

17:22A-1

LEGISLATIVE HISTORY CHECKLIST

NJSA: 17:22A-1 et al "New Jersey Insurance Producer Licensing Act"

LAWS OF: 1987 CHAPTER: 293

Bill No: A3920

Sponsor(s): Loveys and others

Date Introduced: May 18, 1987

Committee: Assembly: Insurance
Senate: -----

Amended during passage: Yes Amendments during passage denoted by asterisks.

Date of Passage: Assembly: August 3, 1987
Senate: September 14, 1987

Date of Approval: October 29, 1987

Following statements are attached if available:

Sponsor statement: Yes (Below) attached: Senate amendments denoted 9-10-87 (with statement)

Committee statement: Assembly Yes
Senate No

Fiscal Note: No

Veto Message: No

Message on Signing: Yes

Following were printed:

Reports: No

Hearings: No

Sponsors' statement:

This bill provides a voluntary system of licensing and regulation for insurance agents and brokers in the property-casualty and life and helath fields.

See newspaper clipping-- attached.

"A delicious scam" 11-2-87 Bergen Records.

"KEAN CLOSES INSURANCE LOOPHOLE" - 11/1/87 BERGEN RECORD

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ASSEMBLY, No. 3920

STATE OF NEW JERSEY

INTRODUCED MAY 18, 1987

By Assemblymen LOVEYS, RAFFERTY, Kelly and Zecker

AN ACT providing for the licensure of insurance producers and others, supplementing Title 17 of the Revised Statutes, and repealing parts of statutory law.

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

1 1. This act shall be known and may be cited as the "New Jersey
2 Insurance Producer Licensing Act."

1 2. As used in this act:

2 a. "Applicant" means a person who has applied for, or who
3 intends to apply for, a license in accordance with this act.

4 b. "Commissioner" means the Commissioner of Insurance.

5 c. "Days" means calendar days.

6 d. "Department" means the Department of Insurance.

7 e. "Insurance," "insurance policy" or "insurance contract"
8 includes contracts or policies of life insurance, health insurance,
9 annuities, indemnity, **property and** casualty, fidelity, surety,
10 guaranty and title insurance.

11 f. "Insurance agent" means a person authorized, in writing, by
12 any insurance company to act as its agent to solicit, negotiate or
13 effect insurance contracts on its behalf or to collect insurance
14 premiums and who may be authorized to countersign insurance
15 policies on its behalf.

16 g. "Insurance broker" means a person who, for a commission,
17 brokerage fee, or other consideration, acts or aids in any manner
18 concerning negotiation, solicitation or effectuation of insurance
19 contracts as the representative of an insured or prospective in-

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

Matter printed in italics *thus* is new matter.

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

*—Assembly committee amendments adopted June 22, 1987.

**—Senate amendments adopted September 10, 1987.

20 sured; or a person who places insurance in an insurance company
21 that he does not represent as an agent.

22 h. "Insurance consultant" means a person who, for a fee, com-
23 mission or other consideration, acts or holds himself out to the
24 public or any licensee as offering any advice, counsel, opinion or
25 service with respect to the benefits, advantages or disadvantages
26 under any insurance policy or contract that is or could be issued
27 in this State, but shall not include bank trust officers, attorneys-
28 at-law and certified public accountants who negotiate contracts on
29 behalf of others or provide general financial counsel if no commis-
30 sion or brokerage fee is paid for those services.

31 i. "Insurance company" includes any company that underwrites
32 or issues an insurance policy or contract including fraternal
33 benefit societies as defined in P. L. 1959, c. 167 (C. 17:44A-1 et
34 seq.) and risk retention groups and purchasing groups as defined
35 in 15 U. S. C. § 3901.

36 j. "Insurance producer" means any person engaged in the busi-
37 ness of an insurance agent, insurance broker or insurance con-
38 sultant.

39 k. "License" means any license issued pursuant to the pro-
40 visions of this act or any act which is superseded by this act.

41 l. "Licensee" means any person holding an insurance producer
42 license issued pursuant to this act.

43 m. "Limited insurance representative" means a person who is
44 authorized to solicit, negotiate or effect contracts for a particular
45 line of insurance as an agent for an insurance company authorized
46 to write that line in this State which by the nature of the line of
47 business and the manner by which it is marketed to the public
48 does not require the professional competency demanded for an
49 insurance producer license.

50 n. "Organization" means any corporation, partnership or other
51 legal entity.

52 o. "Person" means any individual, corporation, partnership or
53 other legal entity.

54 p. "State, other than this State," includes any other state, the
55 District of Columbia, the Commonwealth of Puerto Rico, any
56 territory of the United States and the Provinces of Canada.

1 3. No person shall act as an insurance producer or maintain or
2 operate any office in this State for the transaction of the business
3 of an insurance producer, or receive any commission, brokerage
4 fee, compensation or other consideration for services rendered as
5 an insurance producer without first obtaining a license from the
6 commissioner granting authority for the kind of insurance trans-
7 acted. No insurance company or licensee shall pay any commission,

8 brokerage fee, compensation or other consideration to any un-
9 licensed person for services rendered in this State as an insurance
10 producer except for services rendered while licensed. Engaging in
11 a single act or transaction of the business of an insurance pro-
12 ducer, or holding oneself out to the public or a licensee as being so
13 engaged, shall be sufficient proof of engaging in the business of an
14 insurance producer. This section shall not apply to the clerical
15 duties of office employees nor the managerial or supervisory
16 duties of general agents or managers who do not negotiate, solicit
17 or effect insurance contracts.

1 4. The commissioner may issue a resident insurance producer
2 license to any individual who meets all of the following qualifica-
3 tions. The individual shall:

4 a. Be at least 18 years of age;

5 b. Have completed and signed an application in a form pre-
6 scribed by the commissioner;

7 c. Have completed a course of education as the commissioner
8 may provide by rule or regulation, at an institution or school
9 approved by the commissioner for such instruction, within two
10 years preceding the date of application. The commissioner may
11 waive the educational requirement of this subsection if the
12 applicant:

13 (1) Holds a professional designation approved by the commis-
14 sioner in the kind of insurance for which the applicant seeks au-
15 thority;

16 (2) Holds a valid insurance producer license in a state, other
17 than this State, recognized by the commissioner as having an
18 equivalent education requirement and the commissioner has
19 entered into a written agreement of reciprocity with that state;

20 (3) Held a valid insurance license in this State prior to entering
21 military service; served in the Armed Forces of the United States
22 in any war; was not dishonorably discharged; and has applied
23 for a license within one year of the date of discharge; or

24 (4) Has served in the Armed Forces of the United States in any
25 war; has been honorably discharged; was wounded or disabled in
26 the line of duty; and has completed a special course of education
27 for a license approved by the commissioner;

28 d. Have passed an examination approved by the commissioner
29 to test the knowledge and proficiency of applicants in the kind of
30 insurance for which the applicant seeks authority, within one year
31 preceding the date of application. The commissioner may conduct
32 the examination or may contract with an independent testing
33 service to conduct the examination if the contract conforms with

34 applicable rules or regulations promulgated by the commissioner
 35 and contains those provisions that the commissioner deems
 36 necessary to hold the testing service accountable to him.

37 The commissioner may waive the examination requirement if the
 38 applicant holds a valid insurance producer license in a state, other
 39 than this State, recognized by the commissioner as having an
 40 equivalent examination requirement and the commissioner has
 41 entered into a written agreement of reciprocity with that state;

42 e. Be a resident of this State or will engage in the business of
 43 insurance at an office located in this State;

44 ****[f.]**** Engage in the business of insurance as his principal busi-
 45 ness or occupation or as a substantial part thereof, separate and
 46 apart from any connection which he may have with any person
 47 whose principal business is lending money;**]****

48 ****[g.]**** ****f.**** Engage in the business of insurance with the
 49 general public and not principally for the purpose of engaging in
 50 that business for his own account, for his employer, his relatives
 51 or any business in which he has an interest;

52 ****[h.]**** ****g.**** Have no unsatisfied judgments against him that
 53 are material to the applicant's fitness for licensure as an insur-
 53A ance producer;

54 ****[i.]**** ****h.**** Be of good reputation and good character and be
 55 trustworthy, competent and worthy of a license; and

56 ****[j.]**** ****i.**** Have not been convicted of a crime of moral
 57 turpitude or any crime reflecting on the applicant's fitness for
 58 licensure as an insurance producer.

1 5. The commissioner may issue a nonresident insurance pro-
 2 ducer license to any individual who holds comparable license au-
 3 thority in a state, other than this State, and meets all of the
 4 qualifications specified in subsections a., b., f., g., h., ****and**** i.****[**
 5 and j.**]**** of section 4 of this act and who:

6 a. Provides a certification from the insurance licensing agency
 7 of the state where he maintains a principal office, evidencing that
 8 the applicant holds a currently valid license from that state and
 9 stating whether any formal disciplinary action has been initiated
 10 involving the applicant's license in that state; and

11 b. Will not transact business at or from an office located in this
 12 State.

1 6. The commissioner may issue a resident organization insurance
 2 producer license to any organization that meets all of the following
 3 qualifications:

4 a. The organization is domiciled in this State or is authorized by
 5 the Secretary of State to do business in this State;

6 b. The organization has completed an application in a form
7 prescribed by the commissioner and signed by each partner or
8 officer who holds an insurance producer license.

9 c. The organization is worthy of a license, and the partners or
10 officers, directors and owners are of good reputation, good moral
11 character and have not been convicted of a crime of moral turpi-
12 tude or any crime reflecting on their fitness for licensure as an
13 insurance producer;

14 d. The organization will engage in the business of insurance
15 with the general public and not principally for the purpose of en-
16 gaging in that business for its own account, for its subsidiaries and
17 affiliates, or for its partners, officers, directors or owners; ***and***

18 ***[e.* The organization will engage in the business of insurance
19 as its principal business or as a substantial part thereof, separate
20 and apart from any connection which it may have with any person
21 whose principal business is lending money; and]****

22 ***[f.]*** ***e.*** The organization has at least one partner or
23 officer who holds a valid insurance producer license issued pursu-
24 ant to this act with the authority or authorities requested in the
25 application.

1 7. The commissioner may issue a nonresident organization in-
2 surance producer license to an organization that meets all of the
3 qualifications set forth in subsections b., c., d., ***and*** e. ***[and*
4 *f.]*** of section 6 of this act and holds comparable license author-
5 ity in a state, other than this State. An applicant for a nonresi-
6 dent organization insurance producer license shall submit with its
7 application a certification from the licensing agency of the state
8 where it maintains a principal office evidencing that the applicant
9 holds a currently valid license from that state and stating whether
10 any formal disciplinary action has been initiated involving the
11 applicants license in that state.

1 8. a. Granting an insurance producer license to an organization
2 shall not authorize any partner, officer, owner or employee to en-
3 gage in any activity for which a license is required by this act
4 unless that individual holds an insurance producer license with
5 the proper authority.

6 b. All licensed partners, officers***[,]*** ***and*** directors**,** and
7 **all** owners with an ownership interest of 5% or more in the
8 organization shall be responsible for the conduct of the insurance
9 business activity of the licensed organization.

10 c. No insurance producer license shall be issued to any organiza-
11 tion that is owned, operated or controlled, either directly or in-
12 directly, by any person that has had an insurance license revoked

13 by this State or any state, other than this State, or by any in-
14 dividual who has been convicted of a crime of moral turpitude or
15 any crime reflecting on their fitness for licensure, within the pre-
16 ceding 10 years.

1 9. a. Nonresident insurance producer licenses shall be of a
2 distinctive color or shall contain special language to distinguish
3 them from resident insurance producer licenses.

4 b. A nonresident producer license shall only authorize the
5 licensee to transact insurance business ***【covering subjects of in-
6 surance located or resident】*** in this State ***【when such coverages
7 are written incidental to or in connection with】*** **if the producer
8 is substantially engaged in** the transaction of insurance business
9 ***【covering subjects of insurance located or resident】*** outside this
10 State. ***【Issuance of a nonresident producer license shall not other-
11 wise authorize the solicitation, negotiation or effectuation of poli-
12 cies of insurance on risks located in this State.】*** The commissioner
13 may promulgate rules or regulations necessary to implement the
13A purposes of this subsection.

14 c. Each licensed nonresident insurance producer shall, by appli-
15 cation for and issuance of, a license be deemed to have appointed
16 the commissioner as agent to receive service of original legal
17 process in this State in any cause of action or legal proceedings
18 arising within this State out of transactions under the license.
19 Service upon the commissioner shall be of the same force and
20 effect as if served on the nonresident insurance producer. This
21 appointment shall be irrevocable for as long as there can be any
22 cause of action against the nonresident insurance producer arising
23 out of insurance transactions for which a nonresident insurance
24 producer license is required. Duplicate copies of the legal process
25 shall be served upon the commissioner. At the time of service the
26 commissioiner shall be paid a fee established pursuant to section
27 21 of this act payable as costs in the action. Upon receiving
28 service, the commissioner shall send one of the copies by registered
29 or certified mail, return receipt requested, to the named nonresi-
30 dent insurance producer at his last known **business or residence**
30A address.

31 d. The commissioner shall be immune from all civil actions
32 resulting from the licensee's failure to receive service of process
33 if the commissioner, pursuant to subsection c. of this section, for-
34 wards the service to the last **business or residence** address filed
35 by the licensee as his address. Immunity under this subsection is
36 in no way intended to diminish or otherwise affect the immunity
37 available to the commissioner pursuant to the "New Jersey Tort
38 Claims Act," N. J. S. 59:1-1 et seq.

1 10. a. No insurance producer license shall be issued unless it
2 designates one or more of the following authorities:

- 3 (1) Life
- 4 (2) Health
- 5 (3) Property/Casualty
- 6 (4) Surplus Lines
- 7 (5) Title Insurance

8 b. The commissioner shall, by rule or regulation, designate the
9 kind or kinds of insurance that may be transacted by licensed in-
10 surance producers holding each authority.

1 11. Every license issued to an insurance producer shall bear an
2 expiration date and shall expire on that date unless renewed in
3 accordance with this act. The commissioner shall prescribe by
4 rule or regulation the term of all insurance producer licenses. A
5 renewal license shall be issued only after a renewal application in
6 a form prescribed by the commissioner has been submitted by the
7 licensee, along with the payment of any required license renewal
8 fee and has been approved by the commissioner. No license shall
9 be renewed unless the insurance producer has satisfied the require-
10 ments for continuing education that the commissioner may pro-
11 vide by rule or regulation.

1 12. Any licensee who trades or advertises using a fictitious,
2 trade or firm name shall file with the commissioner a certified copy
3 of the fictitious or trade name certificate issued by the Secretary
4 of State or the Clerk of the County where the licensee maintains
5 its principal place of business. The commissioner shall not accept
6 for filing any name that is similar to another already on file; that
7 would tend to be misleading to the public; or that is identical or
8 similar to the name of any producer whose license has been re-
9 voked or suspended. No insurance producer shall file or use a name
10 containing the words "insurance," "insurance company,"
11 "guaranty," "guarantee," "guaranty company," "guarantee
12 company" or similar words unless the word "agent," "agency,"
13 "broker" or "brokerage" **or a word of similar import** is also
14 used to distinguish the business from an insurance company. Noth-
15 ing in this section shall require a filing by any person using its
16 true legal name and the words "agency" or "insurance agency."
17 The commissioner may promulgate rules or regulations necessary
18 to implement the provisions of this section.

1 13. A person, who is the surviving spouse, next of kin or admin-
2 istrator or executor of **the estate of** a deceased licensee or the
3 legal guardian of a licensee who has become mentally or physically
4 disabled, may maintain and continue the insurance business of the

5 deceased or disabled licensee, and notwithstanding the provisions
 6 of N. J. S. 17B:17-13, R. S. 17:17-12, section 3 of this act, or para-
 7 graph (8) of subsection a. of section 17 of this act, ***[may receive]***
 8 **share** commissions on the insurance business **only** if that per-
 9 son enters into a written agreement with a licensed insurance pro-
 10 ducer who holds the proper authorities which would enable the
 11 insurance producer to maintain and continue the insurance business
 12 of the deceased or disabled licensee. The agreement shall provide
 13 that the licensed insurance producer is responsible for all insur-
 14 ance related activity of the business and ***[may]*** **shall** provide
 15 for sharing of commissions between the insurance producer and
 16 the spouse, next of kin, administrator, executor or legal guardian,
 17 as applicable **for a period not to exceed six months. The commis-*
 18 *sioner may by rule or regulation establish procedures to effectuate*
 19 *the purposes of this section*.*

1 14. No license shall be issued or renewed granting surplus lines
 2 authority unless the applicant:
 3 a. Maintains a bona fide office in this State;
 4 b. Holds or will hold property/casualty authority; and
 5 c. Has filed with the commissioner a bond in favor of the com-
 6 missioner or his successors in office in an amount of not less than
 7 \$25,000.00, aggregate liability, with authorized corporate surety
 8 or sureties approved by the commissioner. The commissioner may,
 9 in his discretion, require a bond in a larger amount commensurate
 10 with the volume of surplus lines business transacted or to be
 11 transacted by the licensee. The bond shall become payable to the
 12 commissioner upon failure of the licensee to comply with any of
 13 the requirements of subtitle 3 of Title 17 of the Revised Statutes
 14 (C. 17:17-1 et seq.), and shall continue in effect as long as the
 15 licensee holds surplus lines authority.

1 15. a. Any insurance company authorized to transact business
 2 in this State may, by written contract, appoint as its agent, a
 3 person that holds a valid insurance producer license issued in
 4 accordance with the provisions of this act. The contract shall
 5 authorize the insurance producer to act as an agent for the appoint-
 6 ing company for all lines of insurance for which the company is
 7 authorized in this State and the agent holds authority in this State,
 8 unless specifically limited. The contract shall contain the duties,
 9 responsibilities and limitations of authority between the agent and
 10 the appointing company, and the agent shall abide by its terms.
 11 While the agent is properly licensed, an agency appointment shall
 12 continue in effect until termination in accordance with this act.
 13 Both the appointing company and the appointed agent shall main-

14 tain a copy of the agency contract in their office, and shall make
 15 the contract available for inspection by the commissioner upon
 16 request. **Nothing contained in this subsection shall be construed
 16A as granting the commissioner the authority to determine contrac-
 16B tual disputes between an appointing company and an appointed
 16C agent.**

17 b. Upon the cancellation of an agency contract, the insurance
 18 company shall within ~~*[10]*~~ **15** days file written notice of can-
 19 cellation with the commissioner. Notice of cancellation shall be on
 20 a form prescribed by the commissioner and shall indicate the date
 21 of cancellation and the reason therefor. Agency appointment shall
 22 not terminate until the notice of cancellation has been filed with
 23 the commissioner. The requirements of this subsection shall not
 24 effect any notice or filing requirements otherwise established by
 25 law.

26 c. Any insurance company appointing an agent pursuant to this
 27 section shall file with the commissioner, on a form prescribed by
 28 the commissioner, a notice of appointment providing the names
 29 and business addresses of its agents, including notice of any
 30 limitations on the agent's authority. The filing of a single notice of
 31 appointment by each insurance company represented by a licensed
 32 organization shall cover all of its licensed insurance producers.

33 d. The filing of a notice of appointment pursuant to this sub-
 34 section c. of this section shall constitute notice that the named
 35 insurance producer has been appointed an agent for any sub-
 36 sidiary or affiliate company of the insurance company if certified
 37 copies of any resolution duly adopted by the board of directors of
 38 each insurance company requesting that authority are filed with
 39 the commissioner. The resolution shall also designate the primary
 40 insurance company for which all of the companies' agents must be
 41 appointed.

1 16. a. The commissioner shall establish, by rule or regulation,
 2 the kind or kinds of insurance that may be marketed through
 3 limited insurance representatives. A person may act as a limited
 4 insurance representative for the kind of insurance authorized
 5 from the date on which he is registered and until the date of
 6 termination, pursuant to the provisions of this act.

7 b. Any insurance company authorized in this State to transact
 8 the kind or kinds of insurance that may be marketed through
 9 limited insurance representatives, may contract, in writing, with
 10 any person to act as its limited insurance representative and
 11 agent. An insurance company shall register with the commis-
 12 sioner the name and business address of each limited insurance

13 representative, together with any other information that the com-
 14 missioner may require. The insurance company shall ***[notify]***
 15 **provide written notice to** the commissioner when any limited
 16 insurance representative contract is terminated.

17-18 c. Prior to contracting with any person to act as a limited in-
 19 surance representative pursuant to subsection b. of this section,
 20 the insurance company shall satisfy itself that the person to be
 21 registered is capable, competent and worthy; has established a
 22 permanent, bona fide office in this State; and has successfully
 23 completed any educational and examination requirements that the
 24 commissioner may by rule or regulation provide.

25 d. A limited insurance representative shall be subject to suspen-
 26 sion or revocation of registration privileges, or imposition of a
 27 fine, for any violation of applicable standards of conduct as
 28 described in section 17 of this act, or violation of any other specific
 29 standards of conduct that the commissioner may provide by rule
 30 or regulation for limited insurance representatives. A limited in-
 31 surance representative is subject to the limitations set forth in
 32 section 18 of this act.

33 e. A limited insurance representative shall maintain a per-
 34 manent office in this State where ***[he shall keep]*** the following
 34A items **shall be kept**:

35 (1) A copy of the written agreement between himself and the
 36 insurance company for which he serves as a limited insurance
 37 representative;

38 (2) Evidence of the completion of educational and examination
 39 requirements as prescribed by rule or regulation;

40 (3) A prominently displayed sign advising the public of the
 41 name of the insurance company represented and the kind of in-
 42 surance available;

43 (4) Records of every insurance policy or contract written by
 44 the limited insurance representative; and

45 (5) Any other items or records that the commissioner may re-
 46 quire by rule or regulation.

1 17. a. The commissioner may refuse to issue or renew a license,
 2 or may revoke or suspend a license if he finds after notice and an
 3 opportunity for hearing in accordance with the "Administrative
 4 Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.) and any
 5 rules or regulations adopted thereunder, that the person has:

6 (1) Willfully violated any provision of the insurance laws of this
 7 State;

8 (2) Intentionally withheld material information or made a
 9 material misstatement in an application for a license;

10 (3) Obtained or attempted to obtain a license by fraud or mis-
11 representation;

12 (4) Committed *any* fraudulent **[practices]** *act*;

13 (5) Misappropriated or converted to his own use, or has illegally
14 withheld, moneys which were received in the conduct of business
15 and belonged to insurers, policyholders or others;

16 (6) Used the license not for the purpose of engaging in the in-
17 surance business with the general public, but primarily for the
18 purpose of soliciting or negotiating insurance contracts or policies
19 covering himself, members of his family, members or employees
20 of any organization of which he is an officer, or officers or em-
21 ployees of an organization in which the licensee or members of his
22 immediate family own a controlling interest, or the property or
23 interests of those persons. A license shall be deemed to have been
24 used principally for this purpose if the commissioner finds that
25 during any 12-month period the aggregate commissions or other
26 compensation accruing or to accrue from that business have ex-
27 ceeded or will exceed the aggregate commissions or other com-
28 pensation accruing or to accrue on other business written by the
29 applicant or licensee during the same period;

30 (7) Materially misrepresented the terms or conditions of in-
31 surance contracts or policies to any policyholder, insurance com-
32 pany, insurance producer or member of the general public;

33 (8) Paid a rebate to any person or paid a commission, broker-
34 age fee or other compensation to a person who is not licensed as
35 an insurance producer in this State, or any state other than this
36 State, for services rendered as an insurance producer;

37 (9) Aided, abetted or assisted another person in violating any
38 of the insurance laws of this State;

39 (10) Has been **[indicted or]** convicted of a crime involving
40 moral turpitude or any crime reflecting on the insurance producer's
41 fitness for licensure**[**, except that, if the insurance producer is
42 indicted, the commissioner may only suspend the license pending
43 disposition of the indictment**]**;

44 (11) Failed to file or maintain with the commissioner a com-
45 plete and accurate business **[or]** *and* home mailing address
46 or to immediately notify the commissioner of any change in the
47 business or home mailing address;

48 (12) Failed to file and maintain with the commissioner the name
49 or names of licensed employers or employees or to immediately
50 notify the commissioner of a change of employer or of licensed
51 employees in a manner prescribed by rule or regulation of the
52 commissioner;

53 (13) Failed to pay any fine imposed or restitution ordered by
54 the commissioner;

55 (14) Failed to appear in response to any subpoena issued by the
56 commissioner or his authorized designee; failed to produce any
57 documents or other material requested in such a subpoena; or
58 refused or failed to cooperate with an investigation by the com-
59 missioner of the activities of the person or any other licensee;

60 (15) Failed to keep, maintain or make available for inspection
61 by the commissioner those records that the commissioner shall
62 require to be kept and maintained by rule or regulation;

63 (16) Failed to notify the commissioner within 30 days of his
64 conviction for any crime, indictment or the filing of any formal
65 criminal charges, or the suspension or revocation of any insurance
66 license or authority by a state, other than this State, or the initia-
67 tion of formal disciplinary proceedings in a state, other than this
68 State, affecting the producer's insurance license; or failed to
69 supply any documentation that the commissioner may request in
70 connection therewith;

71 (17) Failed at any time to possess cash and accounts receivable
72 for insurance premiums in an amount equal to or in excess of the
73 accounts payable by the licensee for insurance premiums. Those
74 accounts receivable shall not include insurance premiums owing
75 the licensee more than 120 days after the last day of the month
76 during which the insurance coverage became effective. As used in
77 this section, "insurance premiums" include unearned premiums
78 or premiums to be refunded to policyholders and both written and
79 earned premiums whether actually collected from policyholders or
80 not. The filing*, *within the preceding 10 years**, of a petition in
81 bankruptcy, a deed of assignment for the benefit of creditors pur-
82 suant to N. J. S. 2A:19-1 et seq., or any similar filing acknowledg-
83 ing at the time **of that filing** that the licensed insurance producer
84 owed to one or more insurance companies, insurance producers,
85 policyholders, premium finance companies or other persons any
86 insurance premiums, including any unearned or return premiums
87 due policyholders **in an aggregate amount of \$5,000.00 or more**,
87A shall **[constitute prima facie evidence of]** **create a presump-*
87B *tion that there has been** a violation of this subsection;

88 (18) Collected from an insured or prospective insured any fee or
89 other compensation other than a commission deductible from an
90 insurance premium, except when acting as an insurance broker or
91 insurance consultant and:

92 (a) The fee or other compensation is based upon a written
93 memorandum signed by the party to be charged, which

94 memorandum specifies or defines the amount of compensation;
95 and

96 (b) The amount of the fee or other compensation bears a
97 reasonable relationship to the services rendered and is not
98 discriminatory.

99 (19) Failed willfully or repeatedly to comply with standards and
100 practices established pursuant to the plan of operation of any
101 statutory mechanism for providing insurance coverage in this
102 State, including, but not limited to, any automobile insurance plan
103 operating pursuant to P. L. 1970, c. 215 (C. 17:29D-1), the New
104 Jersey Automobile Full Insurance Underwriting Association
105 operating pursuant to P. L. 1983, c. 65 (C. 17:30E-1 et seq.) and
106 the New Jersey Insurance Underwriting Association operating
107 pursuant to P. L. 1968, c. 129 (C. 17:37A-1 et seq.);

108 (20) Demonstrated unworthiness, lack of integrity, bad faith,
109 dishonesty, financial irresponsibility or incompetency to transact
110 business as an insurance producer.

111 b. In addition or as an alternative to any other penalty, the com-
112 missioner may impose a fine of up to \$5,000.00 for ***[each]*** **the*
113 *first** violation of any provision of this act, **and not exceeding*
114 *\$10,000.00 for each subsequent violation,** and in appropriate cir-
115 cumstances may order restitution of moneys owed any person and
115A reimbursement of the costs of investigation and prosecution.

116 ***[c.** The commissioner, in his discretion, may assess against any
117 licensee whose license has been revoked pursuant to this act reason-
118 able costs arising from the department's investigation and
119 prosecution of the licensee.]* No person whose license has been
120 revoked shall be issued a license unless the costs assessed pur-
121 suant to this subsection are paid.

122 ***[d.]*** **c.** The commissioner may promulgate rules or regula-
123 tions necessary to implement the provisions of this section.

1 18. a. No person whose license has been revoked shall be en-
2 titled to apply for a license for a period of at least five years
3 from the effective date of the revocation.

4 b. No individual whose license has been revoked or suspended
5 may be a partner, officer, director or owner of a licensed organiza-
6 tion, or otherwise be employed in any capacity by a licensee.

7 c. No licensee or person shall advertise, display or otherwise
8 use the name or fictitious, trade or firm name of a person whose
9 license has been revoked.

1 19. a. All licenses shall at all times be the property of the State
2 of New Jersey and upon any suspension, revocation, refusal to
3 renew, expiration or other termination shall no longer be in force

4 and effect. Upon any suspension, revocation or other termination
5 of a license, the licensee or other person having possession or
6 custody of the license shall immediately deliver it to the com-
7 missioner by personal delivery or by registered or certified mail.

8 b. If a license is lost, stolen or destroyed, the commissioner may
9 accept in lieu of return of license the affidavit of the licensee or
10 other person or persons responsible for that license, stating the
11 facts of that loss, theft or destruction.

1 20. a. The commissioner shall have the power to conduct in-
2 vestigation, to administer oaths, to interrogate licensees and
3 others, and to issue subpoenas to any licensee or any other person
4 in connection with any investigation, hearing or other proceeding,
5 without fee.

6 b. Subpoenas shall be issued in the name of the commissioner, the
7 deputy commissioner or other employee designated by the com-
8 missioner, but no subpoena shall be issued except for good cause.
9 Any person failing or refusing to comply with a subpoena may be
10 ordered by a judge of the Superior Court, on application made by
11 the commissioner or by the person at whose instance the subpoena
12 was issued, to comply with the terms of the subpoena or be punished
13 by the court for contempt. The court may proceed in a summary
14 manner.

15 c. Any person violating any provision of this act for which no
16 other penalty is provided shall be liable to a penalty not exceeding
17 \$5,000.00 for the first offense and not exceeding \$10,000.00 for
18 each subsequent offense to be recovered in a summary proceeding
19 in accordance with "the penalty enforcement law," N. J. S.
20 2A:58-1 et seq.

21 d. In any formal proceeding, ***[when]*** **if** the commissioner
22 finds that the interests of the public require that immediate action
23 be taken prior to completion of the hearing, the making of a deter-
24 mination and the entry of a final order, he may enter an appro-
25 priate order to be effective pending **completion of** the hearing
26 and ***[until the]*** entry of a final order. ***[Orders]*** **These orders**
27 may be entered on ex parte proofs if the proofs ***[are strong and**
28 **the need is great, but ex parte orders]*** **indicate that the com-*
29 *missioner's withholding of any action until completion of a full*
30 *hearing will be harmful to the public interest. Orders issued pur-*
31 *suant to this section** shall be subject to an application to vacate
32 upon ***[two]*** **10** days' notice, and a preliminary hearing on the
33 ex parte order shall be held in any event within 20 days after it
34 is entered. In the alternative, or in addition, the commissioner is
35 authorized to institute a proceeding in the Superior Court, to be

36 conducted in a summary manner, for an injunction against specified
37 acts or conduct in aid of the proceedings pending before him, in-
38 cluding temporary injunctions and interim restraints***【**, upon a
39 showing that the remedy would be more effective and complete**】***.

1 21. a. The commissioner shall, by rule or regulation, set reason-
2 able, necessary and appropriate fees to be charged for licensing
3 insurance producers, filing agency appointments, filing limited
4 insurance representative registrations, filing fictitious, trade or
5 firm names, issuing certification of license status and processing
6 any document required to be submitted, except that the total an-
7 nual revenue generated from these fees shall not be less than
8 the total annual revenue generated from equivalent fees for the
9 preceding fiscal year.

10 b. Applicants may be charged a fee for any licensing examina-
11 tion conducted pursuant to this act in an amount designated or
12 approved by the commissioner.

13 c. All fees payable to the commissioner pursuant to this section
14 are nonrefundable.

15 d. The commissioner may, by rule or regulation, provide for
16 the waiving of fees for disabled war veterans of the United States
17 military service.

1 22. The commissioner is authorized to enter into contracts with
2 private vendors that are reasonable and necessary to implement
3 the provisions of this act.

1 23. a. Persons licensed as agents, brokers or solicitors with
2 general authorities in life, health, annuities, property-casualty,
3 surplus lines or title insurance, or any combination thereof, may,
4 upon submission of an application form prescribed by the com-
5 missioner and payment of any required fee, be issued a license
6 as an insurance producer in accordance with this act.

7 b. The appointment of licensed persons previously appointed as
8 agents with general authorities in life, health, annuities, property-
9 casualty and title insurance and as agents of fraternal benefit
10 societies shall be deemed to continue until cancelled or revoked
11 in accordance with this act.

12 c. The commissioner shall provide for the orderly transition of
13 license types and authorities as presently constituted to insurance
14 producer licenses. ***【**A credit for license fees paid for the unex-
15 pired term of any license already issued shall be applied to any
16 fees required to be paid under this act.**】***

17 d. Agents presently licensed for limited lines may be registered
18 as limited insurance representatives in accordance with this act
19 without meeting further education and examination requirements,

20 if the commissioner establishes that those kinds of insurance are
 21 appropriate for marketing by limited insurance representatives.
 22 If the commissioner does not establish the kind of insurance that
 23 is appropriate to be marketed by limited insurance representa-
 24 tives, upon expiration of these existing licenses, present licensees
 25 shall qualify for an insurance producer license with appropriate
 26 authority.

27 e. The commissioner may provide for orderly transition by
 28 promulgating rules or regulations and by establishing administra-
 29 tive processes that are reasonable, necessary, appropriate and
 30 consistent with this act.

1 24. The commissioner may promulgate rules or regulations that
 2 are necessary to implement the provisions of this act.

1 25. No political subdivision of this State shall require any per-
 2 son to obtain or secure any additional authorization, license, per-
 3 mit or registration of any kind to conduct transactions which may
 4 lawfully be transacted by a licensee under a license granted pur-
 5 suant this act.

1 26. R. S. 17:22-6, sections 1 through 20 of P. L. 1944, c. 175 (C.
 2 17:22-6.1 through C. 17:22-6.20), sections 22 and 23 of P. L. 1944,
 3 c. 175 (C. 17:22-6.22 and C. 17:22-6.23), section 25 of P. L. 1944,
 4 c. 175 (C. 17:22-6.25), section 2 of P. L. 1975, c. 346 (C. 17:22-6.6a),
 5 section 5 of P. L. 1979, c. 312 (C. 17:22-6.9a), P. L. 1962, c. 211 (C.
 6 17:22-6.16a), sections 27 and 28 of P. L. 1944, c. 175 (C. 17:22-6.27
 7 and C. 17:22-6.28), section 9 of P. L. 1948, c. 462 (C. 17:22-6.36),
 8 sections 21 and 22 of P. L. 1960, c. 32 (C. 17:22-6.55 and C.
 9 17:22-6.56), section 29 of P. L. 1959, c. 167 (C. 17:44A-29), sec-
 10 tion 6 of P. L. 1968, c. 248 (C. 17:46A-6), sections 30 through 33
 11 of P. L. 1975, c. 106 (C. 17:46B-30 through C. 17:46B-33), N. J. S.
 12 17B:22-2 through N. J. S. 17B:22-9, N. J. S. 17B:22-11 through
 13 N. J. S. 17B:22-13, N. J. S. 17B:22-20 through N. J. S. 17B:22-35,
 14 section 1 of P. L. 1983, c. 533 (C. 17B:22-1.1), section 6 of P. L.
 15 1983, c. 533 (C. 17B:22-9a), section 8 of P. L. 1979, c. 312 (C.
 16 17B:22-9.1) and section 10 of P. L. 1983, c. 533 (C. 17B:22-10.1)
 17 are repealed.

1 27. This act shall take effect on the ***[90th]*** *180th* day follow-
 2 ing the date of enactment.

INSURANCE—GENERAL

Designated the "New Jersey Insurance Producer Licensing Act."

1 26. R. S. 17:22-6, sections 1 through 20 of P. L. 1944, c. 175 (C.
 2 17:22-6.1 through C. 17:22-6.20), sections 22 and 23 of P. L. 1944,
 3 c. 175 (C. 17:22-6.22 and C. 17:22-6.23), section 25 of P. L. 1944,
 4 c. 175 (C. 17:22-6.25), section 2 of P. L. 1975, c. 346 (C. 17:22-6.6a),
 5 section 5 of P. L. 1979, c. 312 (C. 17:22-6.9a), P. L. 1962, c. 211 (C.
 6 17:22-6.16a), sections 27 and 28 of P. L. 1944, c. 175 (C. 17:22-6.27
 7 and C. 17:22-6.28), section 9 of P. L. 1948, c. 462 (C. 17:22-6.36),
 8 sections 21 and 22 of P. L. 1960, c. 32 (C. 17:22-6.55 and C.
 9 17:22-6.56), section 29 of P. L. 1959, c. 167 (C. 17:44A-29), sec-
 10 tion 6 of P. L. 1968, c. 248 (C. 17:46A-6), sections 30 through 33
 11 of P. L. 1975, c. 106 (C. 17:46B-30 through C. 17:46B-33), N. J. S.
 12 17B:22-2 through N. J. S. 17B:22-9, N. J. S. 17B:22-11 through
 13 N. J. S. 17B:22-13, N. J. S. 17B:22-20 through N. J. S. 17B:22-35,
 14 section 1 of P. L. 1983, c. 533 (C. 17B:22-1.1), section 6 of P. L.
 15 1983, c. 533 (C. 17B:22-9a), section 8 of P. L. 1979, c. 312 (C.
 16 17B:22-9.1) and section 10 of P. L. 1983, c. 533 (C. 17B:22-10.1)
 17 are repealed.

1 27. This act shall take effect on the 90th day following the date
 2 of enactment.

STATEMENT

This bill provides a unitary system of licensing and regulation for insurance agents and brokers in the property-casualty and life and health fields.

INSURANCE—GENERAL

Designated the "New Jersey Insurance Producer Licensing Act."

ASSEMBLY INSURANCE COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3920

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: JUNE 22, 1987

This bill, as amended, revises present law governing the licensing of insurance agents and brokers. The bill eliminates the present system of licensing property-casualty and life and health agents separately. Because of this, it would be possible for an insurance producer to be licensed for both property-casualty and life and health while holding only one license, instead of the two which are presently required. The bill provides for the establishment of licenses for agents, for brokers, and for limited insurance representatives. The presently-used designation of "solicitor" has been eliminated. The bill also contains a provision which would permit the licensure of organizations which engage in the business of insurance. The organization so licensed would be required to have at least one partner or officer who is licensed as an individual producer.

The bill would permit the commissioner to issue nonresident insurance producer licenses to individuals who hold comparable license authority in another state. Nonresident licensees would be prohibited from doing business at or from an office located in this State. Provision is also made for the licensure of nonresident organizations.

Producers who are granted surplus lines authority would be required to maintain a bona fide office in the State, hold a property-casualty producer's license, and file a bond with the commissioner in an amount of not less than \$25,000.00.

The bill contains provisions governing the appointment of agents by insurance companies, and would require insurers to file notices of appointment with the commissioner. Similarly, insurers which cancel agency contracts would be required to give a 15-day notice of the agency cancellation with the commissioner.

The bill establishes certain principles of practice for insurance agents, and provides for revocation for violation of the act or of the insurance laws generally. A person whose license is revoked could not be licensed for a five-year period following the revocation. Violations of the act could also result in a fine of \$5,000.00 for the first offense and no more than \$10,000.00 for each subsequent offense.

The commissioner would be given the authority to set licensing fees by regulation.

SENATE Amendments
(Proposed by Senator Lesniak)

to

Assembly Bill No. 3920 (OCR)
(Sponsored by Assemblymen Loveys
and Rafferty)

ADOPTED
SEP 10 1987

Amend:

Page	Sec.	Line	
4	4	44-47	Omit in entirety
4	4	48	Omit "g." insert "f."
4	4	52	Omit "h." insert "g."
4	4	54	Omit "i." insert "h."
4	4	56	Omit "j." insert "i."
4	5	4	After "h.," insert "and": omit ", and j."
5	6	17	After ";" insert "and"
5	6	18-21	Omit in entirety
5	6	22	Omit "f." insert "e."
5	7	3	After "d.," insert "and": omit "and f."

STATEMENT

These amendments amend the "New Jersey Insurance Producer Licensing Act" to provide that producer licenses may be issued to individuals and organizations which engage in the business of insurance in connection with persons whose principal business is lending money.



OFFICE OF THE GOVERNOR

NEWS RELEASE

CN-001

Contact: JOHN SAMERJAN
609-292-8956 OR 292-6000 EXT. 207
TOM HOOPER
609-292-4047

TRENTON, N.J. 08625

Release: FRI. OCT. 30, 1987

Governor Thomas H. Kean today signed legislation revising and consolidating the provisions governing the licensing of insurance sales representatives.

The legislation, A-3920/S-3166, sponsored by Assemblyman Ralph Loveys, R-Morris, Assemblyman Jack Rafferty, R-Mercer and Senator Raymond Lesniak, D-Union, affords the consumer added protection by prohibiting the issuance of an insurance license to an organization owned or operated by anyone who has had an insurance license revoked in this or any other state.

All owners and officers of such organizations must meet minimum standards including not having been convicted of a crime of moral turpitude within the past ten years.

Further, the Department of Insurance is given significant tools to enforce disciplinary actions when licensees fail to pay fines, fail to appear when subpoenaed, fail to make records available, or fail to notify the Department upon revocation of their license in another state.

The legislation replaces the current system of agent, broker and solicitor licenses with a single "producer" license. An applicant for a license will be authorized in the specific areas in which he or she has fulfilled the educational and testing requirements and other licensing standards.

The legislation is effective in 180 days.

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