

17:22-6.71 ET AL.

LEGISLATIVE HISTORY CHECKLIST

NJSA: 17:22-6.71 et al

("Surplus lines insurance guaranty fund" amendments)

LAWS OF: 1984

CHAPTER: 207

Bill No: A2700

Sponsor(s): Adubato and others

Date Introduced: October 11, 1984

Committee: Assembly: Banking and Insurance

Senate: -----

Amended during passage:

Yes

Substituted for S2368 (not attached since identical to A2700) Amendments during passage denoted by asterisks.

Date of Passage:

Assembly: November 19, 1984

Senate: November 19, 1984

Date of Approval: December 4, 1984

Following statements are attached if available:

Sponsor statement:

Yes

Committee statement:

Assembly

Yes

Senate

No

Fiscal Note:

No

Veto Message:

No

Message on Signing:

Yes

Following were printed:

Reports:

No

Hearings:

No

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12-4-84

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## ASSEMBLY, No. 2700

## STATE OF NEW JERSEY

INTRODUCED OCTOBER 11, 1984

By Assemblymen M. ADUBATO, LARocca, DEVERIN, KOSCO  
and LOVEYS

AN ACT concerning surplus lines insurer insolvencies and amend-  
ing P. L. 1984, c. 101 and P. L. 1974, c. 17.

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey*:

1 1. Section 2 of P. L. 1984, c. 101 (C. 17:22-6.71) is amended to  
2 read as follows:

3 2. The purpose of this act is to provide a mechanism for the  
4 payment of covered claims under certain insurance policies issued  
5 by eligible surplus lines insurers; to avoid excessive delays in the  
6 payment of the covered claims against insolvent, eligible, non-  
7 admitted insurers; and to avoid financial loss to claimants or policy-  
8 holders because of the insolvency of an eligible, nonadmitted  
9 insurer.

10 This act shall apply to all *property and casualty* lines of direct  
11 insurance authorized under R. S. 17:17-1, except workers' com-  
12 pensation insurance, title insurance, surety bonds, credit insurance,  
13 mortgage guaranty insurance, municipal bond coverage, fidelity  
14 insurance, investment return assurance, and **[Ocean]** *ocean* marine  
15 insurance. This act shall also not apply to reinsurance of any kind.

1 2. Section 3 of P. L. 1984, c. 101 (C. 17:22-6.72) is amended to  
2 read as follows:

3 3. As used in this act:

4 a. "Association" means the New Jersey Property-Liability  
5 Insurance Guaranty Association created pursuant to P. L. 1974,  
6 c. 17 (C. 17:30A-1 et seq.).

**EXPLANATION**—Matter enclosed in bold-faced brackets **[thus]** in the above bill  
is not enacted and is intended to be omitted in the law.

Matter printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

\*—Assembly committee amendment adopted October 18, 1984.

7 b. "Covered claim" means an unpaid claim, including a claim  
8 for unearned premiums, which arises out of and is within the cover-  
9 age, and not in excess of the applicable limits of an insurance policy  
10 to which this act applies, and which [is] was issued by a [member]  
11 surplus lines insurer which was eligible to transact insurance busi-  
12 ness in this State at the time the policy was issued and which has  
13 been determined to be an insolvent insurer on or after [the effective  
14 date of this act] July 27, 1984, if (1) the claimant or policyholder  
15 is a resident of this State at the time of the occurrence of the in-  
16 sured event for which a claim has been made, or (2) the property  
17 from which the claim arises is permanently located in this State.

18 "Covered claim" shall not include any amount due any reinsurer,  
19 insurance pool or underwriting association, as subrogation recov-  
20 eries or otherwise, except that a claim for any such amount, as-  
21 serted against a person insured under a policy issued by a [mem-  
22 ber] surplus lines insurer which has become an insolvent insurer,  
23 which, if it were not a claim by or for the benefit of a reinsurer,  
24 insurer, insurance pool, or underwriting association, would be a  
25 "covered claim," may be filed directly with the receiver of the  
26 insolvent insurer, but in no event may any such claim be asserted  
27 in any legal action against the insured of that insolvent insurer.  
28 "Covered claim" shall also not include amounts for interest on  
29 unliquidated claims, punitive damages unless covered by the policy,  
30 counsel fees for prosecuting suits for claims against the fund, and  
31 assessments or charges for failure by an insolvent insurer to have  
32 expeditiously settled claims.

33 c. "Fund" means the New Jersey Surplus Lines Insurance  
34 Guaranty Fund created pursuant to section 4 of this act.

35 d. "Insolvent insurer" means an insurer which was an eligible  
36 surplus lines insurer at the time the insurance policy was issued  
37 or when the insured event occurred, and which is determined to be  
38 insolvent by a court of competent jurisdiction in this State or the  
39 state or place in which the surplus lines insurer is domiciled. "In-  
40 solvent insurer" does not include an admitted insurer issuing in-  
41 surance pursuant to section 10 of P. L. 1960, c. 32 (C. 17:22-6.44).

42 e. "Member insurer" means an eligible, nonadmitted or surplus  
43 lines insurer required to be a member of, and that is subject to  
44 assessments by the fund.

45 f. "Net direct written premiums" means direct gross premiums  
46 on insurance policies written by a surplus lines insurer to which  
47 this act applies, less return premiums thereon and dividends paid  
48 or credited to policyholders on that direct business. If a policy  
49 issued by a surplus lines insurer covers risks or exposures only

50 partially in this State, the “net direct written premiums” shall be  
 51 computed, for assessment purposes, on that portion of the premium  
 52 subject to the premium receipts tax levied in accordance with  
 53 section 25 of P. L. 1960, c. 32 (C. 17:22-6.59). “Net direct written  
 54 premiums” do not include premiums on contracts between insurers  
 55 or reinsurers.

56 g. “Surplus lines insurer” means a nonadmitted insurer ap-  
 57 proved as an eligible, nonadmitted or unauthorized insurer pur-  
 58 suant to section 11 of P. L. 1960, c. 32 (C. 17:22-6.45) *at the time*  
 59 *the policies were issued against which a covered claim may be filed*  
 60 *in accordance with this act.*

1 3. Section 4 of P. L. 1984, c. 101 (C. 17:22-6.73) is amended to  
 2 read as follows:

3 4. There is created a private, nonprofit, unincorporated, legal  
 4 entity to be known as New Jersey Surplus Lines Insurance Guar-  
 5 anty Fund. All surplus lines insurers shall be and remain member  
 6 insurers of the fund as a condition of their continued eligibility  
 7 pursuant to section 11 of P. L. 1960, c. 32 (C. 17:22-6.45). [Mem-  
 8 bership in the fund shall be a condition for eligibility issued on or  
 9 after the effective date of this act.] The fund shall be managed  
 10 and administered by the New Jersey Property-Liability Insurance  
 11 Guaranty Association. The association shall exercise all of the  
 12 powers vested in the fund under this act, and such other powers  
 13 as may be necessary or appropriate to the fulfilling of its respon-  
 14 sibilities under this act. The association shall administer the affairs  
 15 of the fund in accordance with *the “New Jersey Property-Liability*  
 16 *Guaranty Association Act,” P. L. 1974, c. 17 (C. 17:30A-1 et seq.)*  
 17 *and its plan of operation adopted pursuant to section 9 [of P. L.*  
 18 *1974, c. 17] (C. 17:30A-9), insofar as the provisions of that act*  
 19 *and that plan are not thereof inconsistent with the provisions of*  
 20 *this act, and subject to any amendments to the plan as may be*  
 21 *necessary or appropriate to effectuate the purposes of this act.*

22 *In order to assist the association in implementing the provisions*  
 23 *of this act, there is created an advisory body to the board of di-*  
 24 *rectors of the association to be comprised of two members repre-*  
 25 *senting eligible surplus lines insurers and two members represent-*  
 26 *ing surplus lines agents to be appointed by, and to serve at the*  
 27 *pleasure of the commissioner. The association shall consult the*  
 28 *advisory body on any matter relating to the provisions of P. L.*  
 29 *1984, c. 101 (C. 17:22-6.70 et seq.).*

1 4. Section 5 of P. L. 1984, c. 101 (C. 17:22-6.74) is amended to  
 2 read as follows:

3 5. a. The fund shall:

4 (1) Be obligated to the extent of the covered claims against an  
5 insolvent insurer incurred prior to or 30 days after the determina-  
6 tion of insolvency, or before the policy expiration date, if less than  
7 30 days after that determination, or before the policyholder re-  
8 places the policy or causes its cancellation, if he does so within 30  
9 days of the determination. The fund's obligation for covered claims  
10 shall not be greater than \$300,000.00 per occurrence, subject to any  
11 applicable deductible contained in the policy. The commissioner  
12 may adjust the [payments] *fund's obligations* for covered claims  
13 based on the monies available in the fund. In no event shall the  
14 fund be obligated to a policyholder or claimant in excess of the  
15 limits of liability of the insolvent insurer stated in the policy from  
16 which the claim arises;

17 (2) Be deemed the insurer to the extent of its obligation on the  
18 covered claims and to such extent shall have all rights, duties, and  
19 obligations of the involvent insurer as if the insurer had not become  
20 insolvent;

21 (3) Assess member insurers in accordance with section 6 of this  
22 act in amounts necessary to pay:

23 (a) Obligations of the fund under paragraph (1) of this  
24 subsection,

25 (b) Expenses of handling covered claims,

26 (c) Any other expenses incurred in the implementation of  
27 the provisions of this act;

28 (4) Investigate claims brought against the fund; and adjust,  
29 compromise, settle, and pay covered claims to the extent of the  
30 fund's obligation; and deny all other claims[.]; and may review  
31 settlements, releases and judgments to which the insolvent insurer  
32 or its policyholders were parties to determine the extent to which  
33 the settlements, releases and judgments may be properly contested;

34 (5) Notify those persons as the commissioner directs under  
35 section 8 of this act[.];

36 (6) Handle claims through the association's employees *or repre-*  
37 *sentatives, or through one or more insurers or other persons desig-*  
38 *nated as servicing facilities*; and

39 (7) Pay the other expenses of the association in administering  
40 the provisions of this act.

41 b. The fund may:

42 (1) Sue or be sued;

43 (2) Negotiate and become a party to those contracts which are  
44 necessary to carry out the purpose of this act;

45 (3) Perform those other acts which are necessary or appropriate  
46 to effectuate the purpose of this act; **[and]**

47 (4) Refund to the member insurers in proportion to the contribu-  
48 tion of each member insurer that amount which the commissioner  
49 determines to be in excess of the needs of the fund**[.]**; *and*

50 (5) *With the approval of the commissioner, borrow monies from*  
51 *any source, including but not limited to the New Jersey Property-*  
52 *Liability Insurance Guaranty Association, in accordance with sub-*  
53 *section b. of section 6 of P. L. 1984, c. 101 (C. 17:22-6.75), as may*  
54 *be necessary to effectuate the purposes of that act, except that the*  
55 *use of the proceeds of any loans shall be limited to the payment of*  
56 *covered claims, including claim adjustment expenses.*

1 5. Section 6 of P. L. 1984, c. 101 (C. 17:22-6.75) is amended to  
2 read as follows:

3 6. a. In order to provide the monies necessary to meet the fund's  
4 obligations and expenses under this act:

5 (1) Each member insurer, including a surplus **[line]** *lines* in-  
6 surer made eligible on or after the effective date of this act, shall  
7 make an initial one time payment of \$25,000.00, to be made to the  
8 fund within 60 days of the effective date of this act; and

9 (2) **[**Each member insurer shall be assessed in any year in which  
10 assessments are required, in the proportion that the net direct  
11 written premiums of the member insurer for the calendar year  
12 preceding the assessment bear to the net direct written premiums  
13 of all member insurers for that calendar year. The amount of the  
14 assessment shall be determined by the commissioner in accordance  
15 with the obligations and expenses of the fund, except that the  
16 initial annual assessment for 1984 under this paragraph shall be  
17 4% of each member insurer's net direct written premiums for the  
18 calendar year preceding the assessment, which assessment shall be  
19 remitted to the fund for the full year by each member insurer  
20 within 60 days of the effective date of this act. Assessments made  
21 pursuant to this paragraph shall not in any year exceed 4% of a  
22 member insurer's net direct written premiums for the calendar  
23 year preceding the assessment. After December 31, 1984, one  
24 quarter of the annual assessment shall be remitted by each member  
25 insurer to the fund every three months, as prescribed by the com-  
26 missioner**]** *A surcharge on the policy premium, as determined by*  
27 *the commissioner, shall be levied and collected on any surplus lines*  
28 *coverage issued or renewed on or after the effective date of this*  
29 *amendatory act. The surcharge shall be collected by the surplus*  
30 *lines agent at the time of delivery of the cover note, certificate of*  
31 *insurance, policy or other initial confirmation of insurance. No*

32 *premium receipts tax, commissions or assessments shall be levied*  
 33 *or collected on the surcharge. The surplus lines agent shall forward*  
 34 *to the fund the amount of the surcharge \*~~within three business~~*  
 35 *days of receipt of~~]~~\* \*on a quarterly\* payment \*basis\*~~.~~ Each mem-*  
 36 *ber insurer and surplus lines agent shall be notified of the ~~assess-~~*  
 37 *ment~~]~~ policy surcharge not later than ~~[30]~~ 10 days before it is due.*  
 38 *The amount of the ~~assessment]~~ surcharge may be, from ~~time-to-~~*  
 39 *time~~]~~ time to time, adjusted, terminated or reinstated by the*  
 40 *commissioner, as he may deem necessary to meet the current and*  
 41 *projected obligations and expenses of the fund, except that in no*  
 42 *case shall the surcharge in any year exceed 4% of the policy pre-*  
 42A *mium.*

43 b. The fund may, from ~~time-to-time]~~ *time to time*, borrow  
 44 monies from the New Jersey Property-Liability Insurance Guar-  
 45 anty Association to pay the fund's obligations and expenses under  
 46 this act, which are in excess of the monies available to the fund  
 47 therefor. The aggregate amount owed by the fund to the associa-  
 48 tion shall at no time exceed \$10,000,000.00, exclusive of interest  
 49 charges, *except that the commissioner may limit the amount of loans*  
 50 *outstanding at any one time to less than \$10,000,000.00 upon a find-*  
 51 *ing that the additional monies requested by the fund would reduce*  
 52 *the monies available to the association below a level necessary to*  
 53 *meet the current and prospective obligations of the association*  
 54 *pursuant to paragraph (3) of subsection a. of section 8 of P. L.*  
 55 *1974 (C. 17:30A-8). Monies borrowed under this subsection shall*  
 56 *be paid back to the association in accordance with a payment sched-*  
 57 *ule approved by the commissioner. An interest charge ~~of 6% per~~*  
 58 *annum~~]~~ shall be levied on all monies borrowed under this subsec-*  
 59 *tion at the current market rate of interest, using an index or indexes*  
 60 *to be selected by the commissioner.*

61 c. *No policy surcharge shall be levied or collected upon a deter-*  
 62 *mination by the commissioner that the fund's unencumbered assets*  
 63 *exceed the fund's outstanding and anticipated obligations and*  
 64 *other liabilities, including expenses chargeable to the fund, by*  
 65 *\$10,000,000.00 or more.*

1 6. Section 7 of P. L. 1984, c. 101 (C. 17:22-6.76) is amended  
 2 as follows:

3 7. The commissioner may, after notice, suspend the eligibility  
 4 of a member insurer *or the license of a surplus lines agent* that  
 5 fails to pay an assessment *or policy surcharge* under section 6 of  
 6 this act when due, or any interest accruing thereon, or fails to  
 7 comply with the applicable provisions of the plan of operations.  
 8 The commissioner may, after notice and hearing in accordance  
 9 with the "Administrative Procedure Act," P. L. 1968, c. 410 (C.

10 52:14B-1 et seq.), withdraw the eligibility of that insurer *or sus-*  
 11 *pend or revoke the surplus lines agent's license.*

12 Interest shall be charged on the amount of *the* unpaid assess-  
 13 ment *or surcharge* subject to the provisions of this section. The  
 14 interest charge shall be at the current market rate of interest, using  
 15 an index or indexes to be selected by the commissioner, and shall  
 16 be payable at the time the unpaid assessment *or policy surcharge*  
 17 is paid to the fund.

18 Eligibility of a surplus lines insurer *or the license of an agent*  
 19 shall not be restored or reissued until all monies owing under this  
 20 section have been paid to the fund.

1 7. Section 8 of P. L. 1984, c. 101 (C. 17:22-6.77) is amended to  
 2 read as follows:

3 8. **【The commissioner shall:】**

4 a. **【Notify the fund of the existence of an】** *An insolvent insurer*  
 5 **【not later than three days after he receives notice】** *shall forward*  
 6 *to the commissioner and to the association a copy of the declara-*  
 7 *tion of insolvency within three business days of the date of the*  
 8 *determination of the insolvency. 【The fund shall be entitled to】*  
 9 *A surplus lines insurer shall forward to the fund and commissioner*  
 10 *a copy of any complaint seeking an order of liquidation with a*  
 11 *finding of insolvency against 【a member】 the insurer at the same*  
 12 *time that such complaint is filed with a court of competent jurisdic-*  
 13 *tion【;】.*

14 b. *The commissioner shall:*

15 **【b.】** (1) Order the termination of all **【in force】** *in-force* policies  
 16 of an insolvent insurer within 30 days of the date of determination  
 17 of the insolvency;

18 **【c.】** (2) Upon request, provide the fund with a statement of the  
 19 net direct written premiums of each member insurer; and

20 **【d.】** (3) Order surplus lines agents to notify, within five days of  
 21 the date of the order, the policyholders of the insolvent insurer and  
 22 any other interested parties of the determination of insolvency and  
 23 of their rights under this act. Notification shall be by mail at their  
 24 last known address, where available, but if sufficient information  
 25 for notification by mail is not available, notice by publication in a  
 26 newspaper of general circulation shall be sufficient.

1 8. Section 14 of P. L. 1984, c. 101 (C. 17:22-6.83) is amended to  
 2 read as follows:

3 14. A member insurer shall include on the application and on  
 4 the face of the policy or certificate for insurance subject to this  
 5 act, a notice stating that *the insurer is not an admitted company*  
 6 *in New Jersey, but that the policy coverage has the protection, in*



7 whole or in part, of the new Jersey Surplus Lines Insurance Guar-  
 8 anty Fund, if the eligible surplus lines insurer becomes bankrupt  
 9 or insolvent. A member insurer or an agent or broker may advertise  
 10 that policy coverages offered by a member insurer and subject to  
 11 the provisions of this act are protected by the New Jersey Surplus  
 12 Lines Insurance Guaranty Fund, should the surplus lines insurer  
 13 become bankrupt or insolvent. *The commissioner shall determine*  
 14 *the contents and form of the notice.*

1 9. Section 8 of P. L. 1974, c. 17 (C. 17:30A-8) is amended to  
 2 read as follows:

3 8. a. The association shall:

4 (1) Be obligated to the extent of the covered claims against an  
 5 insolvent insurer incurred, in the case of private passenger auto-  
 6 mobile insurance, prior to or after the determination of insol-  
 7 vency, but before the policy expiration date or the date upon which  
 8 the insured replaces the policy or causes its cancellation, or in the  
 9 case of insurance other than private passenger automobile in-  
 10 surance, covered claims against such insolvent insurer incurred  
 11 prior to or 90 days after the determination of insolvency, or before  
 12 the policy expiration date if less than 90 days after said determina-  
 13 tion, or before the insured replaces the policy or causes its cancella-  
 14 tion, if he does so within 90 days of the determination, but such  
 15 obligation shall include only that amount of each covered claim  
 16 which is less than \$300,000.00 and subject to any applicable deduct-  
 17 ible contained in the policy, except that the \$300,000.00 limitation  
 18 shall not apply to a covered claim arising out of insurance coverage  
 19 mandated by section 4 of P. L. 1972, c. 70 (C. 39:6A-4). In the case  
 20 of benefits payable under *subsection a. of section 4 [a.]* of P. L.  
 21 1972, c. 70 (C. 39:6A-4), the association shall be liable for payment  
 22 of benefits in an amount not to exceed \$75,000.00. Benefits paid in  
 23 excess of such amount shall be recoverable by the association from  
 24 the Unsatisfied Claim and Judgment Fund pursuant to the provi-  
 25 sions of *section 2 of P. L. 1977, c. 310 (C. 39:6-73.1)*. In no event  
 26 shall the association be obligated to a policyholder or claimant in  
 27 an amount in excess of the limits of liability stated in the policy of  
 28 the insolvent insurer from which the claim arises;

29 (2) Be deemed the insurer to the extent of its obligation on the  
 30 covered claims and to such extent shall have all rights, duties, and  
 31 obligations of the insolvent insurer as if the insurer had not become  
 32 insolvent;

33 (3) Assess member insurers in amounts necessary to pay:

34 (a) The obligation of the association under paragraph a. (1)  
 35 of this section;

- 36 (b) The expenses of handling covered claims ;  
37 (c) The cost of examinations under section 13; and  
38 (d) Other expenses authorized by this act.

39 The assessments of each member insurer shall be in the propor-  
40 tion that the net direct written premiums of the member insurer  
41 for the calendar year preceding the assessment bears to the net  
42 direct written premiums of all member insurers for the calendar  
43 year preceding the assessment.

44 Each member insurer shall be notified of the assessment not later  
45 than 30 days before it is due. No member insurer may be assessed  
46 in any year an amount greater than 2% of that member insurer's  
47 net direct written premiums for the calendar year preceding the  
48 assessment.

49 The association may, subject to the approval of the commissioner,  
50 exempt, abate or defer, in whole or in part the assessment of any  
51 member insurer, if the assessment would cause the member in-  
52 surer's financial statement to reflect amounts of capital or surplus  
53 less than the minimum amounts required for a certificate of author-  
54 ity by any jurisdiction in which the member insurer is authorized  
55 to transact insurance. In the event an assessment against a member  
56 insurer is exempted, abated, or deferred, in whole or in part,  
57 because of the limitations set forth in this section, the amount  
58 by which such assessment is exempted, abated, or deferred, shall  
59 be assessed against the other member insurers in a manner con-  
60 sistent with the basis for assessments set forth in this section.  
61 If the maximum assessment, together with the other assets of the  
62 association, does not provide in any one year an amount sufficient  
63 to carry out the responsibilities of the association, the necessary  
64 additional funds shall be assessed as soon thereafter as it is  
65 permitted by this act. Each member insurer serving as a servicing  
66 facility may set off against any assessment, authorized payments  
67 made on covered claims and expenses incurred in the payment of  
68 such claims by such member insurer ;

69 (4) Investigate claims brought against the association and  
70 adjust, compromise, settle, and pay covered claims to the extent of  
71 the association's obligation and deny all other claims and may  
72 review settlements, releases and judgments to which the insolvent  
73 insurer or its insureds were parties to determine the extent to which  
74 such settlements, releases and judgments may be properly  
75 contested;

76 (5) Notify such persons as the commissioner directs under  
77 section 10 b. (1);

78 (6) Handle claims through its employees or through one or more  
79 insurers or other persons designated as servicing facilities. Desig-  
80 nation of a servicing facility is subject to the approval of the com-  
81 missioner, but such designation may be declined by a member  
81a insurer;

82 (7) Reimburse each servicing facility for obligations of the  
83 association paid by the facility and for expenses incurred by the  
84 facility while handling claims on behalf of the association and shall  
85 pay the other expenses of the association authorized by this act[.];

86 (8) *Make loans to the New Jersey Surplus Lines Insurance Guar-*  
87 *anty Fund in accordance with the provisions of the "New Jersey*  
88 *Surplus Lines Insurance Guaranty Fund Act," P. L. 1984, c. 101*  
89 *(C. 17:22-6.70 et seq.).*

90 b. The association may:

91 (1) Employ or retain such persons as are necessary to handle  
92 claims and perform such other duties of the association;

93 (2) Borrow funds necessary to effect the purposes of this act  
94 in accord with the plan of operation;

95 (3) Sue or be sued;

96 (4) Negotiate and become a party to such contracts as are  
97 necessary to carry out the purpose of this act;

98 (5) Perform such other acts as are necessary or proper to  
99 effectuate the purpose of this act;

100 (6) Refund to the member insurers in proportion of the con-  
101 tribution of each member insurer that amount by which the assets  
102 exceed the liabilities if, at the end of any calendar year, the board  
103 of directors finds that the assets of the association exceed the  
104 liabilities as estimated by the board of directors for the coming  
105 year.

1 10. This act shall take effect immediately and shall be retroactive  
2 to July 27, 1984.

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(2) Authorizes the commissioner to limit the amount of loans by the New Jersey Property-Liability Insurance Guaranty Association to the fund to under \$10 million in certain cases, and to eliminate fund assessments whenever, and during the time that the fund's uncommitted assets, or surplus, exceeds its outstanding and anticipated liabilities by \$10 million or more;

(3) Removes the statutory limits on interest charges on association loans to the fund;

(4) Extends the borrowing authority of the fund; and

(5) Provides for an advisory body of surplus lines insurer and agent representatives to advise the board of directors of the association on matters relating to the implementation of the provisions of the act.

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78 (6) Handle claims through its employees or through one or more  
 79 insurers or other persons designated as servicing facilities. Desig-  
 80 nation of a servicing facility is subject to the approval of the com-  
 81 missioner, but such designation may be declined by a member  
 81A insurer;

82 (7) Reimburse each servicing facility for obligations of the  
 83 association paid by the facility and for expenses incurred by the  
 84 facility while handling claims on behalf of the association and shall  
 85 pay the other expenses of the association authorized by this act[.];

86 (8) *Make loans to the New Jersey Surplus Lines Insurance Guar-*  
 87 *anty Fund in accordance with the provisions of the "New Jersey*  
 88 *Surplus Lines Insurance Guaranty Fund Act," P. L. 1984, c. 101*  
 89 *(C. 17:22-6.70 et seq.).*

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96 (4) Negotiate and become a party to such contracts as are  
 97 necessary to carry out the purpose of this act;

98 (5) Perform such other acts as are necessary or proper to  
 99 effectuate the purpose of this act;

100 (6) Refund to the member insurers in proportion of the con-  
 101 tribution of each member insurer that amount by which the assets  
 102 exceed the liabilities if, at the end of any calendar year, the board  
 103 of directors finds that the assets of the association exceed the  
 104 liabilities as estimated by the board of directors for the coming  
 105 year.

1 10. This act shall take effect immediately and shall be retroactive  
 2 to July 27, 1984.

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#### STATEMENT

This bill clarifies the legislative intent of several provisions of the "New Jersey Surplus Lines Insurance Guaranty Fund Act," P. L. 1984, c. 101 (C. 17:22-6.70) and effectuates the following additional changes:

(1) Alters the method of assessing surplus lines insurers, delays the effective date of the policy surcharge assessments, and grants the Commissioner of Insurance authority to change the rate of assessment at any time;

A2700(1984)

ASSEMBLY BANKING AND INSURANCE COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 2700**

with Assembly committee amendments

**STATE OF NEW JERSEY**

DATED: OCTOBER 18, 1984

Assembly Bill No. 2700 makes a number of clarifying and substantive changes to the "New Jersey Surplus Lines Insurance Guaranty Fund Act," P. L. 1983, c. 101 (C. 17:22-6.70 et seq.).

The main substantive changes are as follows:

(1) Creation of an advisory board to assist the board of directors of the New Jersey Property-Liability Insurance Guaranty Association (hereinafter referred to as the association) on matters concerning the New Jersey Surplus Lines Insurance Guaranty Fund—hereinafter referred to as the fund (section 3 of the bill);

(2) A broadening of the borrowing authority of the fund (section 4 of the bill);

(3) Elimination of up to 4% assessment on eligible surplus lines insurers and the substitution therefor of a policy surcharge of up to 4%, and the prohibition of any levy of premium receipts taxes, commissions or commissions on the surcharge; (section 5 of the bill);

(4) Authorization for the Commissioner of Insurance to limit the amount of association loans to the fund to less than \$10 million under certain circumstances, and to temporarily terminate policy surcharges so long as the fund's unencumbered assets are \$10,000,000.00 or more (section 5 of the bill); and

(5) Application to surplus lines agents of the penalty sections of the law for nonpayment of assessment or surcharges to the fund (section 6 of the bill).

The Assembly Committee amendments change the schedule of policy surcharge payments so as to permit surplus lines agents to make the payments to the fund on a quarterly basis.

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OFFICE OF THE GOVERNOR  
NEW JERSEY

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# OFFICE OF THE GOVERNOR NEWS RELEASE

**CN-001**

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**TRENTON, N.J. 08625**

**Release: TUESDAY, DEC. 4, 1984**

Governor Thomas H. Kean today signed legislation providing for the registration and regulation of athletic trainers in New Jersey and creating a six-member Athletic Training Advisory Committee.

The legislation, S-1295, was sponsored by State Senator John Lynch, D-Middlesex.

The Advisory Committee would be under the jurisdiction of the State Board of Medical Examiners which will develop rules and regulations to administer and enforce the law.

The law provides that any person engaged in the profession of athletic trainer be registered with the Board of Medical Examiners. Individuals currently certified by the National Athletic Trainer Association and those with extensive on-the-job experience may apply within 90 days of the effective date of the law for registration.

The law is effective immediately.

The Governor also signed the following bills:

A-2095, sponsored by Assemblyman Joseph Doria, D-Hudson, which merges the Board of Beauty Culture Control and the State Board of Barber Examiners into the State Board of Cosmetology and Hair Styling.

S-1476, sponsored by Senator Wynona Lipman, D-Essex, to bring under the jurisdiction of Civil Service and make permanent employees of county youth houses in counties under the Optional County Charter Law if they were employed on or before January 1, 1984.

- more -

A-2619, sponsored by Assemblyman Ozzie Pellecchia, D-Passaic, to insure that veteran members of the Teachers Pension and Annuity Fund (TPAF) may utilize purchased pension credit for service rendered outside the State to satisfy the special veteran retirement requirements.

A-2749, sponsored by Assemblyman Robert Littell, R-Sussex, to validate bond referendum proceedings in the Borough of Franklin School District.

A-2700, sponsored by Assemblyman Michael Adubato, D-Essex, to make a number of technical changes in the law which provided relief for those holding claims against the insolvent Ambassador Insurance Company.

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