

SENATE, No. 240

STATE OF NEW JERSEY

INTRODUCED APRIL 25, 1955

By Mr. HAND

Referred to Committee on Business Affairs

AN ACT concerning foreign fire insurance companies, amending sections 54:18-1, 54:18-2, 54:18-3, 54:18-4 and 54:18-5 and supplementing chapter 18 of Title 54, of the Revised Statutes.

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

1 1. Section 54:18-1 of the Revised Statutes is amended to read as fol-
2 lows:

3 54:18-1. Each **[fire insurance company]** *insurer*, not organized under
4 the laws of this State, which takes *fire* insurance risks on property in this
5 State, shall on **[January 1 and July 1]** *or before June 1* in each year, cause
6 to be made to the treasurer of the duly incorporated firemen's relief associ-
7 ation of each municipality, portion of a township or fire district in which
8 any property on which the **[company]** *insurer* has taken **[an]** *a fire* insur-
9 ance risk is situate, a true return in writing, verified by the oath of an offi-
10 cer or representative of the **[company]** *insurer*, showing the amount of all
11 premiums received by the **[company]** *insurer*, or agreed to be paid to it,
12 during the **[6]** *12* months **[next preceding the respective times so fixed for**
13 **the making of the returns,]** *ending December 31 of the preceding year*, for
14 insurance by the **[company]** *insurer* against loss or injury by fire upon *real*
15 *or personal* property, *(except automobiles and aircraft unless stored for sale)*

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

16 *including loss of use thereof*, in the municipality, portion of a township or
 17 fire district. The [company] *insurer* shall, [within 1 month after the re-
 18 spective times above provided for the making of the returns] *on or before*
 19 *June 1 of each year*, pay to the treasurer the sum of 2% upon the amount
 20 of all the premiums so received or agreed to be paid [within the 6 months]
 21 *during the 12 months ending December 31 of the preceding year*. [Nothing
 22 herein contained shall alter or affect the making of the returns by] *Such*
 23 *insurer may, upon prior notice to the treasurer of each duly incorporated*
 24 *firemen's relief association of each municipality, portion of a township or*
 25 *fire district, request* any regularly appointed agents of the [fire insurance
 26 company] *insurer*, or [by] any brokers who may have placed any insur-
 27 ance in the [company, or the payment by them of such percentage,] *in-*
 28 *surer, to make the return and the payment herein provided to be made by*
 29 *the insurer*, but any such payment, when brought to the notice of the [com-
 30 pany] *insurer*, may be accounted for by it, under oath, and deducted from
 31 any payment so made by it.

32 If the [fire insurance company] *insurer* fails to comply herewith, and
 33 the failure is reported to the commissioner of banking and insurance in
 34 writing, attested by the oath of the treasurer of a duly incorporated fire-
 35 men's relief association, the commissioner shall forthwith revoke the certifi-
 36 cate of authority issued to the [company] *insurer*, and, until the provisions
 37 of this chapter have been complied with by the [company] *insurer*, it shall
 38 not transact further business in this State.

1 2. Section 54:18-2 of the Revised Statutes is amended to read as fol-
 2 lows:

3 54:18-2. If a person residing or having an office or place of business in
 4 this State shall, in the capacity either of agent or broker, effect, or cause to
 5 be effected, any insurance, or shall receive any application for the effect-
 6 ing of insurance upon property in a municipality, portion of a township or
 7 fire district in this State, which shall have a duly incorporated firemen's
 8 relief association, and shall directly or indirectly place the insurance or

9 cause the same to be placed in [a fire insurance company] *an insurer* not
 10 organized under the laws of this State, the agent or broker [shall] *may*,
 11 *upon request of the insurer (as set forth in section 54:18-1)* make a return
 12 to the treasurer of the duly incorporated firemen's relief association of the
 13 municipality, portion of a township or fire district, in which the property
 14 is situate, on [January 1 and July 1] *or before June 1* in each year, con-
 15 taining an account, under oath, of all premiums received by him, or by any
 16 other person for him, or agreed to be paid, during the [6] 12 months [next
 17 preceding the respective times so fixed for the making of the returns] *end-*
 18 *ing December 31 of the preceding year*, for insurance against loss or injury
 19 by fire upon *real or personal property (except automobiles and aircraft un-*
 20 *less stored for sale) including loss of use thereof* in the municipality, por-
 21 tion of a township or fire district, which insurance shall have been placed by
 22 him, or by any other person for him, or at his request, in any [fire insur-
 23 ance company] *insurer* not organized under the laws of this State. *Such*
 24 [the] agent or broker shall, [within 1 month after the respective times
 25 above provided for the making of the returns] *on or before June 1 of each*
 26 *year*, pay to the treasurer of the firemen's relief association the sum of 2%
 27 upon the amount of all the premiums received or agreed to be paid as afore-
 28 said within [such 6 months] *the 12 months ending December 31 of the pre-*
 29 *ceding year.*

1 3. Section 54:18-3 of the Revised Statutes is amended to read as fol-
 2 lows:

3 54:18-3. Every agent or broker, residing or having an office or place of
 4 business in this State, *requested by the insurer to make the return and pay-*
 5 *ment as set forth in section 54:18-2* shall keep accurate books of account of
 6 all business done by him as agent or broker *for which such a return is re-*
 7 *quired*, in which shall be put down the name of the insured, the date and ex-
 8 piration of the insurance, a description of the property insured, a statement
 9 of its location, the amount of the insurance and of the premium paid there-
 10 for. If *any such* agent or broker fails, neglects or refuses to comply with any

11 provisions of this chapter, or in case any fraud or dishonesty in the returns,
12 hereinbefore provided to be made by him, is apparent or becomes known,
13 the treasurer of a duly incorporated firemen's relief association injured
14 thereby may obtain an order from a judge of the *County Court* [of common
15 pleas] of the county in which the association is located, compelling the agent
16 or broker to produce in the court his books of account for examination by
17 the court.

1 4. Section 54:18-4 of the Revised Statutes is amended to read as fol-
2 lows:

3 54:18-4. *Any such* agent or broker who fails, neglects or refuses to keep
4 books of account as aforesaid, or to produce them in the *County Court* [of
5 common pleas] upon an order of the court, or to make proper and accurate
6 returns as hereinbefore provided, or to pay over the percentage due upon
7 any premium as aforesaid, at the time and in the manner specified in this
8 chapter, or who is found, upon examination by the court, to have made a
9 false return of the business done by him, shall, for each offense, forfeit and
10 pay to the treasurer of any duly incorporated firemen's relief association
11 that may be injured by his failure, neglect or refusal, or by the making of
12 the false returns, the sum of \$500.00.

1 5. Section 54:18-5 of the Revised Statutes is amended to read as fol-
2 lows:

3 54:18-5. If *any such* agent or broker fails, neglects or refuses to pay
4 any percentage herein provided for, or to pay and satisfy any forfeiture or
5 penalty adjudged to be due under the provisions of this chapter, and that
6 fact is reported to the commissioner of banking and insurance in writing,
7 attested by the oath of the treasurer of a duly incorporated firemen's relief
8 association, the commissioner shall forthwith revoke any certificate of au-
9 thority previously issued under which the failure has occurred. The revoca-
10 tion of a certificate shall not release any penalty or forfeiture previously
11 incurred.

1 6. Nothing herein contained shall affect the payment of taxes payable
2 as to risks in municipalities in which there is no duly incorporated firemen's
3 relief association, which taxes shall continue to be paid and distributed as
4 now provided by law.

1 7. This act shall take effect January 1, 1956.

STATEMENT

This bill would change the present requirement of semiannual reports and substitute an annual report which would be more economical and convenient for insurers or agents and brokers to prepare. The bill also requires the insurer to make the return but the insurer may, upon prior notice to the treasurer of each duly incorporated firemen's relief association, request the agent or broker to make the return and the payment.

STATE OF NEW JERSEY
Executive Department

August 8, 1955

SENATE BILL NO. 240

To the Senate:

Pursuant to Article V, Section I, paragraph 14(b) of the Constitution, I am returning herewith Senate Bill No. 240, with my objections, for reconsideration.

This bill is designed to change the method of making returns by foreign fire insurance companies to local firemen's relief associations. Under the present law, there is a 2% charge upon specified fire risk premiums which is payable by foreign insurance companies to the various local firemen's relief associations in the municipalities in which the fire risks are located. Under the present law, such companies make reports on January 1 and July 1, and the bill would provide for one report on June 1 for the 12 months ending December 31 of the preceding year. The bill also makes certain other technical amendments required by changes in the statutes with respect to insurance companies.

The effective date of Senate Bill No. 240 is January 1, 1956, so that the present provisions of sections 54:18-1 to 5 of the Revised Statutes will remain in effect throughout the current year. Payments must be made within one month after the respective times for reporting. Thus, on or before August 1, 1955, such companies will be required to pay the 2% charge upon covered premiums received or agreed to be paid during the six months ending June 30, 1955. If this bill became effective, those companies would be required to pay the 2% charge on or before June 1, 1956, upon such premiums during the 12 months ending December 31, 1955. Inasmuch as there is no provision for crediting the August 1, 1955, payment against the payment required on June 1, 1956, the companies would be required to make double payments for the first 6-month period of 1955. I have been advised that the amount of the potential companies' payments may range up to \$500,000.00.

This bill would also have a serious impact upon the revenue of the State. Practically all fire risk insurers affected by this bill also write other lines of insurance in this State. Concurrently with the 2% charge on fire risk premiums imposed by the above sections, there is also imposed, under Chapter 132 of the Laws of 1945, a general insurance premiums tax of 2% applicable to premiums

STATE OF NEW JERSEY
Executive Department

Senate Bill No. 240

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received for all lines of insurance, including fire risk premiums. The proceeds of the general premiums tax go into the general State treasury. In order to avoid a double tax on fire risk premiums, section 2 of Chapter 132 of the Laws of 1945 provides for a credit against the general premiums tax for any monies paid into the local firemen's relief associations. Thus, if Senate Bill No. 240 became effective, the State treasury would sustain a loss in revenue to the extent of the double payment.

In addition to the double payment problem, there are administrative difficulties involved. The June 1 report and payment date is administratively impractical. At present such insurers are required to report to the Commissioner of Banking and Insurance on or before March 1 payments made to the firemen's relief associations. The Commissioner then reports to the Director of the Division of Taxation on or before May 1 all facts necessary to enable the Director to ascertain and collect the amount to be paid by each company. The general premiums tax is payable on or before June 1 for the base period of the 12 months ending December 31 of the preceding year.

Through the cooperation of the insurance companies and the Commissioner of Banking and Insurance, the Division of Taxation is able to ascertain and collect the taxes well in advance of the statutory dates. By way of illustration it should be noted that the Division was able to collect over \$5,750,000.00 prior to May 1. Under this procedure, the State receives considerable benefit since the money received can be invested profitably.

In order to resolve these problems, it will be necessary to change the June 1 reporting date listed in the bill to March 1 and to make the effective date of the act March 15, 1956, instead of January 1, 1956. Therefore, I am returning Senate Bill No. 240 herewith for reconsideration and with the recommendation that the bill be amended as follows:

STATE OF NEW JERSEY
Executive Department

Senate Bill No. 240

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On page 1, section 1, line 5, delete the word "June"
and insert in lieu thereof the word "March".

On page 2, section 1, line 19, delete the word "June"
and insert in lieu thereof the word "March".

On page 3, section 2, line 14, delete the word "June"
and insert in lieu thereof the word "March".

On page 3, section 2, line 25, delete the word "June"
and insert in lieu thereof the word "March".

On page 5, section 7, line 1, delete the words "January 1"
and insert in lieu thereof the words "March 15".

Respectfully,

ROBERT B. MEYNER

(SEAL)

GOVERNOR

Attest:

ROBERT J. BURKHARDT

Secretary to the Governor

SENATE AMENDMENTS TO
SENATE, No. 240

STATE OF NEW JERSEY

ADOPTED AUGUST 15, 1955

Amend page 1, section 1, line 5, delete the word "June" and insert in lieu thereof the word "March".

Amend page 2, section 1, line 19, delete the word "June" and insert in lieu thereof the word "March".

Amend page 3, section 2, line 14, delete the word "June" and insert in lieu thereof the word "March".

Amend page 3, section 2, line 25, delete the word "June" and insert in lieu thereof the word "March".

Amend page 5, section 7, line 1, delete the words "January 1" and insert in lieu thereof the words "March 15".

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STATE OF NEW JERSEY

INTRODUCED APRIL 25, 1955

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

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2 lows:

3 54:18-1. Each [fire insurance company] *insurer*, not organized under
4 the laws of this State, which takes *fire* insurance risks on property in this
5 State, shall on [January 1 and July 1] *or before [June] March 1* in each
6 year, cause to be made to the treasurer of the duly incorporated firemen's re-
7 lief association of each municipality, portion of a township or fire district in
8 which any property on which the [company] *insurer* has taken [an] *a fire* in-
9 surance risk is situate, a true return in writing, verified by the oath of an offi-
10 cer or representative of the [company] *insurer*, showing the amount of all
11 premiums received by the [company] *insurer*, or agreed to be paid to it,
12 during the [6] *12* months [next preceding the respective times so fixed for
13 the making of the returns,] *ending December 31 of the preceding year*, for
14 insurance by the [company] *insurer* against loss or injury by fire upon *real*
15 *or personal* property, (*except automobiles and aircraft unless stored for sale*)

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

16 *including loss of use thereof*, in the municipality, portion of a township or
17 fire district. The **[company]** *insurer* shall, **[within 1 month after the re-**
18 **spective times above provided for the making of the returns]** *on or before*
19 **[June]** *March 1 of each year*, pay to the treasurer the sum of 2% upon the
20 amount of all the premiums so received or agreed to be paid **[within the 6**
21 **months]** *during the 12 months ending December 31 of the preceding year.*
22 **[Nothing herein contained shall alter or affect the making of the returns by]**
23 *Such insurer may, upon prior notice to the treasurer of each duly incorpo-*
24 *rated firemen's relief association of each municipality, portion of a township*
25 *or fire district, request any regularly appointed agents of the [fire insurance*
26 *company] insurer, or [by] any brokers who may have placed any insur-*
27 *ance in the [company, or the payment by them of such percentage,] in-*
28 *surer, to make the return and the payment herein provided to be made by*
29 *the insurer, but any such payment, when brought to the notice of the [com-*
30 *pany] insurer, may be accounted for by it, under oath, and deducted from*
31 *any payment so made by it.*

32 If the **[fire insurance company]** *insurer* fails to comply herewith, and
33 the failure is reported to the commissioner of banking and insurance in
34 writing, attested by the oath of the treasurer of a duly incorporated fire-
35 men's relief association, the commissioner shall forthwith revoke the certifi-
36 cate of authority issued to the **[company]** *insurer*, and, until the provisions
37 of this chapter have been complied with by the **[company]** *insurer*, it shall
38 not transact further business in this State.

1 2. Section 54:18-2 of the Revised Statutes is amended to read as fol-
2 lows:

3 54:18-2. If a person residing or having an office or place of business in
4 this State shall, in the capacity either of agent or broker, effect, or cause to
5 be effected, any insurance, or shall receive any application for the effect-
6 ing of insurance upon property in a municipality, portion of a township or
7 fire district in this State, which shall have a duly incorporated firemen's
8 relief association, and shall directly or indirectly place the insurance or

9 cause the same to be placed in [a fire insurance company] *an insurer* not
 10 organized under the laws of this State, the agent or broker [shall] *may*,
 11 *upon request of the insurer (as set forth in section 54:18-1)* make a return
 12 to the treasurer of the duly incorporated firemen's relief association of the
 13 municipality, portion of a township or fire district, in which the property
 14 is situate, on [January 1 and July 1] *or before [June] March 1* in each year,
 15 containing an account, under oath, of all premiums received by him, or by any
 16 other person for him, or agreed to be paid, during the [6] *12* months [next
 17 preceding the respective times so fixed for the making of the returns] *end-*
 18 *ing December 31 of the preceding year*, for insurance against loss or injury
 19 by fire upon *real or personal* property (*except automobiles and aircraft un-*
 20 *less stored for sale*) *including loss of use thereof* in the municipality, por-
 21 tion of a township or fire district, which insurance shall have been placed by
 22 him, or by any other person for him, or at his request, in any [fire insur-
 23 ance company] *insurer* not organized under the laws of this State. *Such*
 24 [the] agent or broker shall, [within 1 month after the respective times
 25 above provided for the making of the returns] *on or before [June] March 1*
 26 *of each year*, pay to the treasurer of the firemen's relief association the sum
 27 of 2% upon the amount of all the premiums received or agreed to be paid as
 28 aforesaid within [such 6 months] *the 12 months ending December 31 of*
 29 *the preceding year*.

1 3. Section 54:18-3 of the Revised Statutes is amended to read as fol-
 2 lows:

3 54:18-3. Every agent or broker, residing or having an office or place of
 4 business in this State, *requested by the insurer to make the return and pay-*
 5 *ment as set forth in section 54:18-2* shall keep accurate books of account of
 6 all business done by him as agent or broker *for which such a return is re-*
 7 *quired*, in which shall be put down the name of the insured, the date and ex-
 8 piration of the insurance, a description of the property insured, a statement
 9 of its location, the amount of the insurance and of the premium paid there-
 10 for. If any *such* agent or broker fails, neglects or refuses to comply with any

11 provisions of this chapter, or in case any fraud or dishonesty in the returns,
12 hereinbefore provided to be made by him, is apparent or becomes known,
13 the treasurer of a duly incorporated firemen's relief association injured
14 thereby may obtain an order from a judge of the *County Court* [of common
15 pleas] of the county in which the association is located, compelling the agent
16 or broker to produce in the court his books of account for examination by
17 the court.

1 4. Section 54:18-4 of the Revised Statutes is amended to read as fol-
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4 books of account as aforesaid, or to produce them in the *County Court* [of
5 common pleas] upon an order of the court, or to make proper and accurate
6 returns as hereinbefore provided, or to pay over the percentage due upon
7 any premium as aforesaid, at the time and in the manner specified in this
8 chapter, or who is found, upon examination by the court, to have made a
9 false return of the business done by him, shall, for each offense, forfeit and
10 pay to the treasurer of any duly incorporated firemen's relief association
11 that may be injured by his failure, neglect or refusal, or by the making of
12 the false returns, the sum of \$500.00.

1 5. Section 54:18-5 of the Revised Statutes is amended to read as fol-
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4 any percentage herein provided for, or to pay and satisfy any forfeiture or
5 penalty adjudged to be due under the provisions of this chapter, and that
6 fact is reported to the commissioner of banking and insurance in writing,
7 attested by the oath of the treasurer of a duly incorporated firemen's relief
8 association, the commissioner shall forthwith revoke any certificate of au-
9 thority previously issued under which the failure has occurred. The revoca-
10 tion of a certificate shall not release any penalty or forfeiture previously
11 incurred.

1 6. Nothing herein contained shall affect the payment of taxes payable
2 as to risks in municipalities in which there is no duly incorporated firemen's
3 relief association, which taxes shall continue to be paid and distributed as
4 now provided by law.

1 7. This act shall take effect **[January 1]** *March 15*, 1956.