Street

CN-803

Trenton, NJ 08625-0803

Emergency amendment, R.1984 d.616, effective December 24, 1984 (expires February 22, 1985). Adopted by R.1985 d.128, effective February 22, 1985. Amended by R.1995 d.408, effective August 7, 1995; R.1996 d.534, effective November 18, 1996.

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→→ **11:15-2.6 Bylaws and plan of risk management; contents**

(a) The commissioners of a joint insurance fund shall prepare and, after the approval, by resolution, of the governing body of each participating local governmental unit, shall adopt bylaws for the joint insurance fund. The bylaws shall include, but not be limited to:

1. Procedures for the organization and administration of the joint insurance fund, the insurance fund commissioners and alternates and, if appropriate, the executive committee of the fund and alternates. The procedures may include the designation of one member local unit to serve as the lead agency;
2. Procedures for the assessment of members for their contributions to the fund and for the collection of contributions in default;
3. Procedures for the establishment, maintenance and administration of appropriate reserves in accordance with sound actuarial principles;
4. Procedures for the purchase of direct insurance or reinsurance if any;
5. Contingency plans for paying losses in the event that the fund is exhausted, including provision for supplemental assessments as provided at N.J.A.C. 11:15-2.16;
6. Procedures governing loss adjustment and legal fees;
7. Procedures for the joining of the fund by a non-member local unit;
8. Procedures in compliance with N.J.A.C. 11:15-2.10 for the withdrawal or expulsion from the fund by a local unit, including any requirement that a terminated or withdrawing member provide security in a form and amount acceptable to the Commissioner and fund commissioners as applicable, as a guarantee for the continued payment of the member's obligations pursuant to N.J.A.C. 11:15-2.10(c);

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9. Procedures for the termination and liquidation of the joint insurance fund and the payment of its outstanding obligations; and

10. Procedures governing trust fund accounts, including transfers, withdrawals and distribution of surplus therefrom and supplemental assessments.

(b) In addition, the bylaws shall:

1. Include the fund's name, location of its principal office, date of organization, and name and address of each initial member;

2. Specify the insurance coverages to be provided by the fund and the minimum participation required of any member;

3. Describe the responsibilities and obligations of the participants, the terms and conditions of continued participation and discontinuance of participation in the fund;

4. Be accompanied by a pro forma financial statement, with underlying assumptions and methodology, on a form acceptable to the Commissioner showing the financial strength and liquidity of the fund to assure that all obligations will be met promptly;

5. Where self-insured, provide a plan for specific and aggregate excess insurance or reinsurance and for retention in accordance with sound actuarial principles and the plan of risk management;

6. Be accompanied by proof of competent personnel and ample facilities within the fund organization with respect to claims administration, underwriting matters, loss prevention and safety engineering or present a contract with a servicing organization for the provision of such services;

7. Establish the claims handling procedure to be utilized by the fund which procedure shall provide for the prompt, fair and equitable settlement of claims;

8. Establish the complaint handling procedure to be utilized by the fund;

9. Be accompanied by a sample copy of the resolution and written agreement adopted by each participating local unit as specified at N.J.A.C. 11:15-2.3. Within 30 days of approval, the fund shall send certified copies of the resolution and written agreement from each participant to the Commissioner and to the Commissioner of the Department of Community Affairs;

10. Be accompanied by a sample copy of its indemnity and trust agreement as defined in N.J.A.C. 11:15-2.2

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, and in a form satisfactory to the Commissioner.

i. The agreement shall create a trust and govern the operation thereof under which monies shall be held by the fund commissioners as fiduciaries for the benefit of fund claimants.

ii. Where a fund, other than an environmental impairment liability fund, shall provide for the retention on a self-insured basis of any or all of the risks or liabilities specified in (b)10ii(1) through (4) below, the agreement shall require and provide for the establishment of separate trust accounts from which monies shall be disbursed solely for the payment of claims, allocated claims expenses and excess insurance or reinsurance premiums for each risk or liability, and may provide for the establishment of contingency accounts, each by fund year, as follows:

(1) Workers' compensation and employers' liability;

(2) Liability, other than motor vehicle;

(3) Property damage, including automobile physical damage;

(4) Automobile liability;

(5) General contingencies, if deemed appropriate by the fund, to replenish the administrative account established pursuant to N.J.A.C. 11:15-2.14 for that specific fund year; and

(6) Loss fund contingencies, if deemed appropriate by the fund, to replenish a trust account established pursuant to (b)10ii(1) through (4) above for that specific fund year; and where the total amount of monies assessed and allocated to the accounts established pursuant to (b)10ii(1) through (4) and this subparagraph (b)10ii(6) are utilized to satisfy the amounts estimated by the fund's actuary to be necessary to pay claims, allocated claims expenses and excess insurance or reinsurance premiums for each risk or liability set forth in (b)10ii(1) through (4) above for that fund year.

iii. Where an environmental impairment liability fund shall provide for the retention on a self-insured basis of any or all of the risks or liabilities specified in (b)10iii(1) through (3) below, or where the fund has issued bonds pursuant to N.J.S.A. 40A:10-38.1 and this subchapter, the agreement shall require and provide for the establishment of separate trust accounts from which monies shall be disbursed solely for the payment of claims, allocated claims expenses and excess insurance or reinsurance premiums for each risk or liability, and for the service of the debt on any bonds issued, and may provide for the establishment of contingency accounts, each by fund year, as follows:

(1) Legal or defense services;

N.J. Admin. Code tit. 11, 11:15-2.6

(2) Environmental management or risk management services;

(3) Any bodily injury or property damage liability or other coverages, separated by specific coverage, for which individual members join the fund for coverage, including, but not limited to, above-ground/underground storage tank and/or off-site storage/spills, sudden and accidental spills, and third-party liability;

(4) Debt service for any bonds issued pursuant to N.J.S.A. 40A:10-38.1;

(5) General contingencies, if deemed appropriate by the fund, to replenish the administrative account for that specific fund year as set forth in (b)10ii(5) above; and

(6) Loss fund contingencies, if deemed appropriate by the fund, to replenish a trust account established pursuant to (b)10iii(1) through (3) above for that specific fund year; and where the total amount of monies assessed or raised through the issuance of any bonds and allocated to the accounts established pursuant to (b)10iii(1) through (3) and this subparagraph (b)10iii(6) are utilized to satisfy the amounts estimated by the fund's actuary to be necessary to pay claims, allocated claims expenses and excess insurance or reinsurance premiums for each risk or liability set forth in (b)10iii(1) through (3) above for that fund year.

iv. In addition to the accounts set forth in (b)10iii above, an environmental impairment liability fund that issues bonds shall establish a separate contingency account in accordance with N.J.A.C. 11:15-2.13 (b).

v. A fund shall not be otherwise required to establish separate trust accounts as required by (b)10ii or iii above for each fund year, or for each risk or liability as specified in (b)ii and (b)iii above, provided the fund provides a plan in its bylaws which provides for the recording and accounting of all transactions by fund year for each risk or liability as specified in (b)ii and (b)iii above, as applicable.

vi. Within 30 days of approval, the fund shall send certified copies of the indemnity and trust agreement from each participant to the Commissioner and the Commissioner of the Department of Community Affairs;

11. Provide procedures for the establishment, maintenance and administration of reserves for unearned assessments, loss reserves and loss expense reserves and for the determination and distribution of assessment and/or investment refunds, in accordance with sound actuarial principles;

12. With respect to the funds providing for self-insurance of workers' compensation liabilities, the bylaws of each fund shall:

N.J. Admin. Code tit. 11, 11:15-2.6

i. Guarantee benefit levels equal to those required by the workers' compensation law and other applicable statutes and provide a plan for the prompt payment of such benefits. Information documenting an individual member's financial strength and liquidity shall be made available to the Department upon the Department's written request and in a form specified by the Department;

ii. Mandate a minimum contribution of at least \$250,000 for the fund's first year of operation and thereafter the minimum contribution shall be at least \$500,000 for each subsequent year of operation unless approved by the Commissioner;

iii. Unless otherwise approved by the Commissioner, provide for assessments based upon the Experience Rating Plan provided for in the New Jersey Workers' Compensation and Employers' Liability Insurance Manual on file with the Commissioner;

13. Be accompanied by copies of duly executed resolutions by two or more local units evidencing their intent to form the fund; and

14. Be accompanied by a non-refundable filing fee in the amount of \$1,500.

(c) The bylaws shall be accompanied by the following information and documentation and any amendments thereto:

1. Designation of the fund commissioners, executive committee, if any, chairman, secretary, administrator and custodian of the fund's assets;

2. Copies of the fund's prospective and executed agreements or contracts and any renewal or new agreements or contracts with any administrator, servicing organization or custodian of the fund's assets. Such agreements or contracts shall specify the duties of, and compensation to be paid to, each such entity. Copies of the above shall be accompanied by a list of all parties having or deriving any interest, right or benefit in the servicing organization or administrator, as well as any services to be performed which are subcontracted;

i. To the extent the terms and conditions of any renewal agreement or contract and the parties thereto remain unchanged from the prior year, a copy of the renewal agreement or contract shall not be required. In lieu of filing a copy of the renewal agreement or contract, the fund shall file a notice with the Department and Department of Community Affairs in the format of Exhibit A in the Appendix, incorporated herein by reference, that the agreement has been renewed, and that the terms and conditions of the agreement or contract and parties thereto remain unchanged from the prior year.

ii. Copies of any changes to the agreements or contracts shall be filed with the Department and Department of Community Affairs within 10 days after such changes are approved by the fund;

N.J. Admin. Code tit. 11, 11:15-2.6

3. A fidelity bond for all persons handling fund assets in a form and amount acceptable to the Commissioner;
4. A surety bond for the claims administrator or any other servicing organization deemed necessary by the Commissioner in a form and amount acceptable to the Commissioner; and a surety bond for any other servicing organization as deemed appropriate by the fund commissioners in a form and amount acceptable to the fund commissioners;
5. Evidence of errors and omissions insurance coverage for the servicing organization(s), administrator and producer, if employed by the fund, who negotiates excess insurance or reinsurance on behalf of the fund;
6. A designation and appointment of an agent in New Jersey to receive service of process on behalf of the fund as well as the address in this State where the books and records of the fund will be maintained at all times;
7. A list of commissioners, officers and executive committee members, updated annually;
8. Data forms, in the format set forth in Exhibit B in the Appendix, incorporated herein by reference, incorporating the appropriate and necessary professional qualifications for senior officers and directors of the administrator and servicing organizations providing services to the fund updated and submitted to the Commissioner annually. An entity providing services to more than one fund may submit one data form for all funds formed pursuant to this subchapter which the entity services;
 - i. To the extent the information contained in the data forms remains unchanged from the prior year, the fund need not file updated forms, provided that the fund files a notice with the Department and Department of Community Affairs, in the format of Exhibit C in the Appendix, incorporated herein by reference, that the same individuals are utilized and that the information in the data forms remains unchanged from the prior year.
9. Copies of each insurance or reinsurance policy purchased by the fund;
10. A description of any producer arrangement plan by which producers, who shall be licensed pursuant to N.J.S.A. 17:22A-1 et seq., represent members in their dealings with the fund. The description shall include, but not be limited to, copies of all producer contracts, which shall include a description of the producer's obligations, responsibilities and compensation; the duration of such contracts; and an indication whether the contracts are subject to renewal. Copies of renewal contracts or a notice of renewal shall also be provided consistent with the requirements set forth in (c)2 above.
 - i. The compensation paid to producers shall be reasonable. The Commissioner may disapprove any arrangement if he or she determines that the terms of the arrangement are unreasonable;

N.J. Admin. Code tit. 11, 11:15-2.6

11. A cash management plan, which shall include the designation of depository institution(s) for the holding of fund monies and the fund's investment policy; and

12. A copy of the application form to be utilized by the fund for prospective new members applying for membership in the fund.

(d) Each joint insurance fund shall, concurrently with the filing of its bylaws as provided at N.J.A.C. 11:15-2.5 (a), file its plan of risk management and any amendment thereto with the Department as provided in N.J.S.A. 40A:10-41 containing the information as specified in (e) below.

(e) The commissioners shall prepare, or cause to be prepared, a plan of risk management for the joint insurance fund. The plan description shall include, but not be limited to:

1. The perils or liability to be insured against;
2. The limits of coverage, whether self-insurance, direct insurance purchased from a commercial carrier, or reinsurance;
3. The amount of risk to be retained by the fund;
4. The amount of unpaid claims to be established;
5. The proposed method of assessing contributions to be paid by each member of the fund;
6. Procedures governing loss adjustment and legal fees;
7. Coverage to be purchased from a commercial insurer, if any;
8. Reinsurance to be purchased, if any, and the amount of premium therefor.
9. Procedures for the closure of fund years including the maintenance of all relevant accounting records;
10. The assumptions and methodology used for the calculation of appropriate reserves required to be established, maintained and administered in accordance with sound actuarial principles pursuant to (a)3 above;
11. The maximum amount a certifying and approving officer may approve for payment pursuant to N.J.A.C. 11:15-2.22;

N.J. Admin. Code tit. 11, 11:15-2.6

12. For environmental impairment liability funds, a full description of all coverages to be provided, including, but not limited to, defense services, environmental management or risk management services, above-ground/underground storage tank and/or off-site storage/spills involving sudden and accidental claims, and third-party liability claims; and

13. For funds providing blanket bonds pursuant to N.J.S.A. 40A:5-34.1 that include treasurers, tax collectors, municipal court judges and administrators, by whatever title known, underwriting guidelines that include, but are not limited to, background checks and credit checks for such individuals covered by the blanket bond.

(f) The Commissioner may, at the time of filing of the bylaws and plan of risk management and whenever thereafter he or she deems it expedient, make or cause to be made, an examination of the assets and liabilities, financial condition, method of conducting business and all other affairs of any fund. For the purpose of the examination, the Commissioner may retain attorneys, appraisers, independent actuaries, independent certified public accountants or other professionals or specialists as examiners, or may request the fund commissioners or the executive committee, if any, to authorize and employ such person or persons to conduct the same or to assist therein as he or she deems advisable. The reasonable expenses of the examination shall be fixed and determined by the Commissioner, and such expenses shall be paid by the fund examined to the appropriate entity or person upon presentation of a detailed account.

1. For purposes of completing an examination of any fund pursuant to N.J.S.A. 40A:10-47 and this subchapter, the Commissioner may examine or investigate any person, or the business of any person, insofar as such examination or investigation is, in the sole discretion of the Commissioner, necessary or material to the examination of the fund.

2. Every fund or person from whom information is sought, including its officers, directors and agents, shall provide the Commissioner or other person appointed as an examiner pursuant to this subsection, timely, convenient, and free access at all reasonable hours at its offices to all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the fund being examined.

3. The administrator and servicing organization(s), and their officers, directors, employees and agents, or other person, shall facilitate the examination and aid in the examination so far as it is in their power to do so. The Commissioner may, in accordance with the procedures set forth in N.J.A.C. 11:15-2.8, suspend or terminate the authority of any fund, if the fund, by its administrator, servicing organizations, or officers, directors, employees, or agents thereof, refuses to submit to an examination or to comply with any reasonable request of the examiners.

Amended by R.1991 d.16, effective January 7, 1991; R.1995 d.408, effective August 7, 1995; R.1996 d.534, effective November 18, 1996; R.1999 d.350, effective October 18, 1999; R.2003 d.366, effective September 15, 2003; R.2007 d.68, effective February 20, 2007.

N.J. Admin. Code tit. 11, 11:15-2.7

New Jersey Administrative Code Currentness

Title 11. Department of Banking and Insurance Division of Insurance

Chapter 15. Group Self-Insurance (Refs & Annos)

▣ Subchapter 2. Joint Insurance Funds for Local Governmental Units Providing Property and Liability Coverages

→ → **11:15-2.7 Disapproval of bylaws and plan of risk management**

If the Commissioner determines that the bylaws or plan of risk management of the fund or any subsequent amendments thereto do not contain all of the information set forth in N.J.A.C. 11:15-2.6, are not submitted in the proper format set forth in N.J.A.C. 11:15-2.5, or otherwise do not meet the requirements of N.J.S.A. 40A:10-36 et seq. or this subchapter, the Commissioner shall disapprove the bylaws or plan of risk management and notify the fund in writing, which notice shall contain the specific reasons for disapproval, and the requirements to be met before approval may be granted. If not disapproved by the Commissioner within 30 working days of receipt of the bylaws and plan of risk management or any amendments or changes thereto, which contain all of the information and documentation set forth in N.J.A.C. 11:15-2.6, in the format set forth in N.J.A.C. 11:15-2.5, and which meet the requirements of N.J.S.A. 40A:10-36 et seq. and this subchapter, the bylaws and plan shall be deemed approved.

Amended by R.1995 d.408, effective August 7, 1995; R.1996 d.534, effective November 18, 1996.

CHAPTER EXPIRATION DATE

<Chapter 15, Group Self-Insurance, expires on July 2, 2015.>

HISTORICAL NOTES

Source:

1995. See: 26 N.J.R. 2725(a), 26 N.J.R. 3592(a), 27 N.J.R. 2938(a).

1996. See: 28 N.J.R. 4027(a), 28 N.J.R. 4877(a).

11:15-2.7, NJ ADC 11:15-2.7

November 21, 2011; 43 N.J. Reg. No. 22

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N.J. Admin. Code tit. 11, 11:15-2.8

New Jersey Administrative Code Currentness

Title 11. Department of Banking and Insurance Division of Insurance

Chapter 15. Group Self-Insurance (Refs & Annos)

Subchapter 2. Joint Insurance Funds for Local Governmental Units Providing Property and Liability Coverages

→ → 11:15-2.8 Revocation of approval

(a) After notice and opportunity for a hearing, the Commissioner may suspend or terminate the authority of any fund, or direct or take any action deemed necessary for good cause, to enable a fund to meet its obligations, cover its expected losses, or to liquidate, rehabilitate or otherwise modify its affairs if a fund:

1. Is found to be insolvent or has experienced a deterioration in financial condition to the extent that it causes or may cause an adverse affect upon the ability of the fund to pay expected losses;
2. Fails to pay any fee or assessment;
3. Fails to pay any claim within 30 days after a final judgment is rendered against the fund or the fund's obligation for such claim otherwise becomes final;
4. Fails to comply with any of the provisions of N.J.S.A. 40A:10-36 et seq. or this subchapter, or with any lawful order of the Commissioner with the time prescribed; or
5. Fails to follow its approved bylaws or plan of risk management.

(b) In addition, the Commissioner may suspend or terminate a fund's authority if, after notice and opportunity for hearing, he or she finds that:

1. There was a material misrepresentation in any of the information supplied to the Commissioner or the Commissioner of the Department of Community Affairs;
2. The fund, or any of its commissioners, administrator, servicing organization or agents has otherwise shown itself to be untrustworthy or incompetent; or
3. The fund, its commissioners, administrator, servicing organization or agents has misappropriated, converted, illegally withheld, or refused to pay over upon proper demand any monies that belong to a member, an employee of a member, or a person otherwise entitled thereto.

N.J. Admin. Code tit. 11, 11:15-2.9

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Title 11. Department of Banking and Insurance Division of Insurance

Chapter 15. Group Self-Insurance (Refs & Annos)

▣ Subchapter 2. Joint Insurance Funds for Local Governmental Units Providing Property and Liability Coverages

→→ **11:15-2.9 Approval of nonmembers**

(a) Prospective new members of the fund shall submit an application for membership to the fund's commissioners, or executive committee, as applicable, on a form acceptable to the Commissioner. Such application shall include a copy of the resolution of participation and executed indemnity trust agreement. The commissioners or executive committee may approve or disapprove the application for additional members, pursuant to the bylaws of the fund.

(b) Any application approved by the fund shall within 15 days of approval by the fund be filed with the Department and the Department of Community Affairs and shall be accompanied by a revised budget with assessment detail, if otherwise required pursuant to N.J.A.C. 11:15-2.4(f)6, an actuarial statement regarding the adequacy of the member's assessment to cover anticipated losses; and any amendments to the fund's bylaws and plan of risk management as may be necessary. The fund shall file only the specific changes to the bylaws or risk management program in effect for the current fund year. Where a fund purchases direct insurance, or where an actuary has determined a "per capita" rate for the member's assessment to cover anticipated losses which has been previously filed with the Department, actuarial certification of the adequacy of these same rates for each new member is not required. The Commissioner may nevertheless require actuarial certification of a per capita rate for the new member's assessment to cover anticipated losses if, in his or her opinion, the new member will impose an extraordinary impact on the exposure of the fund. In addition, the fund shall file the following information in the form of Exhibit D in the Appendix incorporated herein by reference with the Department and Department of Community Affairs within 15 days after approval of a new member:

1. The name and address of the new member;
2. The effective date of coverage;
3. The name of the new member's risk manager;
4. The name of the new member's fund commissioners and alternates in accordance with N.J.A.C. 11:15-2.6 (a);
5. The lines of coverage for which the new member participates;

N.J. Admin. Code tit. 11, 11:15-2.9

6. The amount of assessment, if not otherwise provided; and

7. An affirmative statement from the fund that in accepting the new member, an application has been filed, the fund has adhered to its bylaws and plan of risk management and the agreement to participate and indemnity and trust agreement have been filed with the fund.

(c) If a non-member is not approved for membership, the fund shall set forth in writing the reasons for disapproval and send the reasons for disapproval to the non-member. The fund shall retain a copy of all membership application disapprovals for five years.

Amended by R.1991 d.16, effective January 7, 1991; R.1995 d.408, effective August 7, 1995; R.1996 d.534, effective November 18, 1996.

CHAPTER EXPIRATION DATE

<Chapter 15, Group Self-Insurance, expires on July 2, 2015.>

HISTORICAL NOTES

Source:

1991. See: 22 N.J.R. 16(a), 23 N.J.R. 112(a).

1995. See: 26 N.J.R. 2725(a), 26 N.J.R. 3592(a), 27 N.J.R. 2938(a).

1996. See: 28 N.J.R. 4027(a), 28 N.J.R. 4877(a).

11:15-2.9, NJ ADC 11:15-2.9

November 21, 2011; 43 N.J. Reg. No. 22

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Title 11. Department of Banking and Insurance Division of Insurance

Chapter 15. Group Self-Insurance (Refs & Annos)

Subchapter 2. Joint Insurance Funds for Local Governmental Units Providing Property and Liability Coverages

→ → **11:15-2.9 Approval of nonmembers**

(a) Prospective new members of the fund shall submit an application for membership to the fund's commissioners, or executive committee, as applicable, on a form acceptable to the Commissioner. Such application shall include a copy of the resolution of participation and executed indemnity trust agreement. The commissioners or executive committee may approve or disapprove the application for additional members, pursuant to the bylaws of the fund.

(b) Any application approved by the fund shall within 15 days of approval by the fund be filed with the Department and the Department of Community Affairs and shall be accompanied by a revised budget with assessment detail, if otherwise required pursuant to N.J.A.C. 11:15-2.4(f)6, an actuarial statement regarding the adequacy of the member's assessment to cover anticipated losses; and any amendments to the fund's bylaws and plan of risk management as may be necessary. The fund shall file only the specific changes to the bylaws or risk management program in effect for the current fund year. Where a fund purchases direct insurance, or where an actuary has determined a "per capita" rate for the member's assessment to cover anticipated losses which has been previously filed with the Department, actuarial certification of the adequacy of these same rates for each new member is not required. The Commissioner may nevertheless require actuarial certification of a per capita rate for the new member's assessment to cover anticipated losses if, in his or her opinion, the new member will impose an extraordinary impact on the exposure of the fund. In addition, the fund shall file the following information in the form of Exhibit D in the Appendix incorporated herein by reference with the Department and Department of Community Affairs within 15 days after approval of a new member:

1. The name and address of the new member;
2. The effective date of coverage;
3. The name of the new member's risk manager;
4. The name of the new member's fund commissioners and alternates in accordance with N.J.A.C. 11:15-2.6 (a);
5. The lines of coverage for which the new member participates;

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6. The amount of assessment, if not otherwise provided; and

7. An affirmative statement from the fund that in accepting the new member, an application has been filed, the fund has adhered to its bylaws and plan of risk management and the agreement to participate and indemnity and trust agreement have been filed with the fund.

(c) If a non-member is not approved for membership, the fund shall set forth in writing the reasons for disapproval and send the reasons for disapproval to the non-member. The fund shall retain a copy of all membership application disapprovals for five years.

Amended by R.1991 d.16, effective January 7, 1991; R.1995 d.408, effective August 7, 1995; R.1996 d.534, effective November 18, 1996.

CHAPTER EXPIRATION DATE

<Chapter 15, Group Self-Insurance, expires on July 2, 2015.>

HISTORICAL NOTES

Source:

1991. See: 22 N.J.R. 16(a), 23 N.J.R. 112(a).

1995. See: 26 N.J.R. 2725(a), 26 N.J.R. 3592(a), 27 N.J.R. 2938(a).

1996. See: 28 N.J.R. 4027(a), 28 N.J.R. 4877(a).

11:15-2.9, NJ ADC 11:15-2.9

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N.J. Admin. Code tit. 11, 11:15-2.10

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▣ Subchapter 2. Joint Insurance Funds for Local Governmental Units Providing Property and Liability Coverages

→ → **11:15-2.10 Termination and/or withdrawal of fund members**

(a) A member of the fund must remain a member for the full term of membership, as provided in the fund's bylaws, unless earlier terminated by the fund for nonpayment of assessments, noncompliance with risk management or underwriting standards, or for other reasons subject to prior approval by the Commissioner as reasons for termination. However, such member shall not be deemed terminated for any reason until:

1. After 30 days written notice of the intention to terminate the member has been given by the fund to the member, which notice shall state the reasons for termination and shall be given by registered mail or certified mail, return receipt requested;
2. Like notice shall have been filed with the Department, together with a certified statement that the notice provided for by (a)1 above has been given; and
3. Thirty days have elapsed after the filing required by (a)2 above has been made.

(b) A member of the fund that does not desire to continue as a member after the expiration of its membership term, as provided in the fund's bylaws, must give written notice of its intent to withdraw 90 days before expiration of the term period. A member of the fund that did not approve any amendment to the fund bylaws approved pursuant to N.J.S.A. 40A:10-43, and desiring to withdraw from the fund pursuant to N.J.S.A. 40A:10-43e, shall provide written notice of its intent to withdraw 90 days prior to its withdrawal. The fund shall immediately notify the Department and the Department of Community Affairs of all members that have given notice of withdrawal from the fund.

(c) A member that has been terminated by or does not continue as a member of the fund shall nevertheless share in any surplus in the appropriate trust accounts for that fund year and shall remain jointly and severally liable for claims incurred by the fund and its members during the period of its membership, including, but not limited to, being subject to and liable for supplemental assessments.

(d) The fund shall immediately notify the Department and the Department of Community Affairs, if termination or withdrawal of a member causes the fund to fail to meet any of the requirements of N.J.S.A. 40A:10-36 et seq. or this subchapter. Within 15 days of such notice, the fund shall advise the Department and the Department of

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→→ **11:15-2.11 Insolvency and/or bankruptcy of fund members**

The insolvency or bankruptcy of a member does not relieve the fund or any other member of joint and several liability for the payment of any claims incurred by the member during the period of its membership, including, but not limited to, being subject to and liable for supplemental assessments.

CHAPTER EXPIRATION DATE

<Chapter 15, Group Self-Insurance, expires on July 2, 2015.>

11:15-2.11, NJ ADC 11:15-2.11

November 21, 2011; 43 N.J. Reg. No. 22

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N.J. Admin. Code tit. 11, 11:15-2.12

New Jersey Administrative Code Currentness

Title 11. Department of Banking and Insurance Division of Insurance

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▣ Subchapter 2. Joint Insurance Funds for Local Governmental Units Providing Property and Liability Coverages

→→ **11:15-2.12 Voluntary dissolution of a fund**

(a) A fund may not voluntarily dissolve or otherwise cease to do business and distribute its assets to its members, unless and until it satisfies the following requirements:

1. A majority of the fund's members must have voted in favor of a resolution to dissolve the fund, pursuant to a written plan adopted pursuant to the procedures set forth in the fund's bylaws, at a meeting duly called for such purposes;
2. The plan of dissolution must provide for the payment of all unpaid losses of the fund and its members, including all incurred but not reported losses, as certified by an actuary, before any assets of the fund or the trust fund accounts may be used for any other purpose;
3. The plan of dissolution shall contain a statement of the fund's current financial condition computed both on a statutory basis and according to generally accepted accounting principles as attested to by any independent certified public accountant; and
4. The plan of dissolution, and such other information as may be required, must be filed with and approved in writing by the Commissioner and the Commissioner of the Department of Community Affairs. The plan shall be filed with the Commissioner and the Commissioner of the Department of Community Affairs not later than 90 days prior to the proposed effective date of dissolution.

Amended by R.1995 d.408, effective August 7, 1995; R.1996 d.534, effective November 18, 1996.

CHAPTER EXPIRATION DATE

<Chapter 15, Group Self-Insurance, expires on July 2, 2015.>

HISTORICAL NOTES

Source:

N.J. Admin. Code tit. 11, 11:15-2.13

New Jersey Administrative Code Currentness

Title 11. Department of Banking and Insurance Division of Insurance

Chapter 15. Group Self-Insurance (Refs & Annos)

Subchapter 2. Joint Insurance Funds for Local Governmental Units Providing Property and Liability Coverages

→→ **11:15-2.13 Establishment of trust fund accounts; transfers or withdrawals prohibited**

(a) Pursuant to the terms of the indemnity and trust agreement, each fund shall establish a separate trust fund account in accordance with N.J.A.C. 11:15-2.6(b)10 from which monies shall be disbursed solely for the payment of claims, allocated claim expenses and excess insurance or reinsurance premiums for each type of liability or risk retained jointly on a self-insured basis. Such accounts shall be designated as claims or loss retention fund accounts.

1. Other than for the purposes specified in (a) above, or as otherwise authorized by this subchapter, no withdrawals may be effected for a claim or loss retention fund without prior written approval of the Commissioner, except for intertrust fund transfers. Intertrust fund transfers, within a fund's fiscal year, may be conducted by the fund at any time, by providing 30 days prior written notification to the Commissioner and the Commissioner of the Department of Community Affairs. If the Commissioner does not disapprove of the transfer, in writing, within 30 days after receiving such written notification, the request for intertrust fund transfer(s) shall be deemed approved. Any intertrust fund transfer request must be supported by appropriate assessment and claim and expense documentation, and be accompanied by a certification signed by an actuary that the amount remaining in the trust fund account after the intertrust fund transfer will be at a level which is reasonable in relation to that account's unpaid losses, along with all documentation in support of such certification. Intertrust fund transfers may be conducted only where each member participates in each and every claim or loss retention fund account during that fund year. The Commissioner may waive the full participation requirement provided the fund demonstrates to the Department that it maintains records of each member's pro rata share of each claim or loss retention fund account for that fund year, and that the transfer shall be made so that any potential dividend shall not be reduced for a member that did not participate in the account receiving the transfer. Notwithstanding anything in this subsection to the contrary, an environmental impairment liability fund may not transfer any monies from the account established for purpose of paying the debt on any bonds issued pursuant to N.J.S.A. 40A:10-38.1.

(b) An environmental impairment liability fund which issues bonds pursuant to N.J.S.A. 40A:10-38.1 et seq. shall establish by resolution a separate trust fund account for contingencies to be funded by the proceeds of any bond issue and interest income earned thereon. The resolution shall specify the uses of the contingency account consistent with (b)1 below, and provide a formula for the equitable distribution and return of contingency funds to terminated or withdrawing members in accordance with the procedures and time frames of N.J.A.C. 11:15-2.21.

N.J. Admin. Code tit. 11, 11:15-2.13

1. By resolution, an environmental impairment liability fund may transfer funds from a contingency trust fund account to a claims or loss retention trust fund account to pay claims, allocated claim expenses, and excess insurance and reinsurance premiums in a fund year which has an inadequate cash balance. The transaction shall be accounted for as a permanent transfer, and the fund shall notify the Department within 30 days of any such transfers.

2. A fund shall not transfer funds to a claim or loss retention trust fund account from a contingency trust fund account if the transfer would result in a deficit in the contingency trust fund account.

3. If a fund utilizes an amount from a contingency account during a fiscal year, the joint insurance fund commissioners shall, within 10 days of such utilization, submit to the Commissioner and the Commissioner of the Department of Community Affairs a report on the causes of the utilization and the steps taken to prevent a recurrence of such circumstances.

4. The fund shall maintain accounting records on contingency accounts by fund year which shall include:

- i. The sources of bond proceeds and interest thereon;
- ii. Transfers from the account to a claims or loss retention trust fund account by fund year;
- iii. Interest earned, which shall be allocated by the average balance in the contingency account by fund year; and
- iv. The pro-rata share of each participating member local unit allocable to each member.

Amended by R.1989 d.507, effective September 18, 1989; R.1995 d.408, effective August 7, 1995.

CHAPTER EXPIRATION DATE

<Chapter 15, Group Self-Insurance, expires on July 2, 2015.>

HISTORICAL NOTES

Source:

1989. See: 21 N.J.R. 3051(b), 21 N.J.R. 3017(a).

1995. See: 26 N.J.R. 2725(a), 26 N.J.R. 3592(a), 27 N.J.R. 2938(a).

11:15-2.13, NJ ADC 11:15-2.13

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→ → **11:15-2.14 Administrative account**

Each fund shall establish an administrative account for each fund year which shall be utilized for payment of the fund's general operating expenses, including, but not limited to, loss prevention activities, data processing services and general legal expenses. A fund shall not be required to establish a separate administrative account by fund year, provided the fund provides a plan in its bylaws which provides for the recording and accounting of all transactions by fund year.

Amended by R.1995 d.408, effective August 7, 1995.

CHAPTER EXPIRATION DATE

<Chapter 15, Group Self-Insurance, expires on July 2, 2015.>

HISTORICAL NOTES

Source:

1995. See: 26 N.J.R. 2725(a), 26 N.J.R. 3592(a), 27 N.J.R. 2938(a).

11:15-2.14, NJ ADC 11:15-2.14

November 21, 2011; 43 N.J. Reg. No. 22

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→ → **11:15-2.15 Assessments**

(a) Each participating member of a joint insurance fund shall appropriate and pay to the fund its assessment as required by the joint insurance fund. During the first year of operation of a joint insurance fund these contributions shall be paid in two equal installments, the first installment payable no later than January 15 and the second installment payable no later than May 15 or in any other manner that the Commissioner in his discretion may direct. Subsequent years' assessments may be paid in such installments as shall be provided in the fund's bylaws, provided, however, that the full assessment shall be paid by each member no later than August 1, or in such other manner as provided in the fund's bylaws as approved by the Commissioner and the Commissioner of the Department of Community Affairs.

(b) Each member's annual assessment shall consist of an amount allocated for the administrative account, payment of interest and repayment of principal on bonds issued for environmental impairment liability funds, when appropriate, plus a specific assessment to establish and/or replenish the claim or loss retention trust fund account for each type of coverage provided by the fund and in which such member participates.

(c) The total amount of each member's annual assessments to the fund shall be certified by the fund commissioners to the governing body of each participant at least one month prior to the beginning of the next fiscal year. As a condition of continued participation in the fund, each member shall pay the amount certified at such time and in such manner provided in the fund's bylaws.

(d) Unless otherwise approved by the Commissioner, the annual assessment of each fund member providing for the self-insurance of workers' compensation and employers' liability coverages shall be based upon the Experience Rating Plan provided for in the New Jersey Workers' Compensation and Employers' Liability Insurance Manual on file with the Commissioner. The Commissioner may withdraw his or her approval of any assessment if he or she finds that such assessment is unreasonable or inadequate for the members of the fund to which it applies. In taking any action under this section, the Commissioner may require that the fund commissioners, the executive committee, the administrator, any servicing organization or agent of the fund provide such information as he or she deems necessary.

(e) Nothing contained in this section shall preclude the assessment and payment of supplemental assessments as provided in N.J.A.C. 11:15-2.16.

N.J. Admin. Code tit. 11, 11:15-2.15

(f) In the case of an environmental liability fund, notwithstanding any provision of this section to the contrary, an annual assessment may be funded by proceeds of any bonds issued by the fund pursuant to N.J.S.A. 40A:10-38.1, including any interest income earned thereon, in an amount not to exceed 25 percent of the amount of such assessment. Any remaining amounts from the proceeds of a bond issue and interest income shall be deposited in the contingency account established pursuant to N.J.A.C. 11:15-2.13(b). The 25 percent limitation shall not apply to the funding of any supplemental assessments that may be required pursuant to N.J.A.C. 11:15-2.16. In no event shall the proceeds of a bond issue be used to replenish the administrative account, but interest income earned on such proceeds may be used for this purpose.

Emergency amendment, R.1984 d.616, effective December 24, 1984 (expires February 22, 1985). Adopted by R.1985 d.128, effective February 22, 1985. Amended by R.1995 d.408, effective August 7, 1995; R.1996 d.534, effective November 18, 1996.

CHAPTER EXPIRATION DATE

<Chapter 15, Group Self-Insurance, expires on July 2, 2015.>

HISTORICAL NOTES

Source:

1984. See: 17 N.J.R. 218(a).

1985. See: 17 N.J.R. 218(a), 17 N.J.R. 709(a).

1995. See: 26 N.J.R. 2725(a), 26 N.J.R. 3592(a), 27 N.J.R. 2938(a).

1996. See: 28 N.J.R. 4027(a), 28 N.J.R. 4877(a).

11:15-2.15, NJ ADC 11:15-2.15

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→ → **11:15-2.16 Supplemental assessments**

(a) Each fund shall levy upon its members an additional assessment whenever needed or so ordered by the Commissioner, to supplement the fund's claim or loss retention or administrative accounts to assure payment of the fund's obligations, including payment of benefits under the workers' compensation law.

1. The fund shall assess each participating member an additional proportionate amount, as provided in the fund's bylaws and plan of risk management or as directed by the Commissioner, to replenish claims or loss retention or administrative accounts.

(b) The fund commissioners shall submit to the Commissioner and the Commissioner of the Department of Community Affairs a report of the causes of the account's insufficiency, the assessments necessary to replenish it and the steps taken to prevent a recurrence of such circumstances.

(c) The participants shall provide such additional assessments in accordance with the provisions of Local Budget Law (N.J.S.A. 40A:4-1 et seq.), or Local Authority Fiscal Control Law (N.J.S.A. 40A:5A-1 et seq.), as applicable.

Amended by R.1995 d.408, effective August 7, 1995.

CHAPTER EXPIRATION DATE

<Chapter 15, Group Self-Insurance, expires on July 2, 2015.>

HISTORICAL NOTES

Source:

1995. See: 26 N.J.R. 2725(a), 26 N.J.R. 3592(a), 27 N.J.R. 2938(a).

11:15-2.16, NJ ADC 11:15-2.16

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→→ **11:15-2.17 Failure or refusal to provide required assessments**

Should any member of a fund fail or refuse to pay as directed its assessment(s) to the fund or to pay as directed any supplemental assessment(s), or should the fund commissioners fail to assess funds required to meet the obligations of the fund, the chairman of the fund commission or in the event of his or her failure to do so, the custodian of the fund's assets, shall notify in writing the Commissioner and the Commissioner of the Department of Community Affairs.

Amended by R.1995 d.408, effective August 7, 1995.

CHAPTER EXPIRATION DATE

<Chapter 15, Group Self-Insurance, expires on July 2, 2015.>

HISTORICAL NOTES

Source:

1995. See: 26 N.J.R. 2725(a), 26 N.J.R. 3592(a), 27 N.J.R. 2938(a).

11:15-2.17, NJ ADC 11:15-2.17

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→ → **11:15-2.18 Individual loss reserve funds**

(a) Whenever the risk management plan of a joint insurance fund requires the fund's members to individually retain a specific amount of risk, potential liability, or incurred losses, the participant shall provide for such liability, or incurred loss:

1. As a deductible to be charged to the operating expenses of the incurring department or agency;
2. Through a separate item of appropriation for the fund year in its annual budget; or
3. Through establishment of an insurance fund pursuant to N.J.S.A. 40A:10-1 et seq.

Amended by R.1995 d.408, effective August 7, 1995.

CHAPTER EXPIRATION DATE

<Chapter 15, Group Self-Insurance, expires on July 2, 2015.>

HISTORICAL NOTES

Source:

1995. See: 26 N.J.R. 2725(a), 26 N.J.R. 3592(a), 27 N.J.R. 2938(a).

11:15-2.18, NJ ADC 11:15-2.18

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→ → **11:15-2.19 Certification of funds**

Prior to any commitment or agreement requiring the expenditures of funds by the fund, the custodian of the fund's assets shall certify the availability of sufficient unencumbered funds in the account to fully pay all charges or commitments to be accepted.

Amended by R.1995 d.408, effective August 7, 1995.

CHAPTER EXPIRATION DATE

<Chapter 15, Group Self-Insurance, expires on July 2, 2015.>

HISTORICAL NOTES

Source:

1995. See: 26 N.J.R. 2725(a), 26 N.J.R. 3592(a), 27 N.J.R. 2938(a).

11:15-2.19, NJ ADC 11:15-2.19

November 21, 2011; 43 N.J. Reg. No. 22

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→ → **11:15-2.20 Investments; application of investment income**

(a) The free balance of any account maintained by a fund, whether for claim or loss retention, administrative, contingency, or, in the case of an environmental impairment liability fund, the contingency account to be funded by bond proceeds pursuant to N.J.A.C. 11:15-2.13(b), shall be invested to obtain the maximum interest return practicable. All investments shall be in accordance with the fund's cash management plan and consistent with the requirements set forth in N.J.S.A. 40A:10-38. In addition, the fund commissioners may transfer monies held to the Director of the Division of Investment in the Department of the Treasury for investment on behalf of the fund in accordance with the requirements set forth in N.J.S.A. 40A:10-38.

(b) The investment and interest income earned by the investment of the assets of each claim or loss retention fund account shall be allocated to each such account by fund year.

(c) The investment and interest income earned by investment of the assets of administrative and contingency accounts shall be credited to that account.

Amended by R.1995 d.408, effective August 7, 1995; R.1999 d.350, effective October 18, 1999.

CHAPTER EXPIRATION DATE

<Chapter 15, Group Self-Insurance, expires on July 2, 2015.>

HISTORICAL NOTES

Source:

1995. See: 26 N.J.R. 2725(a), 26 N.J.R. 3592(a), 27 N.J.R. 2938(a).

1999. See: 31 N.J.R. 2125(b), 31 N.J.R. 3091(a).

11:15-2.20, NJ ADC 11:15-2.20

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→→ **11:15-2.21 Refund; interyear fund transfers**

(a) Any monies for a fund year in excess of the amount necessary to fund all obligations for that fiscal year as certified by an actuary may be declared to be refundable by the fund not sooner than the time periods after the end of the fiscal year as set forth in (b) and (c) below.

(b) The fund may seek approval from the Commissioner to make initial and subsequent refund payments from a claims or loss retention fund account remaining from any year which has been completed for at least the time periods set forth in this subsection and (c) below by submitting a written notification to the Department and Department of Community Affairs at least 30 days prior to the proposed refund. For a fund other than an environmental impairment liability fund, if the Commissioner does not disapprove, in writing, the request to make the refund within the 30 day period, the request shall be deemed approved. The Commissioner may also affirmatively approve the request prior to the expiration of the 30 day period. An environmental impairment liability fund may not refund any monies without the prior approval of the Commissioner. The written notification shall be accompanied by appropriate documentation including, but not limited to, assessment, claims and expense detail; actuarial certification that the loss and loss expense reserves are adequate for the fund to have an overall surplus for that fiscal year; and such other information that the Commissioner may require. For an environmental impairment liability fund, the initial and any subsequent refund for any year from a claim or loss retention trust account may be in any amount subject to the limitation that after the refund, the remaining net current surplus in the account from which the refund is made must equal or exceed 35 percent of unpaid claims for the account for the fiscal year, plus an amount in the fund's debt service account equal to two years' debt service on any outstanding bonds. Unpaid claim reserves, including reserves for incurred but not reported claims, shall be established at full value and not discounted, and shall be so certified by an actuary. For a fund other than an environmental impairment liability fund, the initial and any subsequent refund for any year from a claim or loss retention trust account may be in any amount subject to the limitation that after the refund, the remaining net current surplus in the account from which the refund is made must equal or exceed the surplus retention requirement to be calculated as follows:

1. Fund year paid losses shall be multiplied by the appropriate paid loss factor for the line of coverage and duration of maturity set forth in Exhibit E in the Appendix incorporated herein by reference;
2. Fund year unpaid claim reserves, excluding reserves for incurred but not reported claims, shall be multiplied by the appropriate unpaid claim factor for the line of coverage and duration of maturity set forth in Ex-

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hibit E in the Appendix incorporated herein by reference. Unpaid claim reserves, excluding reserves for incurred but not reported claims, shall be established at full value and not discounted;

3. The greater of the results from the calculation set forth in (b)1 and 2 above shall then be reduced by the amount of outstanding losses reported, including incurred but not reported claims, as certified by an actuary. The result of this calculation, but not less than zero, shall be the surplus retention requirement for that fund year.

(c) An environmental impairment liability fund may seek approval pursuant to (b) above to make an initial refund payment from any trust account remaining from any year which has been completed for at least 120 months from the conclusion of the fund year, in the case of any liability or legal or defense services coverages, or at least 12 months from the conclusion of the fund year, in the case of environmental or risk management services coverage; and may seek approval to make subsequent refund payments from a trust account remaining from any year which has been completed for at least 132 months from the conclusion of the fund year, in the case of any liability or legal or defense services coverages, or at least 24 months from the conclusion of the fund year, in the case of any environmental risk management services coverage.

(d) A full and final refund of net current surplus will not be allowed until all case reserves and all unpaid claim reserves are closed. Notwithstanding anything in this section to the contrary, an environmental impairment liability fund may not refund any monies from the account established for purposes of paying the debt on any bonds issued pursuant to N.J.S.A. 40A:10-38.1.

(e) A refund for any fiscal year shall be paid only in proportion to the member's participation in the fund for such year. Payment of a refund on a previous year shall not be contingent on the member's continued membership in the fund after that year.

(f) At the option of the member the refund may be retained by the fund and applied towards the member's next annual assessment.

(g) In the case of an environmental impairment liability fund, the commissioners or executive committee may appropriate a portion of any refund to the appropriate contingency account subject to the provisions of N.J.A.C. 11:15-2.13(b).

(h) A fund may seek approval from the Commissioner to make interyear fund transfers from a claims or loss retention trust account from any year not sooner than 24 months, or 60 months, in the case of an environmental impairment liability fund, after the end of that year by submitting a written notification to the Department with appropriate documentation as set forth in (b) above at least 30 days prior to the proposed transfer. In the case of a fund other than an environmental impairment liability fund, if the Commissioner does not disapprove, in writing, the request within the 30 day period, the request shall be deemed approved. The Commissioner may also affirmatively approve the request prior to the expiration of the 30 day period. An environmental impairment liability fund may not make an interyear fund transfer without the prior approval of the Commissioner. The interyear

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fund transfer may be in any amount subject to the limitation that after the transfer, the remaining net current surplus in the account from which the transfer is made must equal or exceed the surplus retention requirement determined pursuant to (b) above, for the particular fund, for that account for the fiscal year. The membership for each fiscal year involving interyear fund transfers must be identical between fiscal years. The Commissioner may waive the identical membership requirement provided the fund demonstrates to the Department that it maintains records of each member's pro rata share of each claim or loss retention fund account, and that the transfer may be made so that any potential dividend shall not be reduced for a member that did not participate in the year receiving the transfer.

Amended by R.1989 d.507, effective September 18, 1989; R.1995 d.408, effective August 7, 1995; R.1996 d.534, effective November 18, 1996; R.2007 d.84, effective March 19, 2007.

CHAPTER EXPIRATION DATE

<Chapter 15, Group Self-Insurance, expires on July 2, 2015.>

HISTORICAL NOTES

Source:

1989. See: 21 N.J.R. 3051(b), 21 N.J.R. 3017(a).

1995. See: 26 N.J.R. 2725(a), 26 N.J.R. 3592(a), 27 N.J.R. 2938(a).

1996. See: 28 N.J.R. 4027(a), 28 N.J.R. 4877(a).

2007. See: 38 N.J.R. 4979(a), 39 N.J.R. 934(c).

Editor's Note

R.2007, d.84, in (c), inserted "from the conclusion of the fund year" following "months" throughout.

11:15-2.21, NJ ADC 11:15-2.21

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→→ **11:15-2.22 Disbursements and/or payment of claims**

(a) All disbursements, payments of claims settlements or other expenditures of funds of the fund whether for administrative expenses or for claims purposes must be approved by a majority of the fund commissioners or the executive committee thereof, unless approved pursuant to (b) below.

(b) To allow the expeditious resolution of certain claims, the fund commissioners may designate the fund's administrator, lead agency or servicing organization as a "certifying and approving officer" pursuant to N.J.S.A. 40A:5-17. The certifying and approving officer may be authorized by the fund commissioners to approve for payment of any or specified types of claims in an amount not to exceed an amount approved by the Commissioner in the plan of risk management. The authority of the certifying and approving officer may be conditioned or restricted by the fund commissioners to require prior consultation, limitation as to the types or total amount of claims or payments which may be approved, or such other procedures or restrictions as the fund commissioners may deem appropriate. The authority of the certifying and approving officer may be revoked or modified at any time by the fund commissioners.

1. Upon approval, the certifying and approving officer shall certify the amount and particulars of such approved claims to the official having custody of the fund's assets, directing that a check for payment be prepared.

2. The certifying and approving officer shall prepare a report of all claims approved by him or her since the last such report, detailing the nature and amount of the claim, the payee, the reasons supporting payment and any other pertinent information. This report shall be submitted to the fund commissioners at their next scheduled meeting. The fund commissioners shall review and approve the actions of the certifying and approving officer. In the event a claim approved and paid by the certifying and approving officer is not approved by the fund commissioners, they shall direct appropriate action to be taken.

(c) All requests for payments shall be accompanied by a detailed bill of items or demand, specifying particularly how the bill or demand is made up, with the certification of the party claiming payment that it is correct, and shall be certified by an officer or duly designated agent or employee of the joint insurance fund having knowledge of the facts that the goods have been received by, or the services rendered to the fund. In the case of claims or losses to be charged against any loss fund, the joint insurance fund's claims administrator, if there be one, shall certify as to the correctness and validity of the claim.

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(d) All claims shall be paid by check. The check shall be signed by two persons so designated by the fund commissioners. Payment of claims may be made in such other manner as provided in the fund's bylaws as approved by the Commissioner and the Commissioner of the Department of Community Affairs.

(e) All claims and other disbursements approved for payment by the fund commissioners, the executive committee thereof or the certifying and approving officer shall be recorded in a claims register maintained by the custodian of the fund's assets.

Amended by R.1995 d.408, effective August 7, 1995; R.1996 d.534, effective November 18, 1996.

CHAPTER EXPIRATION DATE

<Chapter 15, Group Self-Insurance, expires on July 2, 2015.>

HISTORICAL NOTES

Source:

1995. See: 26 N.J.R. 2725(a), 26 N.J.R. 3592(a), 27 N.J.R. 2938(a).

1996. See: 28 N.J.R. 4027(a), 28 N.J.R. 4877(a).

11:15-2.22, NJ ADC 11:15-2.22

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→→ **11:15-2.23 Excess insurance and/or reinsurance**

(a) Consistent with N.J.A.C. 11:15-2.6(a)6, each fund providing primary or underlying coverage on a self-insured or commercially insured basis shall secure excess insurance or reinsurance in a form, in an amount and by an insurer, or other entity authorized to provide such coverage in this State pursuant to law, acceptable to the Commissioner, if commercially available and not unreasonably priced, as determined by the fund's executive committee for each fund year, and as approved by the Department and the Department of Community Affairs.

1. Any approval by the Department pursuant to (a) above shall be for a period not to exceed either the longer of 12 months from the date of approval or the end of the current fund year. Any fund seeking to extend the period of the approval shall notify the Department not later than 45 days prior to the expiration of the term of the approval. The notification shall specify the basis upon which the executive committee has determined that excess insurance or reinsurance required pursuant to (a) above is not commercially available or is not reasonably priced, and shall include all actions taken by the fund to obtain required excess insurance or reinsurance.

(b) The policies of excess insurance and/or reinsurance issued by an insurer to a fund shall provide single accident (single occurrence) excess insurance, and aggregate excess insurance, in accordance with this subsection.

1. Each fund shall maintain a minimum cap for aggregate excess insurance in the appropriate amount depending upon the fund's specific per occurrence retention and the size of the fund's cumulated budgeted losses as determined in accordance with Exhibit F in the Appendix incorporated herein by reference. To the extent the fund has different specific per occurrence retentions for different lines, the fund shall utilize the highest specific occurrence retention. To the extent the specific per occurrence retention is not specified in Exhibit F, the fund shall utilize the next highest applicable specific per occurrence retention set forth therein.

2. The fund's aggregate self-insured retention for the fund year shall be no greater than 125 percent of its budgeted losses.

(c) Certificates of excess insurance and/or reinsurance showing policy limits, specific and aggregate retentions, and other information shall be available for the inspection of each member and shall be filed with the Commis-

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sioner.

(d) Losses in excess of the established self-insurance retention shall be borne by the excess carrier(s) according to the terms and conditions of the excess contract(s).

(e) Any proposed change in the terms or limits of excess insurance and/or reinsurance shall be submitted to the Department and the Department of Community Affairs for approval at least 30 days prior to the effective date of the proposed change.

(f) Notwithstanding the requirements in (a) through (e) above:

1. A fund shall not be required to maintain single accident (single occurrence) excess insurance if the fund's single accident (single occurrence) limit of liability as set forth in its approved plan of risk management is equal to or less than its single accident (single occurrence) self-insured retention as approved by the Department.

2. In lieu of maintaining aggregate excess insurance as provided in (a) through (e) above, a fund may establish and provide for the funding of an aggregate excess loss contingency fund. The fund shall make annual contributions to the loss contingency fund, the amount of which shall be based on the fund's cumulated budgeted losses and specific per occurrence retention, and determined in accordance with Exhibit G in the Appendix incorporated herein by reference. The required contribution for the current fund year shall be the current fund year's budgeted losses, multiplied by the appropriate factor in Appendix Exhibit G. To the extent the fund has different specific per occurrence retentions for different lines, the fund shall utilize the highest specific occurrence retention. To the extent the specific per occurrence retention is not specified in Exhibit G, the fund shall interpolate the appropriate percentage from the percentages indicated. For any fund year, the loss contingency fund shall include the required annual contribution for the current fund year and for the fund year immediately preceding. Such contingency fund may be utilized solely for the replenishment of a claim or loss retention fund account for losses in excess of budgeted losses for a fund year. A fund shall notify the Department within 30 days of the transfer of monies from the aggregate excess loss contingency fund to a claim or loss retention fund account. Annual contributions for the second preceding fund year, and fund years prior to the second preceding fund year, which have not been utilized to replenish a claim or loss retention fund account, may be released without restriction. The fund, however, shall notify the Department in writing within 30 days of any release of prior contributions.

3. A fund may obtain aggregate excess insurance in accordance with (a) through (e) above for some lines of coverage for a particular fund year. For lines of coverage that are not covered by aggregate excess insurance, the fund shall provide a loss contingency fund pursuant to (f) above. For purposes of determining the annual contribution, the fund shall utilize its cumulated budget losses for all lines to determine the appropriate factor in Appendix Exhibit G, and shall multiply that factor by the budgeted losses only for those lines of coverage for which the loss contingency fund is established.

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4. If a fund seeks to purchase aggregate excess insurance, but such coverage is only available at a retention greater than 125 percent, the fund shall establish a modified loss contingency fund at an amount determined as follows:

i. 125 percent shall be subtracted from the attachment point of the aggregate excess insurance purchased;

ii. 125 percent shall be subtracted from the minimum reinsurance cap required for the fund determined pursuant to Appendix Exhibit F;

iii. The dollar amount of a loss contingency fund, as if established and determined pursuant to (f)2 above, shall be multiplied by 125 percent; and

iv. The amount of the loss contingency fund required shall be equal to the amount obtained by multiplying the result in (f)4iii above by the result in (f)4i above, and dividing that result by the result in (f)4ii above. In no event shall the modified loss contingency fund required by (f)4 above be required to be greater than that required to be established pursuant to (f)2 and 3 above.

(g) For purposes of this section:

1. "Budgeted losses" means the amount established in the fund's budget for losses anticipated for a particular fund year, as annually certified by the fund's actuary; and

2. "Cumulated budgeted losses" means the fund's budgeted losses for the current fund year plus the four fund years immediately preceding. For a fund in existence for less than three years, cumulated budgeted losses shall be based on an estimate of three years budgeted losses pro rata for that period. For example, a newly formed fund would multiply its cumulated budgeted losses by three, a fund with two years experience would multiply its cumulated budgeted losses by 1.5, and so on. Any fund with three years or more of experience shall base its cumulated budgeted losses on its actual years of experience, not to exceed five years.

(h) Any fund approved by the Commissioner prior to November 18, 1996 shall secure specific and aggregate excess insurance coverage in accordance with (a) through (e) above, or provide for aggregate excess losses pursuant to (f) above, to be effective no later than January 1, 1998. Such funds shall file an amendment to their bylaws or plan of risk management for approval pursuant to N.J.A.C. 11:15-2.5 to provide a plan for specific and aggregate excess insurance or reinsurance pursuant to N.J.A.C. 11:15-2.6(a)6. The amendments to the fund's bylaws or plan of risk management as set forth herein shall be filed with the Commissioner within 10 days of such amendment but not later than 30 days prior to the effective date of the plan.

(i) Nothing in this section shall be construed as prohibiting a fund from establishing an aggregate excess insurance cap or a loss contingency fund, as applicable, in amounts greater than that required by this section.

N.J. Admin. Code tit. 11, 11:15-2.24

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→ → **11:15-2.24 Financial statement and reports**

(a) An annual certified report in a form acceptable to the Commissioner shall be prepared by each fund, filed concurrently with the Department and Department of Community Affairs and made available to each fund member on or before June 30 of each year. The report shall include:

1. An annual audited statement of the financial condition of the fund prepared by an independent certified public accountant or registered municipal accountant and performed in accordance with generally accepted accounting principles and N.J.S.A. 40A:10-46, which shall include a statement of the organization of the fund indicating the persons who perform each function for the fund and the relationship and interdependency of each function, and including its balance sheet and revenue and expense for the preceding year;

2. Reports of outstanding liabilities by line of coverage showing the number of claims, amounts paid to date and current reserves for unpaid losses, claims and unearned assessments as certified by an actuary;

3. A certification by the chairman or administrator that periodic reports were made to fund members in the form and manner required by N.J.A.C. 11:15-2.4(i);

4. Any material changes in information from that previously submitted; and

5. Such other information, as may be required by the Department upon request from a particular fund.

(b) In addition to the reports required pursuant to (a) above, for the initial two fiscal years of a fund, a fund shall file with the Department quarterly unaudited statements of the financial condition of the fund in a form acceptable to the Commissioner within 60 days after the end of each calendar quarter. After the initial two years, a fund shall file with the Department semiannual unaudited statements of the financial condition of the fund in a form acceptable to the Commissioner within 60 days after the end of each six month period. The semiannual report covering of the six-month period ending December 31 shall include a compilation of the results reported in the semiannual report for the period ending June 30 immediately preceding. All statements filed pursuant to this subsection shall include the information set forth in (a) above, except that certification by a certified public accountant, registered municipal accountant, or the actuarial opinion statement shall not be required.

N.J. Admin. Code tit. 11, 11:15-2.25

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→→ **11:15-2.25 Examination of funds possibly in financial condition detrimental to the public**

(a) In addition to any examination conducted pursuant to N.J.A.C. 11:15-2.6(f), the Commissioner may conduct an examination of any fund as he or she deems necessary, or at any time the Commissioner has reasonable cause to believe the fund may be insolvent or in a financial condition detrimental to its members or to the public. It shall be the duty of the fund members, commissioners, executive committee, administrator and chairman to notify the Commissioner of any information indicating that any fund may be insolvent or in a financial condition detrimental to the fund's members or the public.

(b) The fund's members, commissioners or executive committee, if any, may, upon majority vote, request that the Commissioner order an examination of the fund, or any fund member, which they, in good faith, believe may be in a financial condition detrimental to the fund's members or to the public.

(c) Any examination made pursuant to N.J.S.A. 40A:10-36 et seq. and this subchapter shall be conducted in accordance with the procedures set forth in N.J.A.C. 11:15-2.6(f).

Amended by R.1995 d.408, effective August 7, 1995; R.2003 d.366, effective September 15, 2003.

CHAPTER EXPIRATION DATE

<Chapter 15, Group Self-Insurance, expires on July 2, 2015.>

HISTORICAL NOTES

Source:

1995. See: 26 N.J.R. 2725(a), 26 N.J.R. 3592(a), 27 N.J.R. 2938(a).

2003. See: 35 N.J.R. 1487(a), 35 N.J.R. 4285(b).

11:15-2.25, NJ ADC 11:15-2.25

N.J. Admin. Code tit. 11, 11:15-2.26

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→ → **11:15-2.26 Servicing organizations; administrator**

(a) No servicing organization of a fund, or producer that may be appointed pursuant to N.J.A.C. 11:15-2.6(c)10, or their employees, officers or directors shall have either a direct or indirect financial interest in the administrator of that fund or be an employee, officer or director of the administrator, unless notice of such interest has been provided to the fund commissioners and members.

(b) No administrator of a fund, or its employees, officers or directors shall be an employee, officer or director of, or have either a direct or indirect financial interest in, a servicing organization of that fund, or the insurance producer that may be appointed by that fund pursuant to N.J.A.C. 11:15-2.6(c)10, unless notice of such interest has been provided to the fund commissioners and members.

(c) Each service contract shall include a clause stating, "Unless the fund commissioners otherwise permit, the servicing organization shall handle to their conclusion all claims and other obligations incurred during the contract period."

(d) The fund commissioners shall notify the Department and the Department of Community Affairs within 10 days of any determination to terminate or nonrenew any agreement with a servicing organization. The notification shall include a detailed statement that sets forth the manner and method by which claims handling and other obligations performed by the servicing organization will be provided or a statement that sets forth the reasons why the fund commissioners believe that the particular service is no longer necessary.

(e) The fund commissioners or the executive committee, if any, may designate an administrator or lead agency to carry out the policies established by the commissioners or the executive committee, if any, and to provide day-to-day management of the fund. The minutes of the commissioners or executive committee meetings, if any, shall detail the areas of authority delegated to the administrator or lead agency.

(f) Any employee, officer or director of an administrator, servicing organization or insurance producer that may be appointed pursuant to N.J.A.C. 11:15-2.6(c)10 shall disclose to the fund commissioners or executive committee, as applicable, any direct or indirect financial interest such employee, officer or director has in any other administrator, servicing organization or insurance producer.

N.J. Admin. Code tit. 11, 11:15-2.27

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→→ **11:15-2.27 Conflict of interest**

All officials or employees of a participating local unit or any members of the family of such officials or employees shall comply with N.J.S.A. 40A:9-22.1 et seq. (the "Local Government Ethics Law").

Amended by R.1995 d.408, effective August 7, 1995.

CHAPTER EXPIRATION DATE

<Chapter 15, Group Self-Insurance, expires on July 2, 2015.>

HISTORICAL NOTES

Source:

1995. See: 26 N.J.R. 2725(a), 26 N.J.R. 3592(a), 27 N.J.R. 2938(a).

11:15-2.27, NJ ADC 11:15-2.27

November 21, 2011; 43 N.J. Reg. No. 22

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N.J. Admin. Code tit. 11, 11:15-2.28

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→→ **11:15-2.28 Notice and hearings**

(a) The Commissioner shall give prior written notice of any proposed suspension or revocation of authority, cease and desist order, or other enforcement action to the fund commissioners, executive committee, or member local unit as the case may be, or to any person to whom the proposed enforcement action applies specifically. Such notice shall be served personally or by certified or registered mail upon all interested parties, shall set forth the grounds for the proposed enforcement action, and shall inform the interested party of its right to request a hearing on the proposed enforcement action. A copy of such written notice shall also be provided to the Commissioner of the Department of Community Affairs.

(b) The interested party involved shall have 20 days from the mailing of the notice to request a hearing, on the proposed enforcement action. Such a hearing shall be conducted in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1. Failure to mail a request for hearing within the time prescribed shall result in the suspension, revocation, monetary penalty or cease and desist order becoming effective 30 days from issuance of the original notice. In no event shall any revocation become effective prior to the date that a hearing is scheduled.

Amended by R.1995 d.408, effective August 7, 1995.

CHAPTER EXPIRATION DATE

<Chapter 15, Group Self-Insurance, expires on July 2, 2015.>

HISTORICAL NOTES

Source:

1995. See: 26 N.J.R. 2725(a), 26 N.J.R. 3592(a), 27 N.J.R. 2938(a).

11:15-2.28, NJ ADC 11:15-2.28

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→ → **11:15-2.29 Orders**

(a) After notice and opportunity for a hearing, as provided in N.J.A.C. 11:15-2.28, the Commissioner may issue an order revoking or suspending a fund's authority or requiring a person or fund to cease and desist from engaging in an act or practice to be in violation of any provision of N.J.S.A. 40A:10-36 et seq. or this subchapter.

(b) Upon a finding, after notice and opportunity for a hearing, as provided at N.J.A.C. 11:15-2.28, that a fund has violated any cease and desist order, the Commissioner may revoke his or her approval of the fund.

(c) Upon a finding, after notice and opportunity for a hearing, as provided at N.J.A.C. 11:15-2.28, the Commissioner may issue an order requiring the fund commissioners, or the executive committee, if any, to dismiss an administrator or servicing organization or terminate the service contract of an administrator or servicing organization because of any fraud, material misrepresentation, incompetence or untrustworthiness, misappropriation or conversion of monies or violation of any fiduciary responsibility by such administrator or servicing organization, or any of the employees, officers or directors thereof.

(d) A copy of any notice issued pursuant to this section shall be furnished to the Commissioner of the Department of Community Affairs.

Amended by R.1995 d.408, effective August 7, 1995.

CHAPTER EXPIRATION DATE

<Chapter 15, Group Self-Insurance, expires on July 2, 2015.>

HISTORICAL NOTES

Source:

1995. See: 26 N.J.R. 2725(a), 26 N.J.R. 3592(a), 27 N.J.R. 2938(a).

11:15-2.29, NJ ADC 11:15-2.29

N.J. Admin. Code tit. 11, 11:15-2.30

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→→ **11:15-2.30 Severability**

The rules contained in this subchapter and any of the provisions thereof shall be severable, and if any of its provisions shall be held to be unconstitutional or otherwise invalid, the decision of the court shall not affect the validity of the remaining rules and regulations or any of the provisions thereof.

CHAPTER EXPIRATION DATE

<Chapter 15, Group Self-Insurance, expires on July 2, 2015.>

11:15-2.30, NJ ADC 11:15-2.30

November 21, 2011; 43 N.J. Reg. No. 22

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