

# 17:46A-3

## LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 2010                    **CHAPTER:** 93

**NJSA:** 17:46A-3 (Permits Commissioner of banking and Insurance to waive a statutory liability-to- policyholders' surplus ratio on application by mortgage guaranty insurance company)

**BILL NO:** A2969 (Substituted for S1945)

**SPONSOR(S)** Schaer and others

**DATE INTRODUCED:** June 21, 2010

**COMMITTEE:**                    **ASSEMBLY:** Finance and Institutions  
Budget

**SENATE:** Commerce

**AMENDED DURING PASSAGE:** Yes

**DATE OF PASSAGE:**                    **ASSEMBLY:** June 28, 2010

**SENATE:** October 18, 2010

**DATE OF APPROVAL:** November 30, 2010

### FOLLOWING ARE ATTACHED IF AVAILABLE:

**FINAL TEXT OF BILL** (First reprint enacted)

**A2969**

**SPONSOR'S STATEMENT:** (Begins on page 3 of introduced bill) Yes

**COMMITTEE STATEMENT:**                    **ASSEMBLY:** Yes

**SENATE:** Yes

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at [www.njleg.state.nj.us](http://www.njleg.state.nj.us))

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

**S1945**

**SPONSOR'S STATEMENT:** (Begins on page 3 of introduced bill) Yes

**COMMITTEE STATEMENT:**                    **ASSEMBLY:** No

**SENATE:** Yes

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

(continued)

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** No

**FOLLOWING WERE PRINTED:**

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**REPORTS:** No

**HEARINGS:** No

**NEWSPAPER ARTICLES:** No

LAW/KR

[First Reprint]

**ASSEMBLY, No. 2969**

**STATE OF NEW JERSEY**  
**214th LEGISLATURE**

INTRODUCED JUNE 21, 2010

**Sponsored by:**

**Assemblyman GARY S. SCHAER**

**District 36 (Bergen, Essex and Passaic)**

**Assemblyman UPENDRA J. CHIVUKULA**

**District 17 (Middlesex and Somerset)**

**Co-Sponsored by:**

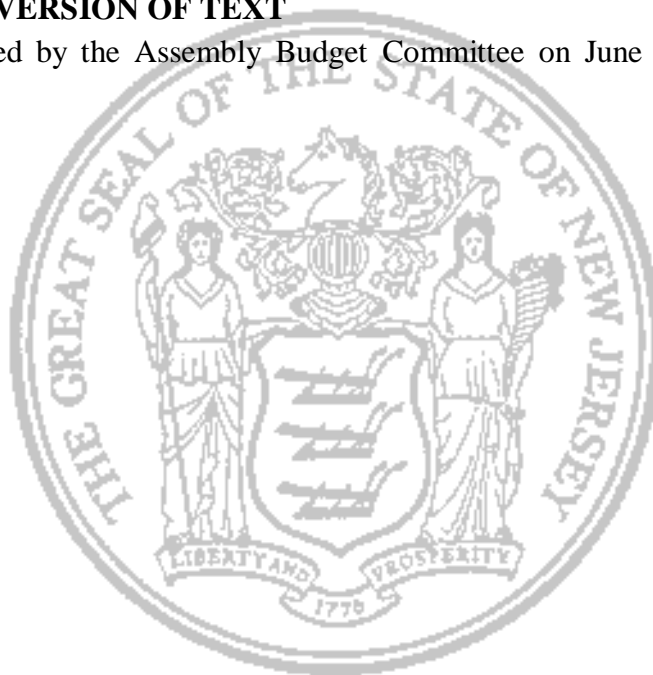
**Senators Scutari and T.Kean**

**SYNOPSIS**

Permits Commissioner of Banking and Insurance to waive statutory liability-to-policyholders' surplus ratio on application by mortgage guaranty insurance company.

**CURRENT VERSION OF TEXT**

As reported by the Assembly Budget Committee on June 24, 2010, with amendments.



**(Sponsorship Updated As Of: 10/19/2010)**

1 AN ACT concerning liability exposure for mortgage guaranty  
2 insurance companies and amending P.L.1968, c.248.

3

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

6

7 1. Section 3 of P.L.1968, c.248 (C.17:46A-3) is amended to  
8 read as follows:

9 3. Capital, surplus and contingency reserve requirements.

10 (a) An insurance company shall not transact the business of  
11 mortgage guaranty insurance unless it has paid-in capital of at least  
12 \$1,000,000.00 and paid-in surplus of at least \$1,000,000.00.

13 (b) In addition to the paid-in capital and surplus provided in  
14 subsection (a), each mortgage guaranty insurance company shall  
15 establish a contingency reserve out of net premiums remaining  
16 (gross premiums less premiums returned to policyholders) after  
17 establishment of the unearned premium reserve. To the  
18 contingency reserve the insurance company shall contribute an  
19 amount equal to 50% of such remaining premiums. The yearly  
20 contributions to the contingency reserve made during each calendar  
21 year shall be maintained for a period of 180 months, except that  
22 withdrawals may be made by the insurance company in any given  
23 year in which the actual losses exceed the expected losses. The  
24 commissioner shall, by regulation, determine when an insurance  
25 company may make withdrawals from its contingency reserve.

26 (c) **[A]** (1) Except as provided in paragraph (2) of this  
27 subsection, a mortgage guaranty insurance company shall not at any  
28 time have outstanding a total liability under its aggregate insurance  
29 policies exceeding 25 times its **[policyholders]** policyholders'  
30 surplus, such liability to be computed on the basis of the insurance  
31 company's liability under its election as provided in **[subsections]**  
32 subsection (c) **[and (d)]** of section 4 of P.L.1968, c.248 (C.17:46A-  
33 4). In the event that any insurance company has outstanding total  
34 liability exceeding 25 times its **[policyholders]** policyholders'  
35 surplus, it shall cease transacting new business until such time as its  
36 total liability no longer exceeds 25 times its **[policyholders]**  
37 policyholders' surplus.

38 (2) <sup>1</sup>**[The]** On and after the first day of the third month  
39 following enactment of P.L. , c. (C. ) (pending before the  
40 Legislature as this bill) and continuing for the 36 months thereafter,  
41 the<sup>1</sup> commissioner may waive the limit on liability exposure set  
42 forth under paragraph (1) of this subsection at the written request of  
43 a mortgage guaranty insurance company. The commissioner may

**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:

<sup>1</sup>Assembly ABU committee amendments adopted JUNE 24, 2010.

1 approve the request of the mortgage guaranty insurance company  
2 upon a finding that the company's financial position is reasonable  
3 in relation to the company's outstanding total liability under its  
4 aggregate insurance policies, as well as adequate to its financial  
5 needs. 'A company granted a waiver pursuant to this paragraph  
6 shall submit quarterly reports to the commissioner concerning the  
7 company's financial condition. 'The commissioner shall promulgate  
8 regulations concerning the process for a mortgage guaranty  
9 insurance company to submit a written request pursuant to this  
10 paragraph, '[including for the provision of any] and concerning the  
11 information to be indicated in the quarterly reports. The regulations  
12 shall specify the' information deemed necessary by the  
13 commissioner to review the request and any factors to be considered  
14 in approving or disapproving the request. 'The commissioner shall  
15 provide an annual briefing to the Assembly Financial Institutions  
16 and Insurance Committee and the Senate Commerce Committee, or  
17 their successors, on the financial condition of the mortgage  
18 guaranty insurance industry.'

19 (d) A mortgage guaranty insurance company shall not declare  
20 any dividends except from undivided profits remaining on hand  
21 over and above the aggregate of its paid-in capital, paid-in surplus  
22 and contingency reserve.

23 (cf: P.L.1968, c.248, s.3)

24  
25 2. This act shall take effect on the first day of the third month  
26 next following enactment, but the Commissioner of Banking and  
27 Insurance may take any anticipatory administrative action in  
28 advance thereof as shall be necessary for the implementation of this  
29 act.

# ASSEMBLY, No. 2969

## STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED JUNE 21, 2010

**Sponsored by:**

**Assemblyman GARY S. SCHAER**

**District 36 (Bergen, Essex and Passaic)**

**SYNOPSIS**

Permits Commissioner of Banking and Insurance to waive statutory liability-to-policyholders' surplus ratio on application by mortgage guaranty insurance company.

**CURRENT VERSION OF TEXT**

As introduced.



A2969 SCHAER

2

1 AN ACT concerning liability exposure for mortgage guaranty  
2 insurance companies and amending P.L.1968, c.248.

3

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

6

7 1. Section 3 of P.L.1968, c.248 (C.17:46A-3) is amended to  
8 read as follows:

9 3. Capital, surplus and contingency reserve requirements.

10 (a) An insurance company shall not transact the business of  
11 mortgage guaranty insurance unless it has paid-in capital of at least  
12 \$1,000,000.00 and paid-in surplus of at least \$1,000,000.00.

13 (b) In addition to the paid-in capital and surplus provided in  
14 subsection (a), each mortgage guaranty insurance company shall  
15 establish a contingency reserve out of net premiums remaining  
16 (gross premiums less premiums returned to policyholders) after  
17 establishment of the unearned premium reserve. To the  
18 contingency reserve the insurance company shall contribute an  
19 amount equal to 50% of such remaining premiums. The yearly  
20 contributions to the contingency reserve made during each calendar  
21 year shall be maintained for a period of 180 months, except that  
22 withdrawals may be made by the insurance company in any given  
23 year in which the actual losses exceed the expected losses. The  
24 commissioner shall, by regulation, determine when an insurance  
25 company may make withdrawals from its contingency reserve.

26 (c) **[A]** (1) Except as provided in paragraph (2) of this  
27 subsection, a mortgage guaranty insurance company shall not at any  
28 time have outstanding a total liability under its aggregate insurance  
29 policies exceeding 25 times its **[policyholders]** policyholders'  
30 surplus, such liability to be computed on the basis of the insurance  
31 company's liability under its election as provided in **[subsections]**  
32 subsection (c) **[and (d)]** of section 4 of P.L.1968, c.248 (C.17:46A-  
33 4). In the event that any insurance company has outstanding total  
34 liability exceeding 25 times its **[policyholders]** policyholders'  
35 surplus, it shall cease transacting new business until such time as its  
36 total liability no longer exceeds 25 times its **[policyholders]**  
37 policyholders' surplus.

38 (2) The commissioner may waive the limit on liability exposure  
39 set forth under paragraph (1) of this subsection at the written  
40 request of a mortgage guaranty insurance company. The  
41 commissioner may approve the request of the mortgage guaranty  
42 insurance company upon a finding that the company's financial  
43 position is reasonable in relation to the company's outstanding total  
44 liability under its aggregate insurance policies, as well as adequate  
45 to its financial needs. The commissioner shall promulgate

**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.**

1 regulations concerning the process for a mortgage guaranty  
2 insurance company to submit a written request pursuant to this  
3 paragraph, including for the provision of any information deemed  
4 necessary by the commissioner to review the request and any  
5 factors to be considered in approving or disapproving the request.

6 (d) A mortgage guaranty insurance company shall not declare  
7 any dividends except from undivided profits remaining on hand  
8 over and above the aggregate of its paid-in capital, paid-in surplus  
9 and contingency reserve.

10 (cf: P.L.1968, c.248, s.3)

11

12 2. This act shall take effect on the first day of the third month  
13 next following enactment, but the Commissioner of Banking and  
14 Insurance may take any anticipatory administrative action in  
15 advance thereof as shall be necessary for the implementation of this  
16 act.

17

18

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STATEMENT

20

21 This bill permits the Commissioner of Banking and Insurance to  
22 waive the statutory limit on liability exposure for a mortgage  
23 guaranty insurance company, currently measured in section 3 of  
24 P.L.1968, c.248 (C.17:46A-3) as the ratio of liability-to-  
25 policyholders' surplus (25:1), upon the written request of that  
26 company. The commissioner may approve the request of the  
27 mortgage guaranty insurance company upon a finding that the  
28 company's financial position is reasonable in relation to the  
29 company's outstanding total liability under its aggregate insurance  
30 policies, as well as adequate to its financial needs.

31 The commissioner shall promulgate regulations concerning the  
32 process for a mortgage guaranty insurance company to submit a  
33 written request, including for the provision of any information  
34 deemed necessary by the commissioner to review the request and  
35 any factors to be considered in approving or disapproving the  
36 request.

37 The bill also makes the following technical changes:

38 1) A correction to the existing terminology set forth under the  
39 applicable law, by changing references to "policyholders surplus" to  
40 instead "policyholders' surplus," the latter representing the phrase  
41 as defined in subsection (d) of section 2 of P.L.1968, c.248  
42 (C.17:46A-2); and

43 2) Removing an outdated cross reference to subsection (d) of  
44 section 4 of P.L.1968, c.248 (C.17:46A-4), which was repealed by  
45 P.L.1975, c. 122.



# ASSEMBLY BUDGET COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 2969**

with Assembly committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 24, 2010

The Assembly Budget Committee reports favorably Assembly Bill No. 2969, with committee amendments.

This bill, as amended, temporarily permits the Commissioner of Banking and Insurance to waive the statutory limit on liability exposure for a mortgage guaranty insurance company, currently measured by section 3 of P.L.1968, c.248 (C.17:46A-3) as the ratio of liability-to-policyholders' surplus (25:1), upon the written request of that company. The commissioner may approve the request of the mortgage guaranty insurance company upon a finding that the company's financial position is reasonable in relation to the company's outstanding total liability under its aggregate insurance policies, as well as adequate to its financial needs.

The bill requires a company granted a waiver to submit quarterly reports to the commissioner concerning the company's financial condition.

The commissioner shall promulgate regulations concerning the process for a mortgage guaranty insurance company to submit a written request, including for the provision of any information deemed necessary by the commissioner to review the request and any factors to be considered in approving or disapproving the request.

The bill requires the commissioner to provide annual briefings to the Assembly Financial Institutions and Insurance Committee and the Senate Commerce Committee on the financial condition of the mortgage guaranty insurance industry.

The commissioner's powers to waive the statutory limit on liability exposure begin on the first day of the third month following enactment of the bill, and expire 36 months thereafter.

The bill also makes the technical changes to the section to update statutory citations and make terminology consistent with related sections of law.

#### FISCAL IMPACT:

This bill was not certified as requiring a fiscal note.

COMMITTEE AMENDMENTS:

The amendments make the commissioner's powers to waive the statutory limit on liability exposure a temporary 36 months program.

The amendments require a company granted a waiver to submit quarterly reports to the commissioner concerning the company's financial condition.

The amendments require the commissioner to provide annual briefings to the Assembly Financial Institutions and Insurance Committee and the Senate Commerce Committee on the financial condition of the mortgage guaranty insurance industry.

# SENATE COMMERCE COMMITTEE

## STATEMENT TO

[First Reprint]

**ASSEMBLY, No. 2969**

# **STATE OF NEW JERSEY**

DATED: OCTOBER 7, 2010

The Senate Commerce Committee reports favorably Assembly Bill No. 2969 (1R).

This bill temporarily permits the Commissioner of Banking and Insurance to waive the statutory limit on liability exposure for a mortgage guaranty insurance company, currently measured by section 3 of P.L.1968, c.248 (C.17:46A-3) as the ratio of liability-to-policyholders' surplus (25:1), upon the written request of that company. The commissioner may approve the request of the mortgage guaranty insurance company upon a finding that the company's financial position is reasonable in relation to the company's outstanding total liability under its aggregate insurance policies, as well as adequate to its financial needs.

The bill requires a company granted a waiver to submit quarterly reports to the commissioner concerning the company's financial condition.

The commissioner shall promulgate regulations concerning the process for a mortgage guaranty insurance company to submit a written request, including for the provision of any information deemed necessary by the commissioner to review the request and any factors to be considered in approving or disapproving the request.

The bill requires the commissioner to provide annual briefings to the Assembly Financial Institutions and Insurance Committee and the Senate Commerce Committee on the financial condition of the mortgage guaranty insurance industry.

The commissioner's powers to waive the statutory limit on liability exposure begin on the first day of the third month following enactment of the bill, and expire 36 months thereafter.

The bill also makes the technical changes to update statutory citations and make terminology consistent with related sections of law.

**SENATE, No. 1945**

**STATE OF NEW JERSEY**  
**214th LEGISLATURE**

INTRODUCED MAY 20, 2010

**Sponsored by:**

**Senator NICHOLAS P. SCUTARI**  
**District 22 (Middlesex, Somerset and Union)**

**Co-Sponsored by:**

**Senator T.Kean**

**SYNOPSIS**

Permits Commissioner of Banking and Insurance to waive statutory liability-to-policyholders' surplus ratio on application by mortgage guaranty insurance company.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 5/28/2010)**

S1945 SCUTARI

2

1 AN ACT concerning liability exposure for mortgage guaranty  
2 insurance companies and amending P.L.1968, c.248.

3

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5 of New Jersey:

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13 (b) In addition to the paid-in capital and surplus provided in  
14 subsection (a), each mortgage guaranty insurance company shall  
15 establish a contingency reserve out of net premiums remaining  
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17 establishment of the unearned premium reserve. To the  
18 contingency reserve the insurance company shall contribute an  
19 amount equal to 50% of such remaining premiums. The yearly  
20 contributions to the contingency reserve made during each calendar  
21 year shall be maintained for a period of 180 months, except that  
22 withdrawals may be made by the insurance company in any given  
23 year in which the actual losses exceed the expected losses. The  
24 commissioner shall, by regulation, determine when an insurance  
25 company may make withdrawals from its contingency reserve.

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27 subsection, a mortgage guaranty insurance company shall not at any  
28 time have outstanding a total liability under its aggregate insurance  
29 policies exceeding 25 times its **[policyholders]** policyholders'  
30 surplus, such liability to be computed on the basis of the insurance  
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34 liability exceeding 25 times its **[policyholders]** policyholders'  
35 surplus, it shall cease transacting new business until such time as its  
36 total liability no longer exceeds 25 times its **[policyholders]**  
37 policyholders' surplus.

38 (2) The commissioner may waive the limit on liability exposure  
39 set forth under paragraph (1) of this subsection at the written  
40 request of a mortgage guaranty insurance company. The  
41 commissioner may approve the request of the mortgage guaranty  
42 insurance company upon a finding that the company's financial  
43 position is reasonable in relation to the company's outstanding total  
44 liability under its aggregate insurance policies, as well as adequate  
45 to its financial needs. The commissioner shall promulgate

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S1945 SCUTARI

3

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2 insurance company to submit a written request pursuant to this  
3 paragraph, including for the provision of any information deemed  
4 necessary by the commissioner to review the request and any  
5 factors to be considered in approving or disapproving the request.

6 (d) A mortgage guaranty insurance company shall not declare  
7 any dividends except from undivided profits remaining on hand  
8 over and above the aggregate of its paid-in capital, paid-in surplus  
9 and contingency reserve.

10 (cf: P.L.1968, c.248, s.3)

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12 2. This act shall take effect on the first day of the third month  
13 next following enactment, but the Commissioner of Banking and  
14 Insurance may take any anticipatory administrative action in  
15 advance thereof as shall be necessary for the implementation of this  
16 act.

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STATEMENT

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23 guaranty insurance company, currently measured in section 3 of  
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26 company. The commissioner may approve the request of the  
27 mortgage guaranty insurance company upon a finding that the  
28 company's financial position is reasonable in relation to the  
29 company's outstanding total liability under its aggregate insurance  
30 policies, as well as adequate to its financial needs.

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33 written request, including for the provision of any information  
34 deemed necessary by the commissioner to review the request and  
35 any factors to be considered in approving or disapproving the  
36 request.

37 The bill also makes the following technical changes:

38 1) A correction to the existing terminology set forth under the  
39 applicable law, by changing references to "policyholders surplus" to  
40 instead "policyholders' surplus," the latter representing the phrase  
41 as defined in subsection (d) of section 2 of P.L.1968, c.248  
42 (C.17:46A-2); and

43 2) Removing an outdated cross reference to subsection (d) of  
44 section 4 of P.L.1968, c.248 (C.17:46A-4), which was repealed by  
45 P.L.1975, c. 122.

# SENATE COMMERCE COMMITTEE

## STATEMENT TO

### **SENATE, No. 1945**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: OCTOBER 7, 2010

The Senate Commerce Committee reports favorably and with committee amendments Senate Bill No. 1945.

This bill, as amended, temporarily permits the Commissioner of Banking and Insurance to waive the statutory limit on liability exposure for a mortgage guaranty insurance company, currently measured by section 3 of P.L.1968, c.248 (C.17:46A-3) as the ratio of liability-to-policyholders' surplus (25:1), upon the written request of that company. The commissioner may approve the request of the mortgage guaranty insurance company upon a finding that the company's financial position is reasonable in relation to the company's outstanding total liability under its aggregate insurance policies, as well as adequate to its financial needs.

The bill requires a company granted a waiver to submit quarterly reports to the commissioner concerning the company's financial condition.

The commissioner shall promulgate regulations concerning the process for a mortgage guaranty insurance company to submit a written request, including for the provision of any information deemed necessary by the commissioner to review the request and any factors to be considered in approving or disapproving the request.

The bill requires the commissioner to provide annual briefings to the Assembly Financial Institutions and Insurance Committee and the Senate Commerce Committee on the financial condition of the mortgage guaranty insurance industry.

The commissioner's powers to waive the statutory limit on liability exposure begin on the first day of the third month following enactment of the bill, and expire 36 months thereafter.

The bill also makes the technical changes to update statutory citations and make terminology consistent with related sections of law.

The committee amendments to the bill:

- make the commissioner's powers to waive the statutory limit on liability exposure a temporary 36 month program.

- require a company granted a waiver to submit quarterly reports to the commissioner concerning the company's financial condition.

- require the commissioner to provide annual briefings to the Assembly Financial Institutions and Insurance Committee and the Senate Commerce Committee on the financial condition of the mortgage guaranty insurance industry.