

17:17-1

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(Insurance property--increase surplus & capital requirements)

NJSA: 17:17-1

LAWS OF: 1993 **CHAPTER:** 234

BILL NO: A75

SPONSOR(S) Kramer and others

DATE INTRODUCED: February 1, 1993

COMMITTEE: **ASSEMBLY:** Insurance

SENATE: Commerce

AMENDED DURING PASSAGE: Yes Amendments during passage
First reprint enacted denoted by superscript numbers

DATE OF PASSAGE: **ASSEMBLY:** May 13, 1993

SENATE: June 28, 1993

DATE OF APPROVAL: August 9, 1993

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

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P.L.1993, CHAPTER 234, approved August 9, 1993
1993 Assembly No. 75 (First Reprint)

1 AN ACT concerning capital and surplus requirements for certain
2 insurance companies and amending and supplementing various
3 parts of Title 17 of the Revised Statutes.

4
5 BE IT ENACTED by the Senate and General Assembly of the
6 State of New Jersey:

7 1. R.S.17:17-1 is amended to read as follows:
8 17:17-1. Ten or more persons may form a corporation for the
9 purpose of making of any kinds of insurance, as follows:

10 a. Against direct or indirect loss or damage to property,
11 including loss of use or occupancy by fire, smoke; smudge;
12 lightning; tempest on land, including windstorm, tornado and
13 cyclone; earthquake; collapse of buildings; hail; frost or snow;
14 weather or climatic conditions, including excess or deficiency of
15 moisture, flood, rain or drought, rising of the waters of the ocean
16 or its tributaries; bombardment; invasion; insurrection; riot; civil
17 war or commotion; military or usurped power; vandalism or
18 malicious mischief; striking employees; explosion, whether fire
19 ensues or not, except explosion of steam boilers and flywheels;
20 and arising from the use of elevators, aircraft, automobiles or
21 other vehicles; against loss or damage by insects or disease to
22 farm crops or products and loss of rental value of land used in
23 producing the crops or products.

24 b. Against any kinds of loss or damage to: Vessels, craft,
25 aircraft, cars, automobiles and vehicles of every kind, including
26 all kinds of automobile and aircraft insurance (excepting
27 insurance against loss by reason of bodily injury to the person), as
28 well as all goods, freights, cargoes, merchandise, effects,
29 disbursements, profits, moneys, bullion, precious stones,
30 securities, choses in action, evidence of debt, valuable papers,
31 bottomry and respondentia interests, and all other kinds of
32 property and interests therein, in respect to, appertaining to or in
33 connection with any and all risks or perils of navigation, transit,
34 or transportation, including war risks, on or under any seas or
35 other waters, on land or in the air, or while being assembled,
36 packed, crated, baled, compressed or similarly prepared for
37 shipment or while awaiting the same or during any delays,
38 storage, transshipment or reshipment incident thereto, including
39 marine builder's risk and all personal property floater risks, and
40 to person or to property in connection with or appertaining to a
41 marine, inland marine, transit or transportation insurance,
42 including liability for loss of or damage to either, arising out of

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 underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:
Assembly AIM committee amendments adopted March 29, 1993.

1 or in connection with the construction, repair, operation,
2 maintenance or use of the subject matter of the insurance (but
3 not including life insurance or surety bonds) but, except as herein
4 specified, not against loss by reason of bodily injury to the person.

5 c. Upon the lives or health of persons, and every insurance
6 appertaining thereto, and to grant, purchase or dispose of
7 annuities.

8 d. Against bodily injury or death by accident, and upon the
9 health of persons, including a funeral benefit to an amount not
10 exceeding [\$100.00] \$100 or against loss or damage to
11 automobiles or motor vehicles, or to wagons or vehicles propelled
12 by a horse or team of any description, resulting from collision
13 with moving or stationary objects, against perils to property
14 arising from the use of elevators, aircraft, automobiles or other
15 motor vehicles, or against loss by legal liability for damage to
16 persons or property (including, if the insured is a state or a
17 political subdivision of a state or a municipal corporate
18 instrumentality of one or more states, loss by voluntary payments
19 made by the insured under circumstances where the insured would
20 have legal liability if it were a private corporation) resulting
21 from collision of automobiles, aircraft, or motor vehicles, or of
22 wagons or vehicles propelled by a horse or team with moving or
23 stationary objects.

24 e. Against loss or damage resulting from accident to or injury
25 suffered by any person for which loss or damage the insured is
26 liable, including, if the insured is a state or a political subdivision
27 of a state or a municipal corporate instrumentality of 1 or more
28 states, loss or damage resulting from accident to or injury
29 suffered by any person for which loss or damage the insured
30 would be liable if it were a private corporation.

31 f. Against damage to property of the insured or loss of life or
32 damage to the person or property of others for which the insured
33 is liable (including, if the insured is a state or a political
34 subdivision of a state or a municipal corporate instrumentality of
35 1 or more states, loss of life or damage to the person or property
36 of others for which the insured would be liable if it were a
37 private corporation), caused by the explosion of steam boilers,
38 pipes, engines, motors and machinery connected therewith or
39 operated thereby.

40 g. Against loss from the defaults of persons in positions of
41 trust, public or private, or against loss or damage on account of
42 neglect or breaches of duty or obligations guaranteed by the
43 insurer; and against loss by banks, bankers, brokers, financial or
44 moneyed corporations or associations, of any bills of exchange,
45 notes, checks, drafts, acceptances of drafts, bonds, securities,
46 evidences of debt, deeds, mortgages, documents, gold or silver,
47 bullion, currency, money, platinum and other precious metals,
48 refined or unrefined and articles made therefrom, jewelry,
49 watches, necklaces, bracelets, gems, precious and semiprecious
50 stones, and also against loss resulting from damage, except by
51 fire, to the insured's premises, furnishings, fixtures, equipment,
52 safes and vaults therein caused by burglary, robbery, hold-up,
53 theft or larceny, or attempt thereat. No such indemnity
54 indemnifying against loss of any property as specified herein shall

1 indemnify against the loss of any such property occurring while in
2 the mail or in the custody or possession of a carrier for hire for
3 the purpose of transportation, except for the purpose of
4 transportation by an armored motor vehicle accompanied by 1 or
5 more armed guards.

6 h. Against loss or damage on account of encumbrances upon or
7 defects in titles to real property. Any company organized or
8 operating under this paragraph shall have the right, in addition to
9 its other powers, to make searches, abstracts, examine titles to
10 real property and chattels, and procure and furnish information in
11 relation thereto.

12 i. Against loss from bad debts, commonly known as credit
13 insurance.

14 j. Against loss or damage by burglary, theft, larceny, robbery,
15 forgery, fraud, vandalism or malicious mischief, or any one or
16 more of such hazards; and against any and all kinds of loss or
17 destruction of or damage to moneys, securities, currencies, scrip,
18 coins, bullion, bonds, notes, drafts, acceptances of drafts, bills of
19 exchange and other valuable papers or documents, except while in
20 the custody or possession of and being transported by a carrier
21 for hire or in the mail; and against loss or damage to automobiles
22 and aircraft by burglary, larceny, or theft, vandalism or malicious
23 mischief, confiscation or wrongful conversion, disposal or
24 concealment, whether held under conditional sale contract or
25 subject to chattel mortgages, or otherwise, or any one or more of
26 such hazards.

27 k. Against loss of and damage to glass, including lettering and
28 ornamentation thereon, and the frame in which the glass is set
29 resulting from breakage of the insured glass.

30 l. Against loss or damage by water or other fluid to any goods
31 or premises arising from the breaking or leakage of sprinklers,
32 pumps, or other apparatus erected for extinguishing fires, or of
33 other conduits or containers, or by water entering through leaks
34 or openings in buildings, and of water pipes and against accidental
35 injury to such sprinklers, pumps, conduits, containers, water pipes
36 and other apparatus; including loss of use or occupancy of the
37 property so damaged.

38 m. Upon the lives of horses, cattle and other livestock or
39 against loss by theft of any such property or both.

40 n. Against loss or damage to property by smoke or mudge, or
41 both.

42 o. Any specified kinds of insurance not included in any of the
43 foregoing [paragraphs] subsections and which are proper subjects
44 of insurance.

45 Any company, which, by its charter, is authorized to make
46 insurance against loss or damage to property caused by fire,
47 lightning, or tempest on land, may, without amending its charter,
48 be authorized by the Commissioner of [Banking and] Insurance to
49 transact all of the kinds of insurance described in [paragraphs
50 "a", "b", and "l" hereof] subsections a., b. and l. of this section,
51 if it is possessed of the capital stock and surplus or cash
52 premiums required by [sections] R.S.17:17-6 and R.S.17:17-7 [of
53 this Title]; and any company which, by its charter, is authorized
54 to make insurance against loss or damage to private dwelling

1 property and contents thereof under [paragraph "a" hereof]
2 subsection a. of this section, may, without amending its charter
3 [or increasing its capital and surplus, or net cash assets if a
4 mutual company], be permitted to transact all of the kinds of
5 insurance described in [paragraphs "f," "k," and "l," hereof]
6 subsections f., k. and l. of this section, limited, however, to
7 extending fire or casualty insurance policies to provide such
8 coverages on private dwellings and contents thereof.
9 [notwithstanding the provisions of sections] if it possesses the
10 capital and surplus or cash premiums required by R.S.17:17-6 and
11 R.S.17:17-7 [of this Title]; or any company which, by its charter,
12 is authorized to make any kinds of insurance described in [any of
13 the paragraphs "a" to "o"] subsections a. through o. of this
14 section, inclusive [, of section 17:17-1 of this Title] , except
15 [paragraph "c,"] subsection c. of this section, may, without
16 amending its charter, if it is possessed of a capital stock of at
17 least ~~[\$2,000,000.00]~~ \$3,500,000 and surplus of at least
18 ~~[\$1,000,000.00]~~ \$2,750,000 or, if a mutual company, it is
19 possessed of net cash assets (excess of allowable assets over all
20 liabilities) of at least ~~[\$3,000,000.00]~~ \$6,250,000, be authorized by
21 the Commissioner of [Banking and] Insurance to transact any
22 other kind or kinds of insurance that may be proper subjects of
23 insurance, except upon the lives of persons or the granting of
24 annuities.

25 (cf: P.L.1954, c.53, s.1)

26 2. R.S.17:17-6 is amended to read as follows:

27 17:17-6. No stock insurance company organized under chapters
28 17 to 33 of [this] Title 17 of the Revised Statutes (17:17-1
29 et seq.), shall commence or continue business unless it has a
30 capital stock of at least ~~[\$200,000.00]~~ the greater of \$500,000,
31 actually paid in cash [and additional] , or capital stock of
32 [\$100,000.00] \$200,000, actually paid in cash, for each kind of
33 insurance more than one which it may transact as specified in
34 [section 17:17-3 of this Title, and also a surplus actually paid in
35 cash equal to 1/2 of the capital stock] subsections a., b., f., i., j.,
36 k., l., m., n. and o. of R.S.17:17-1; \$1,000,000 for the kinds of
37 insurance specified in subsection e. of R.S.17:17-1; and \$500,000
38 for the kinds specified in subsection g. of R.S.17:17-1; and, in
39 addition, a surplus, actually paid in cash, of at least the greater
40 of \$250,000 or \$100,000 for each kind of insurance more than one
41 which it may transact as specified in subsections a., b., f., i., j.,
42 k., l., m., n. and o. of R.S.17:17-1; \$1,000,000 for the kinds of
43 insurance specified in subsection e. of R.S.17:17-1; and \$750,000
44 for the kinds specified in subsection g. of R.S.17:17-1. ¹[A
45 company shall not commence or continue the kind of business
46 specified in [paragraph "c"] subsection d. of [section] R.S.17:17-1
47 [of this Title], unless it has a capital stock of at least
48 [\$800,000.00] \$500,000, actually paid in cash, [and an additional
49 capital stock of \$100,000.00, actually paid in cash, for every
50 other kind of insurance which it is authorized to transact,] and
51 also a surplus of at least [\$1,700,000.00] \$750,000, actually paid
52 in cash.]¹ [Except as otherwise provided hereby, a company shall
53 not commence the kind of business specified in paragraph "d" of
54 section 17:17-1 of this Title, unless it has a capital stock of at

1 least \$400,000.00, actually paid in cash, and an additional capital
2 stock of \$100,000.00, actually paid in cash, for every other kind
3 of insurance other than the kind specified in paragraph "c" of
4 section 17:17-1 of this Title which it is authorized to transact,
5 and also a surplus of at least \$600,000.00, actually paid in cash;
6 provided, however, that any such insurer duly licensed in this
7 State immediately prior to the effective date of this enactment
8 shall be excepted from the provisions hereof and shall remain
9 subject to those capital and surplus requirements in effect
10 immediately prior thereto, but if such insurer hereafter seeks to
11 amend its license by increasing the kinds of business which it
12 shall be authorized to transact in this State, it shall then be
13 subject to the capital and surplus requirements specified herein.
14 A company formed for the purposes specified in paragraph "d" of
15 section 17:17-1 of this Title may not transact the kind of business
16 specified in paragraph "c" of section 17:17-1 of this Title unless
17 such company increases its capital stock and surplus, actually
18 paid in the cash, to conform to the financial requirements of a
19 company formed for the purposes specified in paragraph "c" of
20 section 17:17-1 of this Title. A company shall not commence the
21 kind of business specified in paragraph "g" of section 17:17-1 of
22 this Title, unless it has a capital stock of at least \$250,000.00
23 actually paid in cash, and an additional capital stock of
24 \$100,000.00, actually paid in cash, for every other kind of
25 insurance which it is authorized to transact, and also a surplus
26 actually paid in cash equal to 1/2 of the capital stock. In case of
27 a stock insurance company formed under paragraph "h" of section
28 17:17-1 of this Title by certificate filed in the Department of
29 Banking and Insurance prior to January 1, 1947, the company shall
30 be entitled to commence business within the time limited by
31 section 17:17-10 of this Title if it has a capital stock of at least
32 \$100,000.00, actually paid in cash, and also a surplus actually paid
33 in cash equal to 1/2 of such capital stock.]

34 A stock insurance company authorized to transact the kinds of
35 business specified in R.S.17:17-1 or eligible to insure surplus lines
36 risks pursuant to section 11 of P.L.1960, c.32 (C.17:22-6.45) as of
37 the effective date of this ¹[1992] 1993¹ amendatory and
38 supplementary act may apply to the commissioner for a
39 temporary waiver of the applicable capital and surplus
40 requirements set forth in this section. The commissioner may, in
41 his discretion, temporarily waive the applicable capital and
42 surplus requirements for that insurance company for a period of
43 no more than five years, except that the insurance company shall
44 remain subject to capital and surplus requirements of no less
45 amounts than those in effect immediately prior to the effective
46 date of this ¹[1992] 1993¹ amendatory and supplementary act. In
47 considering such a temporary waiver, the commissioner shall
48 consider the size of the insurance company's deficiency in
49 meeting the applicable capital and surplus requirements; the
50 adequacy of the insurance company's financial plan to meet the
51 applicable capital and surplus requirements; and any other factors
52 deemed appropriate by the commissioner.

53 (cf: P.L.1968, c.336, s.2)

54 3. R.S.17:17-7 is amended to read as follows:

1 17:17-7. [Except as otherwise provided in section 17:34-8 of
2 this Title, no] No mutual insurance company organized under
3 chapters 17 to 33 of [this] Title 17 of the Revised Statutes
4 (§17:17-1 et seq.), shall commence business until bona fide
5 applications have been made for insurance with the company of
6 the kind or kinds it may transact, as specified in [section]
7 R.S.17:17-3 [of this Title], and premiums thereon have been paid
8 into the company in cash in such sum, which, together with any
9 other funds that may be legally available, will result in the
10 company having unencumbered assets over and above all required
11 reserves and other liabilities of at least \$50,000.00 for each kind
12 of business it may transact, as specified in section 17:17-3 of this
13 Title, as aforesaid] 50 percent of the capital and surplus required
14 of a stock company transacting the same kind or kinds of
15 insurance. [Any such company now transacting business in this
16 State and desiring to write one or more additional kinds of
17 insurance must be possessed of at least \$50,000.00 of net cash
18 assets for each kind of insurance it is writing and is proposing to
19 write. A mutual company shall not commence the kind of
20 business specified in paragraph "c" of section 17:17-1 of this title
21 unless it has net cash assets of at least \$600,000.00 and, unless
22 also qualified under said paragraph "c," shall not commence the
23 kind of business specified in paragraph "d" of section 17:17-1 of
24 this title unless it has net cash assets of at least \$300,000.00.] A
25 company shall not commence or continue the business of
26 [workmen's compensation or employer's] liability insurance, as
27 comprised in [paragraph "e"] subsection e. of [section]
28 R.S.17:17-1 [of this Title] unless it has net cash assets of at least
29 [\$300,000.00] \$2,000,000 and shall not commence or continue the
30 writing of fidelity and surety bonds as comprised in [paragraph
31 "g"] subsection g. of [section] R.S.17:17-1 [of this Title] unless it
32 has net cash assets of at least [\$375,000.00] \$1,250,000.

33 A mutual insurance company authorized to do the kind of
34 business specified in R.S.17:17-1 or eligible to insure surplus lines
35 risks pursuant to section 11 of P.L.1960, c.32 (C.17:22-6.45) as of
36 the effective date of this ¹[1992] 1993¹ amendatory and
37 supplementary act may apply to the commissioner for a
38 temporary waiver of the applicable capital and surplus
39 requirements set forth in this section. The commissioner may, in
40 his discretion, temporarily waive the applicable capital and
41 surplus requirements for that insurance company for a period of
42 no more than five years, except that the insurance company shall
43 remain subject to capital and surplus requirements of no less
44 amounts than those in effect immediately prior to the effective
45 date of this ¹[1992] 1993¹ amendatory and supplementary act. In
46 considering such a temporary waiver, the commissioner shall
47 consider the size of the insurance company's deficiency in
48 meeting the applicable capital and surplus requirements; the
49 adequacy of the insurance company's financial plan to meet the
50 applicable capital and surplus requirements; and any other factors
51 deemed appropriate by the commissioner.

52 (cf: P.L.1968, c.336, s.3)

53 4. R.S.17:18-9 is amended to read:

54 17:18-9. No insurance company [of] transacting business in this

1 State shall expose itself to any loss on any one risk or hazard [to
 2 in an amount exceeding ten per centum (10%) of its net assets [,
 3 and no insurance company of another State or foreign county,
 4 transacting business in this State, shall expose itself to any loss
 5 on any one risk or hazard in this State to an amount exceeding
 6 ten per centum (10%) of its net assets] as of December 31 next
 7 preceding, except that for the kind of business specified in
 8 subsection e. of R.S.17:17-1, the exposure to any loss on any one
 9 risk or hazard shall not exceed five per centum (5.0%) of the
 10 insurer's net assets as of December 31 next preceding. With
 11 respect to the kind of business specified in subsection e. of
 12 R.S.17:17-1, the commissioner may revise the limit between five
 13 per centum (5.0%) and ten per centum (10.0%) of net assets
 14 exposed on any one risk or hazard as deemed necessary based on
 15 an assessment of the lines and classifications of business written
 16 and on the individual company's financial condition. So much of
 17 a risk or hazard as shall be reinsured in a company [lawfully
 18 transacting business] ¹[authorized or admitted to transact the
 19 business of insurance in this State,] that satisfies the
 20 requirements set forth in P.L. c. (C.)(now pending
 21 before the Legislature as Assembly, No. 84) or as to which credit
 22 for reinsurance is allowed pursuant to the law of the ceding
 23 insurer's state or country of domicile, which law is substantially
 24 similar to P.L. c. (C.)(now pending before the
 25 Legislature as Assembly, No. 84)]¹ shall not be considered part of
 26 the risk. ¹[Any part of a risk or hazard which is reinsured in a
 27 company which is not authorized or admitted shall be considered
 28 part of the risk unless the reinsurer provides collateral to the
 29 ceding insurer acceptable to the commissioner or otherwise
 30 complies with the requirements established by this State for
 31 allowing credit for reinsurance.]]¹

32 Any mutual fire insurance company operated without purpose
 33 of profit and which confines its business principally to sprinklered
 34 risks and which pays no commissions or brokerages for the
 35 acquisition of its business may expose itself to loss on any one
 36 risk or hazard to an amount not exceeding ten per centum (10%)
 37 of the sum of its net assets and its gross premium or premium
 38 deposits in force. No [mutual] insurance company transacting
 39 business in this State and having net assets of less than [three
 40 hundred thousand dollars (\$300,000.00)] \$2,000,000 shall issue any
 41 policy of insurance [in this State] on any one risk or hazard for an
 42 amount in excess of double the amount to which it can legally
 43 expose itself, as above provided, unless the reinsurance contracts
 44 [be] have been submitted to and approved by the commissioner.

45 This section shall not apply to policies of life insurance, marine
 46 insurance, including transportation and inland navigation, title or
 47 mortgage insurance, or workmen's compensation or employer's
 48 liability insurance.

49 (cf: P.L.1951, c.206, s.3)

50 5. (New section) The commissioner may promulgate rules and
 51 regulations with respect to solvency standards and tests,
 52 including, but not limited to: the ratio of policyholder surplus to
 53 net premiums; the ratio of policyholder surplus to net claim
 54 reserves; ¹the concentration of the insurer's exposures,

1 geographic or otherwise;¹ and transactions which could affect the
2 companies' solvency.

3 6. (New section) The commissioner may increase the amount
4 of capital or surplus required of any insurer pursuant to
5 R.S.17:17-6 or R.S.17:17-7, or subsequently revise or redetermine
6 such increase, using appropriate methods and procedures
7 established by rules and regulations adopted by the commissioner
8 in order to provide adequate protection against risks affecting
9 the insurer's financial condition that are not adequately or fully
10 covered by its reserves or other assets, but under no
11 circumstance shall an insurer's capital or surplus be less than the
12 capital or surplus required pursuant to R.S.17:17-6 or, if
13 applicable, R.S.17:17-7; provided, however, that any increase of
14 capital or surplus pursuant to this section, including any increase
15 required by a subsequent revision or redetermination, shall be
16 made only after a formal departmental hearing, on a record,
17 unless that hearing is waived by the affected insurer. All matters
18 pertaining to a hearing or to an increase of capital or surplus
19 pursuant to this section shall be confidential and not subject to
20 subpoena or public inspection, except to the extent that the
21 commissioner finds release of information necessary to protect
22 the public. The hearing shall be initiated within 20 days after
23 written notice to the insurer. Any decision regarding an increase
24 of capital or surplus pursuant to this section, including an
25 increase required by a subsequent revision or redetermination,
26 shall contain findings specifying the factors deemed significant in
27 regard to the particular insurer, and shall set forth the reasons
28 supporting the increase of capital or surplus ordered by the
29 commissioner. In determining any increase, revision or
30 redetermination in the amount of capital or surplus, the
31 commissioner shall consider the risks of:

32 a. Increases or decreases in the frequency and severity of
33 losses under normal operating conditions, as well as increases or
34 decreases in those values, beyond or below the levels
35 contemplated by the rates that it charged for insurance and
36 beyond or below those reasonably expected under normal
37 conditions;

38 b. Increases or decreases in expenses under normal operating
39 conditions, as well as increases or decreases in those values,
40 beyond or below the levels contemplated by the rates that it
41 charged for insurance and beyond or below those reasonably
42 expected under normal conditions;

43 c. Increases or decreases in the value of, or return on, invested
44 assets under normal operating conditions, as well as increases or
45 decreases in those values, beyond or below those levels
46 anticipated under normal conditions;

47 d. Changes in economic, social and market conditions that
48 could adversely or favorably affect the financial condition of the
49 insurer, including conditions that would make liquidity more or
50 less important than contemplated and would prevent or facilitate
51 timely investments or force or prohibit untimely sale of assets;
52 and

53 e. Any other contingencies, including reinsurance and unfunded
54 or extracontractual obligations, which may affect the insurer's

1 financial condition.

2 7. (New section) In determining any increase, revision or
3 redetermination in the capital or surplus of an insurer pursuant to
4 the provisions of section 6 of P.L. , c. (C.)(now pending
5 before the Legislature as this bill), the commissioner shall take
6 into account the following factors:

7 a. Methods and techniques used to measure risk exposure and
8 variability;

9 b. The information available relating to the magnitude of the
10 various risks described in section 6 of P.L. , c. (C.)(now
11 pending before the Legislature as this bill);

12 c. The extent to which the risks described in section 6 of
13 P.L. , c. (C.)(now pending before the Legislature as this
14 bill) are independent or interrelated, and whether any dependency
15 is direct or inverse;

16 d. The insurer's financial history, projections of profits or
17 losses and other operational characteristics;

18 e. The extent to which the insurer has provided protection
19 against contingencies in ways other than the establishment of
20 surplus including, but not limited to: redundancy of premiums;
21 margin in reserves and liabilities; adjustability of contracts
22 pursuant to the terms of the contracts; voluntary or mandatory
23 investment valuation reserves; reinsurance; the use of
24 conservative actuarial assumptions to provide a margin of
25 security; reserve adjustments after rate increases for policies
26 written at earlier and less adequate rates; contingency or
27 catastrophe reserves, and diversification of assets and
28 underwriting risks; and

29 f. Any other relevant factors, including National Association
30 of Insurance Commissioners' reports and independent judgments
31 of the soundness of the insurer's financial condition as evidenced
32 by ratings and reports of reliable professional financial services.

33 8. (New section) Every insurance company transacting the
34 business of insurance in this State shall, at all times, maintain
35 reserves in an amount estimated in the aggregate to provide for
36 the payment of all losses and claims incurred, whether reported
37 or unreported, which are unpaid and for which such company may
38 be liable, and to provide for the expenses of adjustments or
39 settlement of such losses or claims.

40 9. (New section) The commissioner may suspend or revoke the
41 authority to do business in this State of any insurer that does not
42 comply with the provisions of R.S.17:17-1, R.S.17:17-6,
43 R.S.17:17-7, R.S.17:17-9 and sections 5 through 8 of P.L. , c.
44 (C.)(now pending before the Legislature as this bill).

45 10. This act shall take effect immediately.

46
47
48
49
50 Increases capital and surplus requirements for property and
51 casualty insurers.

1 the provisions of section 6 of P.L. , c. (C.)(now pending
2 before the Legislature as this bill), the commissioner shall take
3 into account the following factors:

4 a. Methods and techniques used to measure risk exposure and
5 variability;

6 b. The information available relating to the magnitude of the
7 various risks described in section 6 of P.L. , c. (C.)(now
8 pending before the Legislature as this bill);

9 c. The extent to which the risks described in section 6 of
10 P.L. , c. (C.)(now pending before the Legislature as this
11 bill) are independent or interrelated, and whether any dependency
12 is direct or inverse;

13 d. The insurer's financial history, projections of profits or
14 losses and other operational characteristics;

15 e. The extent to which the insurer has provided protection
16 against contingencies in ways other than the establishment of
17 surplus including, but not limited to: redundancy of premiums;
18 margin in reserves and liabilities; adjustability of contracts
19 pursuant to the terms of the contracts; voluntary or mandatory
20 investment valuation reserves; reinsurance; the use of
21 conservative actuarial assumptions to provide a margin of
22 security; reserve adjustments after rate increases for policies
23 written at earlier and less adequate rates; contingency or
24 catastrophe reserves, and diversification of assets and
25 underwriting risks; and

26 f. Any other relevant factors, including National Association
27 of Insurance Commissioners' reports and independent judgments
28 of the soundness of the insurer's financial condition as evidenced
29 by ratings and reports of reliable professional financial services.

30 8. (New section) Every insurance company transacting the
31 business of insurance in this State shall, at all times, maintain
32 reserves in an amount estimated in the aggregate to provide for
33 the payment of all losses and claims incurred, whether reported
34 or unreported, which are unpaid and for which such company may
35 be liable, and to provide for the expenses of adjustments or
36 settlement of such losses or claims.

37 9. (New section) The commissioner may suspend or revoke the
38 authority to do business in this State of any insurer that does not
39 comply with the provisions of R.S.17:17-1, R.S.17:17-6,
40 R.S.17:17-7, R.S.17:17-9 and sections 5 through 8 of P.L. , c.
41 (C.)(now pending before the Legislature as this bill).

42 10. This act shall take effect immediately.

43
44
45 *SPONSORS' STATEMENT*
46

47 This bill increases capital and surplus requirements for insurers
48 writing property and casualty insurance in New Jersey and
49 requires such insurers to maintain adequate reserves. The bill also
50 reduces the maximum exposure of an insurer to loss with respect
51 to any single risk in regard to liability coverages.

52 The bill permits the Commissioner of Insurance to issue rules
53 and regulations with respect to solvency standards and tests
54 which may be applied to insurers. The minimum capital and

1 surplus requirements imposed by the bill would become effective
2 immediately with respect to new insurers, but for insurers
3 already transacting business in the State, the application of those
4 requirements may be waived for a period of up to five years by
5 the commissioner.

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10 increases capital and surplus requirements for property and
11 casualty insurers.

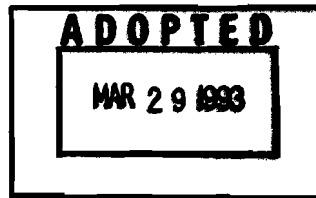
ASSEMBLY INSURANCE COMMITTEE

AMENDMENTS

to

ASSEMBLY, No. 75

(Sponsored by Assemblymen Kramer and Augustine)



REPLACE SECTION 2 TO READ:

2. R.S.17:17-6 is amended to read as follows:

17:17-6. No stock insurance company organized under chapters 17 to 33 of [this] Title 17 of the Revised Statutes (17:17-1 et seq.), shall commence or continue business unless it has a capital stock of at least [\$200,000.00] the greater of \$500,000, actually paid in cash [and additional] , or capital stock of [\$100,000.00] \$200,000, actually paid in cash, for each kind of insurance more than one which it may transact as specified in [section 17:17-3 of this Title, and also a surplus actually paid in cash equal to 1/2 of the capital stock] subsections a., b., f., i., j., k., l., m., n. and o. of R.S.17:17-1; \$1,000,000 for the kinds of insurance specified in subsection e. of R.S.17:17-1; and \$500,000 for the kinds specified in subsection g. of R.S.17:17-1; and, in addition, a surplus, actually paid in cash, of at least the greater of \$250,000 or \$100,000 for each kind of insurance more than one which it may transact as specified in subsections a., b., f., i., j., k., l., m., n. and o. of R.S.17:17-1; \$1,000,000 for the kinds of insurance specified in subsection e. of R.S.17:17-1; and \$750,000 for the kinds specified in subsection g. of R.S.17:17-1. ¹ [A company shall not commence or continue the kind of business specified in [paragraph "c"] subsection d. of [section] R.S.17:17-1 [of this Title], unless it has a capital stock of at least [\$800,000.00] \$500,000, actually paid in cash, [and an additional capital stock of \$100,000.00, actually paid in cash, for every other kind of insurance which it is authorized to transact,] and also a surplus of at least [\$1,700,000.00] \$750,000, actually paid in cash.]¹ [Except as otherwise provided hereby, a company shall not commence the kind of business specified in paragraph "d" of section 17:17-1 of this Title, unless it has a capital stock of at least \$400,000.00, actually paid in cash, and an additional capital stock of \$100,000.00, actually paid in cash, for every other kind of insurance other than the kind specified in paragraph "e" of section 17:17-1 of this Title which it is authorized to transact, and also a surplus of at least \$800,000.00, actually paid in cash; provided, however, that any such insurer duly licensed in this State immediately prior to the effective date of this enactment

shall be excepted from the provisions hereof and shall remain subject to those capital and surplus requirements in effect immediately prior thereto, but if such insurer hereafter seeks to amend its license by increasing the kinds of business which it shall be authorized to transact in this State, it shall then be subject to the capital and surplus requirements specified herein. A company formed for the purposes specified in paragraph "d" of section 17:17-1 of this Title may not transact the kind of business specified in paragraph "c" of section 17:17-1 of this Title unless such company increases its capital stock and surplus, actually paid in the cash, to conform to the financial requirements of a company formed for the purposes specified in paragraph "c" of section 17:17-1 of this Title. A company shall not commence the kind of business specified in paragraph "g" of section 17:17-1 of this Title, unless it has a capital stock of at least \$250,000.00 actually paid in cash, and an additional capital stock of \$100,000.00, actually paid in cash, for every other kind of insurance which it is authorized to transact, and also a surplus actually paid in cash equal to 1/2 of the capital stock. In case of a stock insurance company formed under paragraph "h" of section 17:17-1 of this Title by certificate filed in the Department of Banking and Insurance prior to January 1, 1947, the company shall be entitled to commence business within the time limited by section 17:17-10 of this Title if it has a capital stock of at least \$100,000.00, actually paid in cash, and also a surplus actually paid in cash equal to 1/2 of such capital stock.]

A stock insurance company authorized to transact the kinds of business specified in R.S.17:17-1 or eligible to insure surplus lines risks pursuant to section 11 of P.L.1980, c.32 (C.17:22-6.45) as of the effective date of this ¹[1992] 1993¹ amendatory and supplementary act may apply to the commissioner for a temporary waiver of the applicable capital and surplus requirements set forth in this section. The commissioner may, in his discretion, temporarily waive the applicable capital and surplus requirements for that insurance company for a period of no more than five years, except that the insurance company shall remain subject to capital and surplus requirements of no less amounts than those in effect immediately prior to the effective date of this ¹[1992] 1993¹ amendatory and supplementary act. In considering such a temporary waiver, the commissioner shall consider the size of the insurance company's deficiency in meeting the applicable capital and surplus requirements; the adequacy of the insurance company's financial plan to meet the applicable capital and surplus requirements; and any other factors deemed appropriate by the commissioner.

(cf: P.L.1988, c.336, s.2)

REPLACE SECTION 3 TO READ:

3. R.S.17:17-7 is amended to read as follows:

17:17-7. [Except as otherwise provided in section 17:34-8 of this Title, no] No mutual insurance company organized under chapters 17 to 33 of [this] Title 17 of the Revised Statutes (§17:17-1 et seq.), shall commence business until bona fide applications have been made for insurance with the company of the kind or kinds it may transact, as specified in [section] R.S.17:17-3 [of this Title], and premiums thereon have been paid into the company in cash in such sum, which, together with any other funds that may be legally available, will result in the company having unencumbered assets over and above all required reserves and other liabilities of at least [\$50,000.00 for each kind of business it may transact, as specified in section 17:17-3 of this Title, as aforesaid] 50 percent of the capital and surplus required of a stock company transacting the same kind or kinds of insurance. [Any such company now transacting business in this State and desiring to write one or more additional kinds of insurance must be possessed of at least \$50,000.00 of net cash assets for each kind of insurance it is writing and is proposing to write. A mutual company shall not commence the kind of business specified in paragraph "c" of section 17:17-1 of this title unless it has net cash assets of at least \$600,000.00 and, unless also qualified under said paragraph "c," shall not commence the kind of business specified in paragraph "d" of section 17:17-1 of this title unless it has net cash assets of at least \$300,000.00.] A company shall not commence or continue the business of [workmen's compensation or employer's] liability insurance, as comprised in [paragraph "e"] subsection e. of [section] R.S.17:17-1 [of this Title] unless it has net cash assets of at least [\$300,000.00] \$2,000,000 and shall not commence or continue the writing of fidelity and surety bonds as comprised in [paragraph "g"] subsection g. of [section] R.S.17:17-1 [of this Title] unless it has net cash assets of at least [\$375,000.00] \$1,250,000.

A mutual insurance company authorized to do the kind of business specified in R.S.17:17-1 or eligible to insure surplus lines risks pursuant to section 11 of P.L.1980, c.32 (C.17:22-6.45) as of the effective date of this ¹[1992] 1993¹ amendatory and supplementary act may apply to the commissioner for a temporary waiver of the applicable capital and surplus requirements set forth in this section. The commissioner may, in his discretion, temporarily waive the applicable capital and surplus requirements for that insurance company for a period of no more than five years, except that the insurance company shall remain subject to capital and surplus requirements of no less amounts than those in effect immediately prior to the effective

date of this ¹[1992]1993¹ amendatory and supplementary act. In considering such a temporary waiver, the commissioner shall consider the size of the insurance company's deficiency in meeting the applicable capital and surplus requirements; the adequacy of the insurance company's financial plan to meet the applicable capital and surplus requirements; and any other factors deemed appropriate by the commissioner.

(cf: P.L.1968, c.336, s.3)

REPLACE SECTION 4 TO READ:

4. R.S.17:18-9 is amended to read:

17:18-9. No insurance company [of] transacting business in this State shall expose itself to any loss on any one risk or hazard [to] in an amount exceeding ten per centum (10%) of its net assets [, and no insurance company of another State or foreign county, transacting business in this State, shall expose itself to any loss on any one risk or hazard in this State to an amount exceeding ten per centum (10%) of its net assets] as of December 31 next preceding, except that for the kind of business specified in subsection e. of R.S.17:17-1, the exposure to any loss on any one risk or hazard shall not exceed five per centum (5.0%) of the insurer's net assets as of December 31 next preceding. With respect to the kind of business specified in subsection e. of R.S.17:17-1, the commissioner may revise the limit between five per centum (5.0%) and ten per centum (10.0%) of net assets exposed on any one risk or hazard as deemed necessary based on an assessment of the lines and classifications of business written and on the individual company's financial condition. So much of a risk or hazard as shall be reinsured in a company [lawfully transacting business] ¹[authorized or admitted to transact the business of insurance in this State,] that satisfies the requirements set forth in P.L. c. (C.)(now pending before the Legislature as Assembly, No. 84) or as to which credit for reinsurance is allowed pursuant to the law of the ceding insurer's state or country of domicile, which law is substantially similar to P.L. c. (C.)(now pending before the Legislature as Assembly, No. 84)¹ shall not be considered part of the risk. ¹[Any part of a risk or hazard which is reinsured in a company which is not authorized or admitted shall be considered part of the risk unless the reinsurer provides collateral to the ceding insurer acceptable to the commissioner or otherwise complies with the requirements established by this State for allowing credit for reinsurance.]¹

Any mutual fire insurance company operated without purpose of profit and which confines its business principally to sprinklered risks and which pays no commissions or brokerages for the acquisition of its business may expose itself to loss on any one risk or hazard to an amount not exceeding ten per centum (10%)

of the sum of its net assets and its gross premium or premium deposits in force. No [mutual] insurance company transacting business in this State and having net assets of less than [three hundred thousand dollars (\$300,000.00)] \$2,000,000 shall issue any policy of insurance [in this State] on any one risk or hazard for an amount in excess of double the amount to which it can legally expose itself, as above provided, unless the reinsurance contracts [be] have been submitted to and approved by the commissioner.

This section shall not apply to policies of life insurance, marine insurance, including transportation and inland navigation, title or mortgage insurance, or workmen's compensation or employer's liability insurance.

(cf: P.L.1951, c.206, s.3)

REPLACE SECTION 5 TO READ:

5. (New section) The commissioner may promulgate rules and regulations with respect to solvency standards and tests, including, but not limited to: the ratio of policyholder surplus to net premiums; the ratio of policyholder surplus to net claim reserves; the concentration of the insurer's exposures, geographic or otherwise;¹ and transactions which could affect the companies' solvency.

ASSEMBLY INSURANCE COMMITTEE

STATEMENT TO

ASSEMBLY, No. 75

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 29, 1993

The Assembly Insurance Committee reports favorably and with committee amendments, Assembly Bill No. 75.

This bill increases capital and surplus requirements for insurers writing property and casualty insurance in New Jersey and requires such insurers to maintain adequate reserves. The bill also reduces the maximum exposure of an insurer to loss with respect to any single risk in regard to liability coverages.

The bill permits the Commissioner of Insurance to issue rules and regulations with respect to solvency standards and tests which may be applied to insurers. The minimum capital and surplus requirements imposed by the bill would become effective immediately with respect to new insurers, but for insurers already transacting business in the State, the application of those requirements may be waived for a period of up to five years by the commissioner.

The amendments eliminate apparent inconsistencies with respect to the capital and surplus requirements for stock property and casualty insurers doing health insurance business and anyone else doing health insurance business; clarify language for credit for reinsurance to insure consistency of application of Assembly, No. 84 also reported by the committee on this date; and provide that the commissioner may promulgate rules with respect to the concentration of an insurers exposures, among other things.

SENATE COMMERCE COMMITTEE

STATEMENT TO

[FIRST REPRINT]

ASSEMBLY, No. 75

STATE OF NEW JERSEY

DATED: MAY 27, 1993

The Senate Commerce Committee reports favorably Assembly, No. 75 (1R).

This bill increases capital and surplus requirements for insurers writing property and casualty insurance in New Jersey and requires such insurers to maintain adequate reserves. The bill also reduces the maximum exposure of an insurer to loss with respect to any single risk in regard to liability coverages.

The bill permits the Commissioner of Insurance to issue rules and regulations with respect to solvency standards and tests which may be applied to insurers. The minimum capital and surplus requirements imposed by the bill would become effective immediately with respect to new insurers, but for insurers already transacting business in the State, the application of those requirements may be waived for a period of up to five years by the commissioner.