

17:30E-14

LEGISLATIVE HISTORY CHECKLIST
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(Market Transition Facility-
"depopulation")

NJSA: 17:30E-14

LAWS OF: 1991 CHAPTER: 462

BILL NO: S3577

SPONSOR(S): Foy and others

DATE INTRODUCED: June 17, 1991

COMMITTEE: ASSEMBLY: _____

SENATE: Labor Industry and Professions

AMENDED DURING PASSAGE: Yes Amendments during passage denoted
by asterisks

DATE OF PASSAGE: ASSEMBLY: January 13, 1992

SENATE: January 9, 1992

DATE OF APPROVAL: January 18, 1992

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: No

SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBG/pp

[SECOND REPRINT]

SENATE, No. 3577

STATE OF NEW JERSEY

INTRODUCED JUNE 17, 1991

By Senators FOY, CARDINALE, O'CONNOR, DiFRANCESCO,
RICE, BUBBA and CONTILLO

1 AN ACT concerning certain producers of record and amending
2 P.L.1983, c.65 and P.L.1990, c.8.

3

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

6 1. Section 26 of P.L.1983, c.65 (C.17:30E-14) is amended to
7 read as follows:

8 26. a. Within 45 days of the effective date of [this 1988
9 amendatory and supplementary act] P.L.1988, c.119 (C.17:28-1.4
10 et al), the commissioner shall, in the plan of operation, establish
11 procedures to govern the voluntary writing of applicants and
12 association insureds without the utilization of the association.
13 These procedures shall include criteria identifying drivers who
14 should be eligible for coverage in the voluntary market.
15 Applicants and association insureds meeting these criteria shall
16 be subject to assignment by the association to member
17 companies, pursuant to an equitable apportionment procedure
18 established in the plan of operation. The procedure shall give due
19 consideration to the increase or decrease in the volume of private
20 passenger automobile non-fleet exposures voluntarily written by
21 member companies in this State since January 1, 1984.

22 b. (1) Pursuant to the procedures established in the plan of
23 operation under subsection a. of this section, the commissioner
24 shall establish a voluntary market quota, which shall not be less
25 than 60% of the aggregate number of private passenger
26 automobile non-fleet exposures written in the total private
27 passenger automobile insurance market in this State on the
28 effective date of [this 1988 amendatory and supplementary act]
29 P.L.1988, c.119 (C.17:28-1.4 et al). The quota shall prescribe the
30 number of voluntary market exposures which shall be written by
31 member companies during the 12-month period beginning 60 days
32 after the effective date of [this 1988 amendatory and
33 supplementary act] P.L.1988, c.119 (C.17:28-1.4 et al).

34 (2) Within 30 days of the effective date of P.L.1990, c.8
35 (C.17:33B-1 et al), the commissioner shall prescribe a second
36 quota, which shall take effect immediately upon adoption by the
37 commissioner and which shall not be less than 68% of the
38 aggregate number of private passenger automobile non-fleet
39 exposures written in the total private passenger automobile

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:

¹ Senate SLI committee amendments adopted December 5, 1991.

² Senate floor amendments adopted December 16, 1991.

1 insurance market in this State on or before October 1, 1990. The
2 quota shall prescribe the number of voluntary market exposures
3 which shall be written by member companies during the period
4 described in this paragraph.

5 (3) (Deleted by amendment, P.L.1990, c.8.)

6 (4) (Deleted by amendment, P.L.1990, c.8.)

7 c. In the event that any of the quotas established by the
8 commissioner pursuant to subsection b. of this section have not
9 been met by the end of any applicable period, the commissioner
10 shall direct the association to assign the balance of the exposures
11 needed to meet the applicable quota to member companies in a
12 manner consistent with the apportionment procedure established
13 pursuant to subsection a. of this section. A member company
14 which exceeded its apportionment share for the 12-month period
15 prescribed pursuant to paragraph (1) of subsection b. of this
16 section shall receive credit for the excess against the quota
17 imposed pursuant to paragraph (2) of subsection b. of this section.

18 d. (Deleted by amendment, P.L.1990, c.8.)

19 e. For the purposes of this section, any exposure written in the
20 voluntary market by an affiliate of the insurer to which an
21 apportioned share has been assigned shall be credited against that
22 share.

23 f. The total number of exposures written in the voluntary
24 market, net of exposures cancelled or nonrenewed, by a member
25 company at the end of the applicable period shall be utilized in
26 determining whether the member company has written its
27 apportionment share in the voluntary market for purposes of
28 complying with any quotas established by the commissioner
29 pursuant to this section.

30 g. The commissioner may excuse a member company from
31 meeting any of its obligations under this section that he
32 determines would result in the member company being in an
33 unsafe or unsound condition.

34 h. Any member company that does not write its apportionment
35 share of any quota established by the commissioner pursuant to
36 subsection b. or c. of this section within the applicable time
37 period shall be precluded from nonrenewing automobile insurance
38 policies pursuant to section 26 of P.L.1988, c.119 (C.17:29C-7.1)
39 during the immediately following 12-month period.

40 i. In addition to the requirements of subsection a. of this
41 section, the procedures governing the increase in voluntary
42 market volume shall:

43 (1) establish guidelines and criteria for determining whether a
44 person is a qualified applicant as defined in section 15 of
45 P.L.1983, c.65 (C.17:30E-3), and procedures for the issuance of
46 automobile insurance through the voluntary market to persons
47 found not to be qualified applicants for association coverage, and
48 for the referral of persons determined not to be eligible for
49 association coverage to alternative residual market mechanisms;

1 (2) include provisions ensuring that servicing carriers do not
2 obtain any unfair advantage over other member companies in the
3 selection of qualified applicants and association insureds to be
4 written as voluntary business;

5 (3) [neither prohibit nor require member companies to write
6 association business through association producers of record,
7 provided, however, that where a member company elects not to
8 service such business through the association producer of record,
9 the procedures shall address the manner in which the association
10 shall transfer the business to the member company, and shall
11 establish reasonable compensation in an amount sufficient to
12 offset the actual expenses incurred by the association producer in
13 conjunction with the transfer which shall be paid by the
14 association upon transfer of the business to the member company]
15 ¹provide that exposures assigned to member companies in
16 accordance with subsection c. of this section as a result of the
17 failure of the member company to meet an applicable quota shall
18 be written through the association producer of record,
19 notwithstanding the fact that the association producer of record
20 is not a voluntary market producer of the member company
21 assigned that exposure. In such case, the association producer of
22 record shall retain complete control, possession and ownership of
23 all records and renewals regarding the exposures written pursuant
24 to this paragraph (3). The member company shall not use any
25 such records, nor information it obtains in the normal course of
26 business, to solicit direct renewal of the exposures, other
27 insurance or any other products. The association producer of
28 record shall be paid a commission by the member company on the
29 exposures written by the member company through the
30 association producer of record, and on all renewals thereof, at
31 the same rate and on the same terms as the member company
32 pays commissions for similar coverage to its voluntary market
33 producers. If a member company provides its voluntary market
34 producers with support services or other benefits in addition to a
35 commission, and such support services or other benefits are not
36 provided to the association producer of record, the commission
37 paid to the association producer of record shall be increased to
38 make it equivalent to the value of the combination of commission
39 and support services or other benefits paid or provided by the
40 member company to its voluntary market producers. If the
41 member company uses more than one commission schedule, rate
42 or formula or provides different types of support services or
43 other benefits to its voluntary market producers, it shall
44 negotiate in good faith with the association producer of record so
45 that the commission and support services and other benefits, if
46 any, provided to the association producer of record are equivalent
47 to that provided by the member company to its voluntary market
48 producers for similar coverage. If a member company engages in
49 the direct writing of exposures and neither it nor any affiliate has

1 a commission schedule, rate or formula for the voluntary market,
2 it shall pay the association producer of record a commission
3 equivalent to the portion of the premium charged by the member
4 company for voluntary market coverage that relates to its
5 expenses for direct marketing, acquisition, servicing and related
6 support staff, provided, however, that the commission shall be at
7 least substantially equivalent to that paid by member companies
8 that use commission schedules, rates or formulas.
9 Notwithstanding any provision of this paragraph (3) to the
10 contrary, if the member company uses premium rates of the
11 Market Transition Facility for voluntary market exposures
12 written through the association producer of record, the
13 commission paid to the association producer of record shall be no
14 less than that provided by the Market Transition Facility for such
15 coverage] neither prohibit nor require member companies to
16 write association business through association producers of
17 record, ²[provided, however, that when association business is
18 allocated, the procedures in this paragraph shall be observed]
19 except as provided for in this paragraph².

20 (a) When an exposure assigned to a member company in
21 accordance with subsection c. of this section, as a result of the
22 failure of the member company to meet an applicable quota, is
23 written by the member company assigned the exposure, the
24 association producer of record shall have the right to service that
25 business, which shall include all renewals thereof, and shall be
26 entitled to a commission for that service in accordance with
27 subparagraph (c) of this paragraph.

28 (b) The association producer of record shall retain ²complete²
29 control ²[and] ,² possession ²and ownership² of all records and
30 ²[the right and entitlement to]² renewals regarding exposures
31 assigned pursuant to subsection c. of this section, provided,
32 however, that the member company may maintain such records as
33 are provided to it under the procedure established by subsection
34 a. of this section. A member company that acquires access to
35 records pursuant to this subparagraph shall not share any such
36 records with any other producer or use any such records to solicit
37 direct renewal of the business, a change in producer of record,
38 other insurance products or any other products.

39 (c) The association producer of record shall be paid a
40 commission by the member company on the business serviced by
41 the association producer of record pursuant to this paragraph.
42 That commission shall be paid at a percentage rate no less than
43 that being paid by the Market Transition Facility on July 1, 1991.

44 (d) A copy of every notice, other than bills, and including
45 renewal declarations, change endorsements, cancellations and
46 reinstatements, and the corresponding payment schedules
47 included therein, correspondence, claims checks and
48 acknowledgements, sent to an insured by a member company with
49 respect to business covered by this paragraph, shall be sent to the

1 association producer of record.

2 (e) This paragraph shall be applicable only to exposures
3 assigned to member companies in accordance with subsection c.
4 of this section as a result of the failure by the member company
5 to meet an applicable quota ²[and shall not apply beyond three
6 years after the enactment date of this 1991 amendatory act]².
7 This paragraph shall not constitute the grant of an agency
8 contract by the member company to the association producer of
9 record authorizing the association producer of record to write
10 new business through the member company; provided, however,
11 that the association producer of record shall have the authority
12 to provide the usual and customary servicing of the business
13 subject to this paragraph, including adding new and replacement
14 vehicles and adding or changing coverages on the business.

15 (f) Nothing in this paragraph shall deprive an insured of the
16 right to designate a producer of record other than the association
17 producer of record. Upon that designation, the rights of the
18 association producer of record under this paragraph shall
19 terminate. Notwithstanding any provision in this paragraph, the
20 rights of the association producer of record under this paragraph
21 shall terminate in the event of the producer's insolvency, gross
22 and willful misconduct, fraud or license revocation¹; and

23 (4) provide for financial disincentives to applicants who,
24 without good cause, reapply for coverage in the association after
25 being placed in the voluntary market.

26 (cf: P.L.1990, c.8, s.20)

27 2. Section 88 of P.L.1990, c.8 (C.17:33B-11) is amended to
28 read as follows:

29 88. a. There is created a Market Transition Facility to be
30 operated by the Commissioner of Insurance pursuant to the
31 provisions of this section. Every insurer authorized to transact
32 automobile insurance in this State shall be a member of the
33 facility and shall share in its profits and losses as provided by the
34 commissioner pursuant to the provisions of subsection d. of this
35 section.

36 b. The commissioner shall, within 30 days of the effective date
37 of [this 1990 amendatory and supplementary act] P.L.1990, c.8
38 (C.17:33B-1 et al), appoint a Market Transition Facility Advisory
39 Board which shall be comprised of six members, one of whom
40 shall represent member companies organized on a mutual basis,
41 one of whom shall represent member companies organized on a
42 stock basis, one of whom shall represent servicing carriers, one of
43 whom shall represent insurance producers, one of whom shall be a
44 qualified actuary and one of whom shall represent the public.
45 Advisory board members shall serve for the duration of the
46 facility or until such time as their successor is appointed.
47 Advisory board members shall not be compensated for their
48 services but shall be reimbursed by the facility for any necessary
49 and reasonable expenses incurred in performance of their duties

1 as members of the advisory board.

2 c. The facility shall arrange for the issuance and renewal of
3 automobile insurance policies for the period commencing October
4 1, 1990 and ending September 30, 1992 pursuant to a plan of
5 operation promulgated by the commissioner in consultation with
6 the advisory board. The facility shall not issue or renew any
7 policies of automobile insurance on or after October 1, 1992. The
8 plan shall provide:

9 (1) The applicable levels of coverage available through the
10 facility;

11 (2) That the premiums payable on policies issued by the
12 facility shall be based on rates applicable to persons insured by
13 the New Jersey Automobile Full Insurance Underwriting
14 Association on September 30, 1990 but shall not incorporate the
15 rates applicable under section 25 of P.L.1983, c.65 (C.17:30E-13)
16 and section 22 of P.L.1988, c.119 (C.17:30E-13.1). However, the
17 applicable rates for those insureds who do not qualify as eligible
18 persons as provided in section 25 of [this 1990 amendatory and
19 supplementary act] P.L.1990, c.8 (C.17:33B-13) shall be those set
20 by the plan for the provision of automobile insurance established
21 pursuant to section 1 of P.L.1970, c.215 (C.17:29D-1);

22 (3) Procedures for the filing and approval of changes in rates
23 applicable to policies issued or renewed by the facility;

24 (4) For the issuance and renewal of automobile insurance
25 through servicing carriers under contract with the New Jersey
26 Automobile Full Insurance Underwriting Association pursuant to
27 the provisions of section 24 of P.L.1983, c.65 (C.17:30E-12),
28 utilizing, at the discretion of the commissioner, the staff of the
29 association;

30 (5) Procedures for the depopulation of the facility which shall
31 provide that: on or after April 1, 1991 no more than 29% of the
32 aggregate number of private passenger non-fleet exposures
33 written in this State shall be written by the facility and the New
34 Jersey Automobile Full Insurance Underwriting Association
35 created by P.L.1983, c.65 (C.17:30E-1 et seq.); on or after
36 October 1, 1991 no more than 20% of the aggregate number of
37 private passenger non-fleet exposures written in this State shall
38 be written by the facility; on or after April 1, 1992 no more than
39 10% of the aggregate number of private passenger non-fleet
40 exposures written in this State shall be written by the facility;
41 and on or after October 1, 1992, 0% of the aggregate number of
42 private passenger non-fleet exposures written in this State shall
43 be written by the facility. In establishing the quotas set forth
44 above, the plan shall prescribe the number of voluntary market
45 exposures which shall be written during each six-month period set
46 forth in this paragraph in a manner consistent with the
47 apportionment procedure established pursuant to subsection a. of
48 section 26 of P.L.1983, c.65 (C.17:30E-14). In the event that any
49 of the quotas established pursuant to this paragraph have not

1 been met by the end of the applicable period, the commissioner
2 shall direct the facility to assign the balance of the exposures
3 needed to meet the applicable quota to member companies
4 pursuant to the apportionment procedure. A member company
5 which exceeds its apportionment share for any six-month period
6 set forth in this paragraph shall receive credit for the excess
7 against the following period's obligation. The commissioner may
8 excuse a member company from meeting its obligations under the
9 depopulation procedures if he determines that the company would
10 be placed in an unsafe or unsound condition. ¹[Exposures assigned
11 to member companies in accordance with this paragraph (5) as a
12 result of the failure of the member company to meet an
13 applicable quota shall be written through the Market Transition
14 Facility producer of record, notwithstanding the fact that the
15 facility producer of record is not a voluntary market producer of
16 the member company assigned that exposure. In such case, the
17 facility producer of record shall retain complete control,
18 possession and ownership of all records and renewals regarding
19 the exposures written pursuant to this paragraph (5). The
20 member company shall not use any such records, nor information
21 it obtains in the normal course of business, to solicit direct
22 renewal of the exposures, other insurance or any other products.
23 The facility producer of record shall be paid a commission by the
24 member company on the exposures written by the member
25 company through the facility producer of record, and on all
26 renewals thereof, at the same rate and on the same terms as the
27 member company pays commissions on similar coverage to its
28 voluntary market producers. If a member company provides its
29 voluntary market producers with support services or other
30 benefits in addition to a commission, and such support services or
31 other benefits are not provided to the facility producer of record,
32 the commission paid to the facility producer of record shall be
33 increased to make it equivalent to the value of the combination
34 of commission and support services or other benefits paid or
35 provided by the member company to its voluntary market
36 producers. If the member company uses more than one
37 commission schedule, rate or formula or provides different types
38 of support services or other benefits to its voluntary market
39 producers, it shall negotiate in good faith with the facility
40 producer of record so that the commission and support services
41 and other benefits, if any, provided to the facility producer of
42 record are equivalent to that provided by the member company to
43 its voluntary market producers for similar coverage. If a member
44 company engages in the direct writing of exposures and neither it
45 nor any affiliate has a commission schedule, rate or formula for
46 the voluntary market, it shall pay the facility producer of record
47 a commission equivalent to the portion of the premium charged
48 by the member company on voluntary market coverage that
49 relates to its expenses for direct marketing, acquisition, servicing

1 and related support staff, provided, however, that the commission
2 shall be at least substantially equivalent to that paid by member
3 companies that use commission schedules, rates or formulas.
4 Notwithstanding any provision of this paragraph (5) to the
5 contrary, if the member company uses premium rates of the
6 Market Transition Facility for voluntary market exposures
7 written through the facility producer of record, the commission
8 paid to the facility producer of record shall be no less than that
9 provided by the Market Transition Facility for such coverage]
10 When an exposure is assigned to a member company under this
11 paragraph as a result of the failure of the member company to
12 meet an applicable quota, but only in such circumstances, the
13 following shall apply:

14 (a) When an assigned exposure is written by the member
15 company assigned the exposure, the facility producer of record
16 shall have the right to service that business, which shall include
17 all renewals thereof, and shall be entitled to a commission for
18 that service in accordance with subparagraph (c) of this
19 paragraph;

20 (b) The facility producer of record shall retain ²complete²
21 control ²[and] ²,² possession ²and ownership² of all records and
22 ²[the right and entitlement to]² renewals regarding exposures
23 assigned pursuant to this paragraph, provided, however, that the
24 member company may maintain such records as are provided to it
25 under the procedure established by subsection a. of section 26 of
26 P.L.1983, c.65 (C.17:30E-14). A member company that acquires
27 access to records pursuant to that subsection shall not share any
28 such records with any other producer or use any such records to
29 solicit direct renewal of the business, a change in producer of
30 record, other insurance products or any other products;

31 (c) The facility producer of record shall be paid a commission
32 by the member company on the business serviced by the facility
33 producer of record pursuant to this paragraph. That commission
34 shall be paid at a percentage rate no less than that being paid by
35 the Market Transition Facility on July 1, 1991;

36 (d) A copy of every notice, other than bills, and including
37 renewal declarations, change endorsements, cancellations and
38 reinstatements, and the corresponding payment schedules
39 included therein, correspondence, claims checks and
40 acknowledgements, sent to an insured by a member company with
41 respect to business covered by this paragraph, shall be sent to the
42 facility producer of record;

43 (e) The procedure established in subparagraphs (a), (b), (c), (d),
44 (e) and (f) of this paragraph shall be applicable only to exposures
45 assigned to member companies in accordance with this paragraph
46 as a result of the failure by the member company to meet an
47 applicable quota ²[and shall not apply beyond three years after
48 the enactment date of this 1991 amendatory act]². This
49 paragraph shall not constitute the grant of an agency contract by

1 the member company to the facility producer of record
2 authorizing the facility producer of record to write new business
3 through the member company; provided, however, that the
4 facility producer of record shall have the authority to provide the
5 usual and customary servicing of the business subject to this
6 paragraph, including adding new and replacement vehicles and
7 adding or changing coverages on the business; and

8 (f) Nothing in the paragraph shall deprive an insured of the
9 right to designate a producer of record other than the facility
10 producer of record. Upon that designation, the rights of the
11 facility producer of record under this paragraph shall terminate.
12 Notwithstanding any provision in this paragraph, the rights of the
13 facility producer of record under this paragraph shall terminate
14 in the event of the producer's insolvency, gross and willful
15 misconduct, fraud or license revocation¹;

16 (6) A schedule for the payment of premiums on an installment
17 basis. Any installment payment schedule for policies issued for a
18 one year period shall provide for installment payments during a
19 period of not less than nine months;

20 (7) That no policy issued by the facility may be cancelled for
21 nonpayment of premium unless written notice is provided at least
22 15 days prior to the effective date of cancellation accompanied
23 by the reason for cancellation. Notice shall be provided to the
24 named insured and the producer of record at their last known
25 addresses;

26 (8) Provide for notification of the named insured and the
27 producer of record at their last known addresses no later than 15
28 days after the nonrenewal of a facility policy of such nonrenewal;
29 and

30 (9) Such other provisions as are deemed necessary for the
31 operation of the facility.

32 d. The commissioner shall apportion any profits or losses of
33 the facility among member companies based on each company's
34 apportionment share as determined for purposes of depopulation
35 pursuant to subsection a. of section 26 of P.L.1983, c.65
36 (C.17:30E-14).

37 e. The facility shall be subject to the provisions of P.L.1945,
38 c.132 (C.54:18A-1 et seq.).
39 (cf: P.L.1990, c.8, s.88)

40 3. This act shall take effect immediately and shall be
41 retroactive to March 12, 1990.

42

43

44

INSURANCE

45

46 Provides that producers of record must be used for automobile
47 insurance coverage assigned to voluntary market insurers under
48 depopulation plans.

1 shall be at least substantially equivalent to that paid by member
2 companies that use commission schedules, rates or formulas.
3 Notwithstanding any provision of this paragraph (5) to the
4 contrary, if the member company uses premium rates of the
5 Market Transition Facility for voluntary market exposures
6 written through the facility producer of record, the commission
7 paid to the facility producer of record shall be no less than that
8 provided by the Market Transition Facility for such coverage;

9 (6) A schedule for the payment of premiums on an installment
10 basis. Any installment payment schedule for policies issued for a
11 one year period shall provide for installment payments during a
12 period of not less than nine months;

13 (7) That no policy issued by the facility may be cancelled for
14 nonpayment of premium unless written notice is provided at least
15 15 days prior to the effective date of cancellation accompanied
16 by the reason for cancellation. Notice shall be provided to the
17 named insured and the producer of record at their last known
18 addresses;

19 (8) Provide for notification of the named insured and the
20 producer of record at their last known addresses no later than 15
21 days after the nonrenewal of a facility policy of such nonrenewal;
22 and

23 (9) Such other provisions as are deemed necessary for the
24 operation of the facility.

25 d. The commissioner shall apportion any profits or losses of
26 the facility among member companies based on each company's
27 apportionment share as determined for purposes of depopulation
28 pursuant to subsection a. of section 26 of P.L.1983, c.65
29 (C.17:30E-14).

30 e. The facility shall be subject to the provisions of P.L.1945,
31 c.132 (C.54:18A-1 et seq.).
32 (cf: P.L.1990, c.8, s.88)

33 3. This act shall take effect immediately and shall be
34 retroactive to March 12, 1990.

35

36

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STATEMENT

38

39 This bill provides that the insurance for automobiles that are
40 assigned pursuant to an order of the Commissioner of Insurance
41 from the New Jersey Automobile Full Insurance Underwriting
42 Association (JUA) and the Market Transition Facility to
43 automobile insurers which failed to meet their depopulation
44 quotas shall continue to be serviced by the producers of record
45 and those producers shall be paid the commissions established by
46 the bill. The provisions of the bill are retroactive to March 12,
47 1990, the effective date of the "Fair Automobile Insurance
48 Reform Act of 1990."

S3577

8

INSURANCE

1

2

3 Provides that producers of record must be used for automobile
4 insurance coverage assigned to voluntary market insurers under
5 depopulation plans.

SENATE LABOR, INDUSTRY AND PROFESSIONS COMMITTEE

STATEMENT TO

SENATE, No. 3577

with Senate committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 5, 1991

The Senate Labor, Industry and Professions Committee reports favorably and with committee amendments Senate Bill No. 3577.

This bill concerns the implementation of the depopulation plans of the New Jersey Automobile Full Insurance Underwriting Association (JUA) and the Market Transition Facility (MTF). It provides that any automobile insurer which is assigned exposures as a result of the insurer's failure to meet an applicable quota under either depopulation plan must write those assigned exposures through the producer of record of the JUA or MTF, as applicable.

The bill provides that the producer of record is to retain control and possession of all records and the right and entitlement to renewals of such exposures and prohibits the insurer from sharing any such records that it obtains through the JUA or MTF with any other producer or using any such records to solicit direct renewal of the exposures, a change in producer of record, other insurance or any other products.

The producer of record is to be paid a commission by the insurer on all policies and renewals at a rate not less than that being paid by the Market Transition Facility on July 1, 1991. The insurer is required to send to the producer of record a copy of every notice, other than bills, sent to an insured by the insurer.

The requirements of this bill do not constitute the grant of any agency contract by the insurer. However, the producer of record shall have the authority to provide the usual and customary servicing of business subject to this bill including adding new and replacement vehicles and adding or changing coverages on the business.

The bill provides that an insured may designate a producer of record other than the association or facility producer of record.

The provisions of the bill are to be retroactive to March 12, 1990, the effective date of the "Fair Automobile Insurance Reform Act of 1990," and shall not apply beyond three years following the enactment date of the bill.