

§221-A. Financial audit requirements

1. Purpose. The purpose of this section is to provide the superintendent with a means of improved financial monitoring of insurers doing business in this State. This mechanism of increased financial surveillance of insurers shall not be a substitute for financial examinations required or authorized by this Title generally.

[PL 1985, c. 330, §1 (NEW).]

2. Definitions. As used in the section, unless the context indicates otherwise, the following terms have the following meanings.

A. "Accountant" and "independent certified public accountant" mean an independent certified public accountant or firm licensed to practice in the State or in any state recognizing similar reciprocal licensing requirements and who is a member in good standing of the American Institute of Certified Public Accountants. It shall also mean, in the case of Canadian and British domiciled companies, a Canadian or British chartered accountant. [PL 1985, c. 330, §1 (NEW).]

B. "Audited financial report" means a written report which meets the requirements of subsection 4. [PL 1985, c. 330, §1 (NEW).]

C. "Insurer" means any insurance company doing business in the State pursuant to this Title and includes, but is not limited to, all life, accident and health, property and casualty, title, direct writing reinsuring companies and surplus lines companies regulated by the Bureau of Insurance. [PL 1985, c. 330, §1 (NEW).]

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3. Audits required. All insurers, excepting insurers transacting business in this State pursuant to the terms of chapter 51, shall cause to be conducted an annual audit by an independent certified public accountant. Each domestic insurer shall file an audited financial report with the superintendent on or before June 1st for the year ending December 31st preceding. An extension of the filing deadline may be granted by the superintendent upon a showing by the insurer or its accountant that there exists valid justification for such an extension. A foreign or alien insurer shall file an audited financial report upon the superintendent's request. A firm of independent certified public accountants engaged to perform an audit of an insurer shall substitute the appointed audit partner in charge with another audit partner in charge at least once every 5 years. An accountant substituted for pursuant to this subsection may not serve as a partner in charge of that audit until 5 years after the date of substitution, unless the superintendent waives this requirement on the basis of unusual circumstances upon application by the insurer.

[PL 2009, c. 511, Pt. A, §1 (AMD).]

4. Content of annual audited financial reporting. Annual audited financial reporting must consist of the following.

A. Financial statements furnished under this section must be examined by independent certified public accountants in accordance with generally accepted auditing standards as prescribed by the American Institute of Certified Public Accountants. The opinion of the accountant must cover all years for which a financial presentation is made.

The opinion expressed concerning the financial statements filed under this section must conform with the accounting practices prescribed or permitted by the superintendent or the insurance supervisory official of the insurer's state of domicile. An insurer, with the approval of the superintendent, may file audited consolidated or combined financial statements in lieu of separate annual audited financial statements if the insurer is part of a group of insurance companies that uses a pooling agreement and such an insurer cedes all of its direct and assumed business to the pool or if the insurer has executed a 100% reinsurance agreement with one or more of the insurers in the group and the pooling or reinsurance agreement affects the solvency of the insurer or the integrity

of the insurer's reserves. In those cases, a columnar consolidating or combining worksheet must be filed with the report.

The opinion must be expressed to the insurer by the accountant on the accountant's letterhead and show the address of the office issuing that opinion, must be manually executed and dated. [PL 1993, c. 313, §6 (AMD).]

B. Financial statements, as a minimum, must consist of:

- (1) Balance sheet;
- (2) Statement of gain or loss from operations;
- (3) Statement of cash flow;
- (4) Statement of change in capital paid-up, gross paid-in and contributed surplus and unassigned funds, surplus funds; and
- (5) Notes to financial statements. [PL 1993, c. 313, §6 (AMD).]

C. The statement must include an independent certified public accountant's report respecting evaluation of internal controls. [PL 1993, c. 313, §6 (AMD).]

D. The statement must include an independent certified public accountant's letter, in conformance with standards established by the National Association of Insurance Commissioners, attesting to that certified public accountant's qualifications, possession of license and subscription to the code of professional ethics and pronouncements issued by the American Institute of Certified Public Accountants. [PL 1999, c. 113, §6 (AMD).]

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5. Rules authorized. The superintendent shall promulgate such rules as shall be necessary to effectuate provisions of this section.

[PL 1985, c. 330, §1 (NEW).]

6. Application and effective date. For those insurers doing business in this State that are subject to this section, the filing of the initial annual audited financial reports required under this section are due June 30, 1986, covering the calendar year December 31, 1985. Similar recurring reports are due each June 1st thereafter.

[PL 1999, c. 113, §7 (AMD).]

7. Exemptions. Upon written application of any insurer subject to this section, the superintendent may grant an exemption of the filing requirements under this section if the superintendent finds upon review of the application that compliance would constitute a financial hardship upon the insurer.

An insurer is exempt from the filing requirements of this section for any year in which the insurer's annual statement reflects:

A. Nationwide business in an amount less than \$1,000,000 in written premium plus reinsurance assumed; and [PL 2009, c. 511, Pt. A, §2 (NEW).]

B. Outstanding loss reserves in an amount less than \$1,000,000. [PL 2009, c. 511, Pt. A, §2 (NEW).]

[PL 2009, c. 511, Pt. A, §2 (RPR).]

8. Required notice concerning adverse financial condition. Each insurer retaining an independent certified public accountant to represent it with respect to the report which the insurer is required to file pursuant to this section shall, as a condition of its written terms of engagement of the accountant, require that:

A. The accountant immediately notify in writing each member of the board of directors of the insurer and the superintendent upon any determination by the independent certified public

accountant that the insurer has materially misstated its financial condition as reported in the annual statement required under section 423 for the year ending December 31st preceding; and [PL 1989, c. 846, Pt. C, §2 (AMD); PL 1989, c. 846, Pt. E, §4 (AFF).]

B. If the accountant, subsequent to the date of the audited financial report required by this section, becomes aware of material subsequent facts that would have affected the accountant's report, the accountant shall provide the pertinent information upon the accountant's determination to the parties identified in this subsection. [RR 2021, c. 1, Pt. B, §165 (COR).]

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SECTION HISTORY

PL 1985, c. 330, §1 (NEW). PL 1985, c. 636 (AMD). PL 1989, c. 846, §§C1,2,E4 (AMD). PL 1993, c. 313, §§5,6 (AMD). PL 1999, c. 113, §§5-7 (AMD). PL 2009, c. 511, Pt. A, §§1, 2 (AMD). RR 2021, c. 1, Pt. B, §165 (COR).

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