

ASSEMBLY, No. 38

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 5, 1945

By Mr. REIFFIN

Referred to Committee on Insurance

AN ACT concerning insurance; authorizing and regulating the exchange of reciprocal or interinsurance contracts; defining the kinds of insurance which may be the subject of such contracts; providing for the issuance of licenses, and fixing penalties for violations of the provisions hereof.

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

1 1. Individuals, partnerships, trustees and all corporations of this State,
2 herein designated "subscribers," are hereby authorized to exchange recipro-
3 cal or interinsurance contracts with each other and with individuals, part-
4 nerships, trustees and corporations of other States, districts, provinces and
5 countries, as follows:

6 (a) Against direct or indirect loss or damage to property, including loss
7 of use or occupancy, by fire; smoke; smudge, lightning; tempest on land,
8 including windstorm, tornado and cyclone; earthquake; collapse of buildings;
9 hail; frost or snow; weather or climatic conditions, including excess or defi-
10 ciency of moisture, flood, rain or drought, rising of the waters of the ocean
11 or its tributaries; bombardment; invasion; insurrection; riot; civil war or
12 commotion; military or usurped power, vandalism or malicious mischief;
13 striking employees; explosion, whether fire ensues or not, except explosion
14 of steam boilers and flywheels; and arising from the use of elevators, air-
15 craft, automobiles or other vehicles; against loss or damage by insects or

16 disease to farm crops or products and loss of rental value of land used in
17 producing the crops or products;

18 (b) Against any kinds of loss or damage to vessels, craft, aircraft,
19 cars, automobiles and vehicles of every kind, including all kinds of automo-
20 bile and aircraft insurance (excepting insurance against loss by reason of
21 bodily injury to the person), as well as all goods, freights, cargoes, mer-
22 chandise, effects, disbursements, profits, moneys, bullion, precious stones,
23 securities, choses in action, evidence of debt, valuable papers, bottomry
24 and respondentia interests, and all other kinds of property and interests
25 therein, in respect to, appertaining to or in connection with any and all risks
26 or perils of navigation, transit, or transportation, including war risks, on or
27 under any seas or other waters, on land or in the air, or while being assem-
28 bled, packed, created, baled, compressed or similarly prepared for shipment
29 or while awaiting the same or during any delays, storage, transshipment or
30 reshipment incident thereto, including marine builder's risk and all personal
31 property floater risks, and to person or to property in connection with or
32 appertaining to a marine, inland marine, transit or transportation insurance,
33 including liability for loss of or damage to either, arising out of or in con-
34 nection with the construction, repair, operation, maintenance or use of the
35 subject matter of the insurance (but not including life insurance or surety
36 bonds) but, except as herein specified, not against loss by reason of bodily
37 injury to the person;

38 (c) Against loss or damage to automobiles or motor vehicles or to wagons
39 or vehicles propelled by a horse or team of any description, resulting from
40 collision with moving or stationary objects, against perils to property aris-
41 ing from the use of elevators, aircraft, automobiles or other motor vehicles,
42 or against loss by legal liability for damage to persons or property result-
43 ing from collision of automobiles, aircraft, or motor vehicles, or of wagons
44 or vehicles propelled by a horse or team with moving or stationary objects;

45 (d) Against loss or damage resulting from accident to or injury suffered
46 by any person for which loss or damage the insured is liable;

47 (e) Against damage to property of the insured or loss of life or dam-
48 age to the person or property of others for which the insured is liable, caused
49 by the explosion of steam boilers, pipes, engines, motors and machinery con-
50 nected therewith or operated thereby;

51 (f) Against loss or damage by burglary, theft, larceny, robbery, for-
52 gery, fraud, vandalism or malicious mischief, or any one or more of such
53 hazards; and against any and all kinds of loss or destruction of or damage
54 to moneys, securities, currencies, scrip, coins, bullion, bonds, notes, drafts,
55 acceptances of drafts, bills of exchange and other valuable papers or docu-
56 ments, except while in the custody or possession of and being transported
57 by a carrier for hire or in the mail; and against loss or damage to auto-
58 mobiles and aircraft by burglary; larceny, or theft, vandalism or malicious
58½ mischief, confiscation or wrongful conversion, disposal or concealments,
59 whether held under conditional sale contract or subject to chattel mortgages,
60 or otherwise, or any one or more of such hazards;

61 (g) Against loss of and damage to glass, including lettering and orna-
62 mentation thereon, and the frame in which the glass is set resulting from
63 breakage of the insured glass;

64 (h) Against loss or damage by water or other fluid to any goods or prem-
65 ises arising from the breaking or leakage of sprinklers, pumps, or other ap-
66 paratus erected for extinguishing fires, or of other conduits or containers, or
67 by water entering through leaks or openings in buildings, and of water pipes
68 and against accidental injury to such sprinklers, pumps, conduits, contain-
69 ers, water pipes and other apparatus, including loss of use or occupancy
70 of the property so damaged;

71 (i) Against loss or damage to property by smoke or smudge, or both; and

72 (j) Against loss or damage to property by any other casualty which may
73 lawfully be the subject of insurance.

74 Such contracts and the exchange thereof and such subscribers, their at-
75 torneys in fact and representatives shall be regulated by this act and by no
76 other statute of this State relating to insurance, except as herein otherwise
77 provided.

1 2. Such contracts may be executed by an attorney in fact, herein des-
2 igned "attorney," duly authorized and acting for such subscribers, and
3 such attorney may be a corporation. The office or offices of such attorney,
4 herein defined as an "exchange," shall be maintained at such place or places
5 as may be designated by the subscribers in the power of attorney.

1 3. Such attorney shall file with the Commissioner of Banking and Insur-
2 ance of this State a declaration, verified by the oath of such attorney, or when
3 such attorney is a corporation, by the oath of its president or oaths of its
4 treasurer and secretary setting forth:

5 (a) The name of the attorney and the name or designation of the
6 exchange under which such contracts are to be issued, which name or des-
7 ignation shall not be so similar to any other name or designation theretofore
8 adopted by any attorney or by any insurance organization in this State so as
9 to confuse or deceive;

10 (b) The kind or kinds of insurance to be effected or exchanged;

11 (c) A copy of the form of policy contract or agreement under or by
12 which such insurance is to be effected or exchanged and forms of applica-
13 tion therefor;

14 (d) A certified copy of the power of attorney or other authorization of
15 such attorney under or by which such attorney is to effect or exchange such
16 insurance contracts;

17 (e) The location of the office or offices from which such contracts or
18 agreements are to be issued;

19 (f) That except as to the kinds of insurance hereinafter specifically
20 mentioned in this paragraph, applications have been made for indemnity
21 upon at least two hundred separate risks aggregating not less than three
22 million dollars (\$3,000,000.00) represented by executed contracts or bona fide
23 applications to become concurrently effective. In the case of employers'
24 liability or workmen's compensation insurance, application shall have been
25 made for indemnity upon at least one hundred separate risks covering a
26 total annual payroll of not less than two and one-half million dollars

27 (\$2,500,000.00) as represented by executed contracts or bona fide applica-
28 tions to become concurrently effective. In the case of automobile insurance,
29 applications shall have been made for indemnity upon at least one thousand
30 motor vehicles or for insurance aggregating not less than one and one-half
31 million dollars (\$1,500,000.00) represented by executed contracts or bona fide
32 applications to become concurrently effective on any or all classes of auto-
33 mobile insurance effected by said subscribers through said attorney;

34 (g) That there shall be maintained at the exchange, available for the
35 payment of losses, assets conforming to the requirements of section five
36 hereof;

37 (h) A financial statement under oath in form prescribed by the Commis-
38 sioner of Banking and Insurance of this State;

39 (i) An instrument authorizing service of process as provided for in
40 this act, and

41 (j) Where the principal office of the attorney is located in another State,
42 a certificate from the proper official of the State where the principal office is
43 maintained, that the subscribers and the attorney have complied with all
44 provisions of law and are authorized in that State to transact the classes
45 of business which are sought to be transacted in this State.

1 4. Concurrently with the filing of the declaration provided for by the
2 terms of section three hereof, the attorney shall file with the Commissioner
3 of Banking and Insurance of this State an instrument in writing duly exe-
4 cuted by him for said subscribers, conditioned that upon the issuance of
5 certificate of authority provided for in section eleven hereof, action may be
6 brought in any county in which the cause of action arises, or where the
7 claimant resides, and service of process may be had upon the Commissioner
8 of Banking and Insurance of this State in all suits in this State arising out
9 of any policies, contracts or agreements issued, which service shall be valid
10 and binding upon all subscribers exchanging at any time reciprocal or inter-
11 insurance contracts through such attorney. Three copies of such process
12 shall be served and the Commissioner of Banking and Insurance of this

13 State shall file one copy in his office, forward one copy to said attorney,
14 and return one copy with his admission of service. Where the principal
15 office of the attorney is located in this State, service of process may also
16 be had upon all subscribers by serving the attorney at said office. Service of
17 process shall not be had upon subscribers or any of them in any suit or pro-
18 ceeding in this State, except in the manner provided in this section, and
19 any suit or other proceeding may be begun and prosecuted or defended by
20 them under the name or designation adopted by them. A service fee of two
21 dollars (\$2.00) shall accompany each such service and be paid to the Com-
22 missioner of Banking and Insurance.

1 5. There shall be maintained at all times by the exchange, a reinsur-
2 ance reserve in cash or securities authorized by the laws of the State in
3 which the principal office of the attorney is located for the investment of
4 similar funds of insurance companies doing the same kind of business, in
5 an amount equal to fifty per centum (50%) of the net annual premium de-
6 posits collected and credited to the accounts of subscribers on policies having
7 one year or less to run and pro rata on those for longer periods, or, in lieu
8 thereof, one hundred per centum (100%) of the net unearned premium de-
9 posits collected and credited to the accounts of subscribers calculated sepa-
10 rately for each policy in force as of any given date. In addition to the
11 reserves provided for in this section, there shall also be maintained at all
12 times at the exchange, as assets, a surplus in cash or such securities as
13 aforesaid of not less than the amount of minimum capital required of a
14 domestic stock insurance company for the kind or kinds of insurance which
15 it is authorized to write under section one of this act. There shall also be
16 maintained at all times in the hands of the attorney, as a claim or loss re-
17 serve, in cash or such securities as aforesaid, assets sufficient to discharge
18 all liabilities on all outstanding or accrued losses arising under policies
19 issued, which are to be calculated in accordance with the laws of the State
20 relating to similar reserves for companies insuring similar risks. If at any
21 time the amounts on hand are less than the foregoing requirements, the sub-

22 scribes, or their attorney for them, shall make up the deficiency. Net
23 premium deposits, as used in this act, shall be construed to mean the premium
24 deposits made by subscribers after deducting therefrom the amount paid
25 as return premiums upon canceled contracts and reinsurance in companies
26 or associations licensed to do business in this State. If it appears that the
27 amount of funds required in this section has not been accumulated, then the
28 subscribers, or the attorney for them, shall immediately advance such sums
29 as are needed to comply with the provisions of this section, and the funds so
30 advanced shall not be treated as a liability at the exchange, and shall not
31 be withdrawn except with the approval of the chief insurance officer of the
32 State wherein the exchange is domiciled, and such advances shall be repaid
33 only out of the surplus, over and above the minimum required by this sec-
34 tion. If the subscribers, or their attorney for them, shall fail to advance
35 sums necessary for the maintenance of such minimum reserves and sur-
36 plus, within thirty days after receipt of notice from the Commissioner of
37 Banking and Insurance so to do, then said Commissioner of Banking and
38 Insurance shall take charge of and liquidate such exchange in the manner
39 provided by law in the case of other insurers; and in the case of an ex-
40 change of another State said Commissioner of Banking and Insurance may
41 revoke its license to transact business in this State.

1 6. Each domestic exchange transacting business in this State shall keep
2 and maintain with the Commissioner of Banking and Insurance a general
3 deposit of cash or securities in the sum of not less than fifty thousand dol-
4 lars (\$50,000.00). In the case of foreign exchanges, a certificate of such
5 deposit with the chief insurance officer of the State of domicile shall be filed
6 with the Commissioner of Banking and Insurance of this State.

1 7. The power of attorney under which any contracts of insurance are
2 exchanged pursuant to this act shall provide for a cash premium deposit
3 and a contingent several liability of the subscriber during each annual period
4 of the term of each contract of insurance issued to him to be fixed in the
5 power of attorney but in an amount not less than one or more than ten

6 times the amount of the annual portion of such cash premium deposit stated
7 in the contract; except that exchanges which have a surplus equal to seven
8 hundred and fifty thousand dollars (\$750,000.00) or to the minimum capital
9 and surplus required of a stock insurance company transacting the same kind
10 or kinds of business, whichever is greater, may issue policies without con-
11 tingent liability; *provided, however*, that any such exchange which shall have
12 issued policies without contingent liability after the acquisition of such sur-
13 plus may continue to do so only so long as it maintains a surplus in the
14 above amount, and no such exchange shall issue any non-assessable policies,
15 except during such time as it shall continue to maintain such surplus.

1 8. Such attorney shall, within the time limited for filing the annual state-
2 ment by insurance companies, transacting the same kind of business, make
3 a report, under oath, to the Commissioner of Banking and Insurance of this
4 State for each calendar year in such form as he may prescribe, showing the
5 financial condition of affairs at the office where such contracts are issued,
6 and shall at any reasonable time furnish such additional information and
7 reports as may be required by said commissioner; *provided, however*, that
8 the attorney shall not be required to furnish the names and addresses of
9 any subscribers, except in the case of unpaid final judgments. The records,
10 affairs and financial condition of the exchange shall be subject to examina-
11 tion by the Commissioner of Banking and Insurance of this State, and such
12 examination shall be at the expense of the office examined. Where the prin-
13 cipal office of the attorney is located in another State, the Commissioner of
14 Banking and Insurance of this State may, in lieu of the examination pro-
15 vided for in this section, accept a certified copy of the report of examina-
16 tion made by the insurance department of the State where the principal office
17 is located, or by the insurance department of any other State.

1 9. (a) Any corporation now or hereafter organized under the laws of
2 this State shall, in addition to the rights, powers and franchises specified in
3 its articles of incorporation, have full power and authority as a subscriber
4 to exchange insurance contracts of the kind and character herein mentioned.

5 The right to exchange such contracts is hereby declared to be incidental to
6 the purposes for which such corporations are organized, and as much granted
7 as the rights and powers expressly conferred.

8 (b) All persons, firms or corporations holding property in trust may
9 insure the same at a reciprocal exchange, and, in their representative capac-
10 ity, may assume the liabilities and be entitled to the rights of a subscriber,
11 but such trustees by so doing, shall not personally or individually be liable
12 under the power of attorney executed on behalf of the trust.

1 10. Any attorney who shall exchange any contracts of insurance of the
2 kind and character specified in this act, or any attorney or representative
3 of such attorney who shall solicit or negotiate any applications for same,
4 without the attorney first complying with the foregoing provisions, shall be
5 deemed guilty of a misdemeanor, and upon conviction thereof shall be sub-
6 jected to a fine of not less than one hundred dollars (\$100.00) nor more
7 than one thousand dollars (\$1,000.00).

8 For the purposes of organization, and upon issuance of permit by the
9 Commissioner of Banking and Insurance of this State, and under such con-
10 ditions as he may impose, powers of attorney and applications for such
11 insurance contracts may be solicited without compliance with the provisions
12 of this act, but no attorney or other person shall execute or issue any such
13 contracts of insurance until all the provisions of this act shall have been
14 complied with and certificate of authority issued by the Commissioner of
15 Banking and Insurance.

1 11. Before issuing any such contracts in this State, the attorney shall
2 procure from the Commissioner of Banking and Insurance of this State a
3 certificate of authority showing that the exchange has complied with all the
4 requirements of this act and is authorized to transact business in this State,
5 which said certificate shall expire on the first day of January of the follow-
6 ing year, and shall be renewed each year as of the first day of January
7 thereof; *provided, however*, that where application for renewal of said certifi-
8 cate is filed with the Commissioner of Banking and Insurance on or before the

9 first day of January, then said certificate of authority shall remain in full
10 force and effect until the renewal certificate is issued or until the rights of
11 said exchange to transact business has been revoked in the manner provided
12 by law. Such certificate shall specify the name or designation under which
13 such contracts of insurance are issued. The Commissioner of Banking and
14 Insurance of this State may, after hearing, revoke or suspend any certifi-
15 cate of authority issued hereunder in the case of violation of any of the
16 provisions of this act, after reasonable notice has been given such attorney
17 in writing, so that he may appear and show cause why such action should
18 not be taken.

1 12. The attorney may insert in any form of policy prescribed by the
2 laws of this State or adopted by this State any provisions or conditions re-
3 quired by the plan of reciprocal or inter-insurance; *provided, however,* that
4 same shall not be in conflict with the laws of this State.

1 13. On behalf of any exchange, such attorney shall pay an original li-
2 cense fee of twenty dollars (\$20.00) for certificate of authority to transact
3 business in the State, and a like amount annually thereafter for renewal of
4 said license with the filing of the annual statement. In lieu of all other taxes
5 and fees, such exchanges shall be subject to the same fees and taxes as are
6 provided by the laws of this State, now or hereafter enacted, applicable to
7 mutual insurance companies organized or admitted to do the same kind or
8 kinds of business under the laws of this State.

1 14. The provisions of the general insurance laws of this State regard-
2 ing the appointment, licensing, qualification and regulation of insurance
3 agents and solicitors shall not apply to an exchange or its attorney, the
4 salaried representatives of such exchange or of such attorney, but do apply
5 to any resident agent or solicitor of any reciprocal or inter-insurance ex-
6 change employed on a commission basis.

1 15. The provisions of the laws of this State regulating the making and
2 applying of insurance rates and providing for the licensing of rating organi-
3 zations, being chapter twenty-seven, laws of one thousand nine hundred and
4 forty-four, approved March ninth, one thousand nine hundred and forty-

5 four, effective March ninth, one thousand nine hundred and forty-four, shall
6 apply to reciprocal or inter-insurance contracts, but nothing therein con-
7 tained shall be construed to prohibit the return of savings or dividends to
8 subscribers of policyholders.

1 16. Employers are hereby expressly authorized to exchange contracts
2 of workmen's compensation insurance, at any reciprocal exchange licensed
3 in this State to do the kind of business specified in section one (d) of this act,
4 but all such exchanges shall be subject to the provisions of the laws of this
5 State relating to the business of workmen's compensation insurance and
6 shall contribute and pay to the funds described in sections 34:15-94,
7 34:15-112, 34:15-113, 34:15-114 and 34:15-115 of the Revised Statutes in
8 the same manner and to the same extent as mutual carriers engaged in the
9 business of workmen's compensation insurance.

1 17. The retaliatory laws of this State set forth in section 17:32-12 of
2 the Revised Statutes shall be applicable to reciprocal or inter-insurance ex-
3 changes.

1 18. All laws or parts of laws in conflict herewith are hereby repealed, in-
2 sofar as they are in conflict with this act.

1 19. In the event any section, part or provisions of this act is held to be
2 illegal, the same shall not affect any other section, part or provisions of
3 the act, but the remaining sections, parts and provisions shall be and re-
4 main in full force and effect.

1 20. This act shall take effect immediately.

STATEMENT

The purpose of this statute is to authorize and regulate the exchange of reciprocal or inter-insurance contracts. It provides the manner and method by which the business shall be conducted, subject, in certain respects, to the supervision of the Commissioner of Banking and Insurance. The act is designed to permit the furnishing of a complete fire and casualty insurance service and a safe and adequate coverage at cost.

Mr. Preiser, Chairman of the Committee on Insurance, reported

Assembly Bill No. 38, with committee amendments.

Mr. Preiser offered the following committee amendments to Assembly Bill No. 38, which were read.

Committee amendments proposed to Assembly Bill No. 38:

Amend section 1, line 5, by striking out the words "as follows:" and insert in place thereof the following "for any or all of the kinds of business for which a company may be formed or authorized to transact under the provisions of chapter seventeen of Title 17 of the Revised Statutes, except life insurance."

Amend the same section 1 by eliminating all of subsections "(a) to (j)" inclusive, appearing on lines 6 to 73 inclusive.

Amend section 5, line 13, by inserting between the words "capital" and "required" the words "and surplus" and on line 14 by eliminating the word "for" and substituting therefor the words "to do".

Amend section 11, line 5, by eliminating the word "January" and substituting therefor the word "May". Line 6 by substituting for the word "January" the word "May". Line 7, after the word "thereof", change the semicolon to a period and eliminate all of the language up to and including the word "law" on line 12.

Amend section 13, lines 1 to 5, inclusive, by striking out all of the language appearing on such lines to and including the word "fees" first appearing on said line 5 between the words "fees" and "such". Line 5 capitalize the letter "s" in the word "such". Line 7 strike out the word "mutual".

Section 14, line 3, strike out the word "the" at the end of the line and insert in lieu thereof the words "or executive officer of such attorney, if a corporation". Line 4, strike out the words "salaried representatives of such exchange or of such attorney," and substitute for the word "do" the word "shall". Line 5 strike out the words "resident agent or solicitor of any" and insert in place thereof the words "other person, partnership or corporation repre-

sented any such". Line 6, strike out the words "employed on a commission basis," and insert in place thereof the words "in soliciting, negotiating or effecting of business in this State."

Section 16, line 3, substitute for the word "the" the word "that" and strike out the words "specified in section 1 (d) of this act,".

Mr. Preiser moved the adoption of the committee amendments.

Which motion was adopted.

Mr. W. H. Jones, Chairman of the Committee on Judiciary, reported

Assembly Bills Nos. 189 and 111, both

Favorably, without amendment.

Mr. Hoff, Chairman of the Committee on Veterans and Military Affairs, reported

Assembly Bill No. 245,

Favorably, without amendment.

Mr. Shershin, Chairman of the Committee on Game and Fisheries, reported

Assembly Bill No. 159

And

Senate Bill No. 84,

Favorably, without amendment.

The following bills:

Assembly Bill No. 38, entitled "An act concerning insurance; authorizing and regulating the exchange of reciprocal or interinsurance contracts; defining the kind of insurance which may be the subject of such contracts; providing for the issuance of licenses and fixing penalties for violations of the provisions hereof,"

As amended,

Assembly Bill No. 111, entitled "An act concerning disorderly persons, and supplementing subtitle fifteen of Title 2 of the Revised Statutes of New Jersey,"

[OFFICIAL COPY REPRINT]

ASSEMBLY, No. 38

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 5, 1945

By Mr. REIFFIN

Referred to Committee on Insurance

AN ACT concerning insurance; authorizing and regulating the exchange of reciprocal or interinsurance contracts; defining the kinds of insurance which may be the subject of such contracts; providing for the issuance of licenses, and fixing penalties for violations of the provisions hereof.

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

1 1. Individuals, partnerships, trustees and all corporations of this State,
2 herein designated "subscribers," are hereby authorized to exchange recipro-
3 cal or interinsurance contracts with each other and with individuals, part-
4 nerships, trustees and corporations of other States, districts, provinces and
5 countries, for any or all of the kinds of business for which a company may
6 be formed or authorized to transact under the provisions of chapter seven-
7 teen of Title 17 of the Revised Statutes, except life insurance.

8-74 Such contracts and the exchange thereof and such subscribers, their at-
75 torneys in fact and representatives shall be regulated by this act and by no
76 other statute of this State relating to insurance, except as herein otherwise
77 provided.

1 2. Such contracts may be executed by an attorney in fact, herein des-
2 igned "attorney," duly authorized and acting for such subscribers, and
3 such attorney may be a corporation. The office or offices of such attorney,

4 herein defined as an "exchange," shall be maintained at such place or places
5 as may be designated by the subscribers in the power of attorney.

1 3. Such attorney shall file with the Commissioner of Banking and Insur-
2 ance of this State a declaration, verified by the oath of such attorney, or when
3 such attorney is a corporation, by the oath of its president or oaths of its
4 treasurer and secretary setting forth:

5 (a) The name of the attorney and the name or designation of the
6 exchange under which such contracts are to be issued, which name or des-
7 ignation shall not be so similar to any other name or designation theretofore
8 adopted by any attorney or by any insurance organization in this State so as
9 to confuse or deceive;

10 (b) The kind or kinds of insurance to be effected or exchanged;

11 (c) A copy of the form of policy contract or agreement under or by
12 which such insurance is to be effected or exchanged and forms of applica-
13 tion therefor;

14 (d) A certified copy of the power of attorney or other authorization of
15 such attorney under or by which such attorney is to effect or exchange such
16 insurance contracts;

17 (e) The location of the office or offices from which such contracts or
18 agreements are to be issued;

19 (f) That except as to the kinds of insurance hereinafter specifically
20 mentioned in this paragraph, applications have been made for indemnity
21 upon at least two hundred separate risks aggregating not less than three
22 million dollars (\$3,000,000.00) represented by executed contracts or bona fide
23 applications to become concurrently effective. In the case of employers'
24 liability or workmen's compensation insurance, application shall have been
25 made for indemnity upon at least one hundred separate risks covering a
26 total annual payroll of not less than two and one-half million dollars
27 (\$2,500,000.00) as represented by executed contracts or bona fide applica-
28 tions to become concurrently effective. In the case of automobile insurance,
29 applications shall have been made for indemnity upon at least one thousand

30 motor vehicles or for insurance aggregating not less than one and one-half
31 million dollars (\$1,500,000.00) represented by executed contracts or bona fide
32 applications to become concurrently effective on any or all classes of auto-
33 mobile insurance effected by said subscribers through said attorney;

34 (g) That there shall be maintained at the exchange, available for the
35 payment of losses, assets conforming to the requirements of section five
36 hereof;

37 (h) A financial statement under oath in form prescribed by the Commis-
38 sioner of Banking and Insurance of this State;

39 (i) An instrument authorizing service of process as provided for in
40 this act, and

41 (j) Where the principal office of the attorney is located in another State,
42 a certificate from the proper official of the State where the principal office is
43 maintained, that the subscribers and the attorney have complied with all
44 provisions of law and are authorized in that State to transact the classes
45 of business which are sought to be transacted in this State.

1 4. Concurrently with the filing of the declaration provided for by the
2 terms of section three hereof, the attorney shall file with the Commissioner
3 of Banking and Insurance of this State an instrument in writing duly exe-
4 cuted by him for said subscribers, conditioned that upon the issuance of
5 certificate of authority provided for in section eleven hereof, action may be
6 brought in any county in which the cause of action arises, or where the
7 claimant resides, and service of process may be had upon the Commissioner
8 of Banking and Insurance of this State in all suits in this State arising out
9 of any policies, contracts or agreements issued, which service shall be valid
10 and binding upon all subscribers exchanging at any time reciprocal or inter-
11 insurance contracts through such attorney. Three copies of such process
12 shall be served and the Commissioner of Banking and Insurance of this
13 State shall file one copy in his office, forward one copy to said attorney,
14 and return one copy with his admission of service. Where the principal
15 office of the attorney is located in this State, service of process may also

16 be had upon all subscribers by serving the attorney at said office. Service of
17 process shall not be had upon subscribers or any of them in any suit or pro-
18 ceeding in this State, except in the manner provided in this section, and
19 any suit or other proceeding may be begun and prosecuted or defended by
20 them under the name or designation adopted by them. A service fee of two
21 dollars (\$2.00) shall accompany each such service and be paid to the Com-
22 missioner of Banking and Insurance.

1 5. There shall be maintained at all times by the exchange, a reinsur-
2 ance reserve in cash or securities authorized by the laws of the State in
3 which the principal office of the attorney is located for the investment of
4 similar funds of insurance companies doing the same kind of business, in
5 an amount equal to fifty per centum (50%) of the net annual premium de-
6 posits collected and credited to the accounts of subscribers on policies having
7 one year or less to run and pro rata on those for longer periods, or, in lieu
8 thereof, one hundred per centum (100%) of the net unearned premium de-
9 posits collected and credited to the accounts of subscribers calculated sepa-
10 rately for each policy in force as of any given date. In addition to the
11 reserves provided for in this section, there shall also be maintained at all
12 times at the exchange, as assets, a surplus in cash or such securities as afore-
13 said of not less than the amount of minimum capital and surplus required of
14 a domestic stock insurance company to do the kind or kinds of insurance which
15 it is authorized to write under section one of this act. There shall also be
16 maintained at all times in the hands of the attorney, as a claim or loss re-
17 serve, in cash or such securities as aforesaid, assets sufficient to discharge
18 all liabilities on all outstanding or accrued losses arising under policies
19 issued, which are to be calculated in accordance with the laws of the State
20 relating to similar reserves for companies insuring similar risks. If at any
21 time the amounts on hand are less than the foregoing requirements, the sub-
22 scribers, or their attorney for them, shall make up the deficiency. Net
23 premium deposits, as used in this act, shall be construed to mean the premium
24 deposits made by subscribers after deducting therefrom the amount paid

25 as return premiums upon canceled contracts and reinsurance in companies
26 or associations licensed to do business in this State. If it appears that the
27 amount of funds required in this section has not been accumulated, then the
28 subscribers, or the attorney for them, shall immediately advance such sums
29 as are needed to comply with the provisions of this section, and the funds so
30 advanced shall not be treated as a liability at the exchange, and shall not
31 be withdrawn except with the approval of the chief insurance officer of the
32 State wherein the exchange is domiciled, and such advances shall be repaid
33 only out of the surplus, over and above the minimum required by this sec-
34 tion. If the subscribers, or their attorney for them, shall fail to advance
35 sums necessary for the maintenance of such minimum reserves and sur-
36 plus, within thirty days after receipt of notice from the Commissioner of
37 Banking and Insurance so to do, then said Commissioner of Banking and
38 Insurance shall take charge of and liquidate such exchange in the manner
39 provided by law in the case of other insurers; and in the case of an ex-
40 change of another State said Commissioner of Banking and Insurance may
41 revoke its license to transact business in this State.

1 6. Each domestic exchange transacting business in this State shall keep
2 and maintain with the Commissioner of Banking and Insurance a general
3 deposit of cash or securities in the sum of not less than fifty thousand dol-
4 lars (\$50,000.00). In the case of foreign exchanges, a certificate of such
5 deposit with the chief insurance officer of the State of domicile shall be filed
6 with the Commissioner of Banking and Insurance of this State.

1 7. The power of attorney under which any contracts of insurance are
2 exchanged pursuant to this act shall provide for a cash premium deposit
3 and a contingent several liability of the subscriber during each annual period
4 of the term of each contract of insurance issued to him to be fixed in the
5 power of attorney but in an amount not less than one or more than ten
6 times the amount of the annual portion of such cash premium deposit stated
7 in the contract; except that exchanges which have a surplus equal to seven
8 hundred and fifty thousand dollars (\$750,000.00) or to the minimum capital

9 and surplus required of a stock insurance company transacting the same kind
10 or kinds of business, whichever is greater, may issue policies without con-
11 tingent liability; *provided, however*, that any such exchange which shall have
12 issued policies without contingent liability after the acquisition of such sur-
13 plus may continue to do so only so long as it maintains a surplus in the
14 above amount, and no such exchange shall issue any non-assessable policies,
15 except during such time as it shall continue to maintain such surplus.

1 8. Such attorney shall, within the time limited for filing the annual state-
2 ment by insurance companies, transacting the same kind of business, make
3 a report, under oath, to the Commissioner of Banking and Insurance of this
4 State for each calendar year in such form as he may prescribe, showing the
5 financial condition of affairs at the office where such contracts are issued,
6 and shall at any reasonable time furnish such additional information and
7 reports as may be required by said commissioner; *provided, however*, that
8 the attorney shall not be required to furnish the names and addresses of
9 any subscribers, except in the case of unpaid final judgments. The records,
10 affairs and financial condition of the exchange shall be subject to examina-
11 tion by the Commissioner of Banking and Insurance of this State, and such
12 examination shall be at the expense of the office examined. Where the prin-
13 cipal office of the attorney is located in another State, the Commissioner of
14 Banking and Insurance of this State may, in lieu of the examination pro-
15 vided for in this section, accept a certified copy of the report of examina-
16 tion made by the insurance department of the State where the principal office
17 is located, or by the insurance department of any other State.

1 9. (a) Any corporation now or hereafter organized under the laws of
2 this State shall, in addition to the rights, powers and franchises specified in
3 its articles of incorporation, have full power and authority as a subscriber
4 to exchange insurance contracts of the kind and character herein mentioned.
5 The right to exchange such contracts is hereby declared to be incidental to
6 the purposes for which such corporations are organized, and as much granted
7 as the rights and powers expressly conferred.

8 (b) All persons, firms or corporations holding property in trust may
9 insure the same at a reciprocal exchange, and, in their representative capac-
10 ity, may assume the liabilities and be entitled to the rights of a subscriber,
11 but such trustees by so doing, shall not personally or individually be liable
12 under the power of attorney executed on behalf of the trust.

1 10. Any attorney who shall exchange any contracts of insurance of the
2 kind and character specified in this act, or any attorney or representative
3 of such attorney who shall solicit or negotiate any applications for same,
4 without the attorney first complying with the foregoing provisions, shall be
5 deemed guilty of a misdemeanor, and upon conviction thereof shall be sub-
6 jected to a fine of not less than one hundred dollars (\$100.00) nor more
7 than one thousand dollars (\$1,000.00).

8 For the purposes of organization, and upon issuance of permit by the
9 Commissioner of Banking and Insurance of this State, and under such con-
10 ditions as he may impose, powers of attorney and applications for such
11 insurance contracts may be solicited without compliance with the provisions
12 of this act, but no attorney or other person shall execute or issue any such
13 contracts of insurance until all the provisions of this act shall have been
14 complied with and certificate of authority issued by the Commissioner of
15 Banking and Insurance.

1 11. Before issuing any such contracts in this State, the attorney shall
2 procure from the Commissioner of Banking and Insurance of this State a
3 certificate of authority showing that the exchange has complied with all the
4 requirements of this act and is authorized to transact business in this State,
5 which said certificate shall expire on the first day of May of the follow-
6 ing year, and shall be renewed each year as of the first day of May
7-12 thereof. Such certificate shall specify the name or designation under which
13 such contracts of insurance are issued. The Commissioner of Banking and
14 Insurance of this State may, after hearing, revoke or suspend any certifi-
15 cate of authority issued hereunder in the case of violation of any of the
16 provisions of this act, after reasonable notice has been given such attorney

17 in writing, so that he may appear and show cause why such action should
18 not be taken.

1 12. The attorney may insert in any form of policy prescribed by the
2 laws of this State or adopted by this State any provisions or conditions re-
3 quired by the plan of reciprocal or inter-insurance; *provided, however,* that
4 same shall not be in conflict with the laws of this State.

1 13. Such exchanges shall be subject to the same fees and taxes as are
2 provided by the laws of this State, now or hereafter enacted, applicable to
3 insurance companies organized or admitted to do the same kind or kinds of
4 business under the laws of this State.

1 14. The provisions of the general insurance laws of this State regard-
2 ing the appointment, licensing, qualification and regulation of insurance
3 agents and solicitors shall not apply to an exchange or its attorney, or
4 executive officer of such attorney, if a corporation, but shall apply to any
5 other person, partnership or corporation representing any such reciprocal
6 or inter-insurance exchange in soliciting, negotiating or effecting of business
7 in this State.

1 15. The provisions of the laws of this State regulating the making and
2 applying of insurance rates and providing for the licensing of rating organi-
3 zations, being chapter twenty-seven, laws of one thousand nine hundred and
4 forty-four, approved March ninth, one thousand nine hundred and forty-
5 four, effective March ninth, one thousand nine hundred and forty-four, shall
6 apply to reciprocal or inter-insurance contracts, but nothing therein con-
7 tained shall be construed to prohibit the return of savings or dividends to
8 subscribers of policyholders.

1 16. Employers are hereby expressly authorized to exchange contracts
2 of workmen's compensation insurance, at any reciprocal exchange licensed
3 in this State to do that kind of business, but all such exchanges shall be
4 subject to the provisions of the laws of this State relating to the business
5 of workmen's compensation insurance and shall contribute and pay to the
6 funds described in sections 34:15-94, 34:15-112, 34:15-113, 34:15-114 and

7 34:15-115 of the Revised Statutes in the same manner and to the same
8 extent as mutual carriers engaged in the business of workmen's compensation
9 insurance.

1 17. The retaliatory laws of this State set forth in section 17:32-12 of
2 the Revised Statutes shall be applicable to reciprocal or inter-insurance ex-
3 changes.

1 18. All laws or parts of laws in conflict herewith are hereby repealed, in-
2 sofar as they are in conflict with this act.

1 19. In the event any section, part or provisions of this act is held to be
2 illegal, the same shall not affect any other section, part or provisions of
3 the act, but the remaining sections, parts and provisions shall be and re-
4 main in full force and effect.

1 20. This act shall take effect immediately.