

COMMITTEE STATEMENT:

ASSEMBLY: Yes

Identical to Senate Statement to S78

SENATE: No

FLOOR AMENDMENT STATEMENTS: No

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

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SENATE, No. 78

STATE OF NEW JERSEY
209th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2000 SESSION

Sponsored by:

Senator RAYMOND J. ZANE

District 3 (Salem, Cumberland and Gloucester)

SYNOPSIS

Prohibits insurers from requiring filing of municipal court complaint as precondition to payment of certain claims.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning unfair insurance claim settlement practices and
2 amending P.L.1947, c.379.

3

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

6

7 1. Section 4 of P.L.1947, c.379 (C.17:29B-4) is amended to read
8 as follows:

9 4. The following are hereby defined as unfair methods of
10 competition and unfair and deceptive acts or practices in the business
11 of insurance:

12 (1) Misrepresentations and false advertising of policy contracts.
13 Making, issuing, circulating, or causing to be made, issued or
14 circulated, any estimate, illustration, circular or statement
15 misrepresenting the terms of any policy issued or to be issued or the
16 benefits or advantages promised thereby or the dividends or share of
17 the surplus to be received thereon, or making any false or misleading
18 statement as to the dividends or share of surplus previously paid on
19 similar policies, or making any misleading representation or any
20 misrepresentation as to the financial condition of any insurer, or as to
21 the legal reserve system upon which any life insurer operates, or using
22 any name or title of any policy or class of policies misrepresenting the
23 true nature thereof, or making any misrepresentation to any
24 policyholder insured in any company for the purpose of inducing or
25 tending to induce such policyholder to lapse, forfeit, or surrender his
26 insurance.

27 (2) False information and advertising generally. Making,
28 publishing, disseminating, circulating, or placing before the public, or
29 causing, directly or indirectly, to be made, published, disseminated,
30 circulated, or placed before the public, in a newspaper, magazine or
31 other publication, or in the form of a notice, circular, pamphlet, letter
32 or poster, or over any radio station, or in any other way, an
33 advertisement, announcement or statement containing any assertion,
34 representation or statement with respect to the business of insurance
35 or with respect to any person in the conduct of his insurance business,
36 which is untrue, deceptive or misleading.

37 (3) Defamation. Making, publishing, disseminating, or circulating,
38 directly or indirectly, or aiding, abetting or encouraging the making,
39 publishing, disseminating or circulating of any oral or written
40 statement or any pamphlet, circular, article or literature which is false,
41 or maliciously critical of or derogatory to the financial condition of an
42 insurer, and which is calculated to injure any person engaged in the
43 business of insurance.

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

Matter underlined thus is new matter.

1 (4) Boycott, coercion and intimidation. Entering into any
2 agreement to commit, or by any concerted action committing, any act
3 of boycott, coercion or intimidation resulting in or tending to result in
4 unreasonable restraint of, or monopoly in, the business of insurance,
5 or resulting in or tending to result in unreasonable influence being
6 exerted upon any producer that has an in-force contract as of the
7 effective date of P.L.1997, c.151 (C.17:33B-64 et al.) for the purpose
8 of replacing the in-force contract with a UEZ agent contract pursuant
9 to section 22 of P.L.1997, c.151 (C.17:33C-4).

10 (5) False financial statements. Filing with any supervisory or other
11 public official, or making, publishing, disseminating, circulating or
12 delivering to any person, or placing before the public, or causing
13 directly or indirectly, to be made, published, disseminated, circulated,
14 delivered to any person, or placed before the public, any false
15 statement of financial condition of an insurer with intent to deceive.

16 Making any false entry in any book, report or statement of any
17 insurer with intent to deceive any agent or examiner lawfully appointed
18 to examine into its condition or into any of its affairs, or any public
19 official to whom such insurer is required by law to report, or who was
20 authorized by law to examine into its condition or into any of its
21 affairs, or, with like intent, willfully omitting to make a true entry of
22 any material fact pertaining to the business of such insurer in any
23 book, report or statement of such insurer.

24 (6) Stock operations and advisory board contracts. Issuing or
25 delivering or permitting agents, officers, or employees to issue or
26 deliver, agency company stock or other capital stock, or benefit
27 certificates or shares in any common-law corporation, or securities or
28 any special or advisory board contracts or other contracts of any kind
29 promising returns and profits as an inducement to insurance.

30 (7) Unfair discrimination. (a) Making or permitting any unfair
31 discrimination between individuals of the same class and equal
32 expectation of life in the rates charged for any contract of life
33 insurance or of life annuity or in the dividends or other benefits
34 payable thereon, or in any other of the terms and conditions of such
35 contract.

36 (b) Making or permitting any unfair discrimination between
37 individuals of the same class and of essentially the same hazard in the
38 amount of premium, policy fees, or rates charged for any policy or
39 contract of accident or health insurance or in the benefits payable
40 thereunder, or in any of the terms or conditions of such contract, or in
41 any other manner whatsoever.

42 (c) Making or permitting any discrimination against any person or
43 group of persons because of race, creed, color, national origin or
44 ancestry of such person or group of persons in the issuance,
45 withholding, extension or renewal of any policy of insurance, or in the
46 fixing of the rates, terms or conditions therefor, or in the issuance or

1 acceptance of any application therefor.

2 (d) Making or permitting discrimination in the use of any form of
3 policy of insurance which expresses, directly or indirectly, any
4 limitation or discrimination as to race, creed, color, national origin or
5 ancestry or any intent to make any such limitation or discrimination.

6 (e) Making or permitting any unfair discrimination solely because
7 of age in the issuance, withholding, extension or renewal of any policy
8 or contract of automobile liability insurance or in the fixing of the
9 rates, terms or conditions therefor, or in the issuance or acceptance of
10 any application therefor, provided, that nothing herein shall be
11 construed to interfere with the application of any applicable rate
12 classification filed with and approved by the commissioner pursuant to
13 P.L.1944, c. 27 (C.17:29A-1 to 17:29A-28), or any amendment or
14 supplement thereof, which is in effect with respect to such policy or
15 contract of insurance.

16 (8) Rebates. (a) Except as otherwise expressly provided by law,
17 knowingly permitting or offering to make or making any contract of
18 life insurance, life annuity or accident and health insurance, or
19 agreement as to such contract other than as plainly expressed in the
20 contract issued thereon, or paying or allowing, or giving or offering to
21 pay, allow, or give, directly or indirectly, as inducement to such
22 insurance, or annuity, any rebate of premiums payable on the contract,
23 or any special favor or advantage in the dividends or other benefits
24 thereon, or any valuable consideration or inducement whatsoever not
25 specified in the contract; or giving, or selling, or purchasing or
26 offering to give, sell, or purchase as inducement to such insurance or
27 annuity or in connection therewith, any stocks, bonds, or other
28 securities of any insurance company or other corporation, association,
29 or partnership, or any dividends or profits accrued thereon, or
30 anything of value whatsoever not specified in the contract.

31 (b) Nothing in clause 7 or paragraph (a) of this clause 8 shall be
32 construed as including within the definition of discrimination or
33 rebates any of the following practices (i) in the case of any contract of
34 life insurance or life annuity, paying bonuses to policyholders or
35 otherwise abating their premiums in whole or in part out of surplus
36 accumulated from nonparticipating insurance; provided, that any such
37 bonuses or abatement of premiums shall be fair and equitable to
38 policyholders and for the best interests of the company and its
39 policyholders; (ii) in the case of life insurance policies issued on the
40 industrial debit plan, making allowance to policyholders who have
41 continuously for a specified period made premium payments directly
42 to an office of the insurer in an amount which fairly represents the
43 saving in collection expense; (iii) readjustment of the rate of premium
44 for a group policy based on the loss or expense experience thereunder,
45 at the end of the first or any subsequent policy year of insurance
46 thereunder, which may be made retroactive only for such policy year.

- 1 (9) Unfair claim settlement practices. Committing or performing
2 with such frequency as to indicate a general business practice any of
3 the following:
- 4 (a) Misrepresenting pertinent facts or insurance policy provisions
5 relating to coverages at issue;
 - 6 (b) Failing to acknowledge and act reasonably promptly upon
7 communications with respect to claims arising under insurance
8 policies;
 - 9 (c) Failing to adopt and implement reasonable standards for the
10 prompt investigation of claims arising under insurance policies;
 - 11 (d) Refusing to pay claims without conducting a reasonable
12 investigation based upon all available information;
 - 13 (e) Failing to affirm or deny coverage of claims within a reasonable
14 time after proof of loss statements have been completed;
 - 15 (f) Not attempting in good faith to effectuate prompt, fair and
16 equitable settlements of claims in which liability has become
17 reasonably clear;
 - 18 (g) Compelling insureds to institute litigation to recover amounts
19 due under an insurance policy by offering substantially less than the
20 amounts ultimately recovered in actions brought by such insureds;
 - 21 (h) Attempting to settle a claim for less than the amount to which
22 a reasonable man would have believed he was entitled by reference to
23 written or printed advertising material accompanying or made part of
24 an application;
 - 25 (i) Attempting to settle claims on the basis of an application which
26 was altered without notice to, or knowledge or consent of the insured;
 - 27 (j) Making claims payments to insureds or beneficiaries not
28 accompanied by a statement setting forth the coverage under which the
29 payments are being made;
 - 30 (k) Making known to insureds or claimants a policy of appealing
31 from arbitration awards in favor of insureds or claimants for the
32 purpose of compelling them to accept settlements or compromises less
33 than the amount awarded in arbitration;
 - 34 (l) Delaying the investigation or payment of claims by requiring an
35 insured, claimant or the physician of either to submit a preliminary
36 claim report and then requiring the subsequent submission of formal
37 proof of loss forms, both of which submissions contain substantially
38 the same information;
 - 39 (m) Failing to promptly settle claims, where liability has become
40 reasonably clear, under one portion of the insurance policy coverage
41 in order to influence settlements under other portions of the insurance
42 policy coverage;
 - 43 (n) Failing to promptly provide a reasonable explanation of the
44 basis in the insurance policy in relation to the facts or applicable law
45 for denial of a claim or for the offer of a compromise settlement;
 - 46 (o) Requiring insureds or claimants to institute or prosecute

1 complaints regarding motor vehicle violations in the municipal court
2 as a condition of paying private passenger automobile insurance
3 claims.

4 (10) Failure to maintain complaint handling procedures. Failure of
5 any person to maintain a complete record of all the complaints which
6 it has received since the date of its last examination. This record shall
7 indicate the total number of complaints, their classification by line of
8 insurance, the nature of each complaint, the disposition of these
9 complaints, and the time it took to process each complaint. For
10 purposes of this subsection, "complaint" shall mean any written
11 communication primarily expressing a grievance.

12 (11) The enumeration of this act of specific unfair methods of
13 competition and unfair or deceptive acts and practices in the business
14 of insurance is not exclusive or restrictive or intended to limit the
15 powers of the commissioner or any court of review under the
16 provisions of section 9 of this act.

17 (cf: P.L.1997, c.151, s.29)

18

19 2. This act shall take effect on the 90th day after the date of
20 enactment.

21

22

23

STATEMENT

24

25 This bill makes it an unfair claim practice for an insurance company
26 to require insureds or claimants to file or prosecute complaints
27 regarding motor vehicle violations in municipal court as a condition of
28 payment of private passenger automobile insurance claims.

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 78

STATE OF NEW JERSEY

DATED: JANUARY 9, 2001

The Senate Commerce Committee reports favorably Senate Bill No. 78.

This bill makes it an unfair claim practice for an insurance company to require insureds or claimants to file or prosecute complaints regarding motor vehicle violations in municipal court as a condition of payment of private passenger automobile insurance claims.

This bill was pre-filed for introduction in the 2000-2001 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

ASSEMBLY BANKING AND INSURANCE COMMITTEE

STATEMENT TO

SENATE, No. 78

STATE OF NEW JERSEY

DATED: MAY 3, 2001

The Assembly Banking and Insurance Committee reports favorably Senate Bill No. 78.

This bill makes it an unfair claim practice for an insurance company to require insureds or claimants to file or prosecute complaints regarding motor vehicle violations in municipal court as a condition of payment of private passenger automobile insurance claims.

This bill is identical to Assembly Bill No. 3224 which was also reported by the committee.

SENATE, No. 78

STATE OF NEW JERSEY 209th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2000 SESSION

Sponsored by:

Senator RAYMOND J. ZANE

District 3 (Salem, Cumberland and Gloucester)

Co-Sponsored by:

Assemblymen Geist and Bateman

SYNOPSIS

Prohibits insurers from requiring filing of municipal court complaint as precondition to payment of certain claims.

CURRENT VERSION OF TEXT

As reported by the Senate Commerce Committee with technical review.



(Sponsorship Updated As Of: 6/15/2001)

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2 amending P.L.1947, c.379.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
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16 benefits or advantages promised thereby or the dividends or share of
17 the surplus to be received thereon, or making any false or misleading
18 statement as to the dividends or share of surplus previously paid on
19 similar policies, or making any misleading representation or any
20 misrepresentation as to the financial condition of any insurer, or as to
21 the legal reserve system upon which any life insurer operates, or using
22 any name or title of any policy or class of policies misrepresenting the
23 true nature thereof, or making any misrepresentation to any
24 policyholder insured in any company for the purpose of inducing or
25 tending to induce such policyholder to lapse, forfeit, or surrender his
26 insurance.

27 (2) False information and advertising generally. Making,
28 publishing, disseminating, circulating, or placing before the public, or
29 causing, directly or indirectly, to be made, published, disseminated,
30 circulated, or placed before the public, in a newspaper, magazine or
31 other publication, or in the form of a notice, circular, pamphlet, letter
32 or poster, or over any radio station, or in any other way, an
33 advertisement, announcement or statement containing any assertion,
34 representation or statement with respect to the business of insurance
35 or with respect to any person in the conduct of his insurance business,
36 which is untrue, deceptive or misleading.

37 (3) Defamation. Making, publishing, disseminating, or circulating,
38 directly or indirectly, or aiding, abetting or encouraging the making,
39 publishing, disseminating or circulating of any oral or written
40 statement or any pamphlet, circular, article or literature which is false,
41 or maliciously critical of or derogatory to the financial condition of an
42 insurer, and which is calculated to injure any person engaged in the
43 business of insurance.

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

Matter underlined thus is new matter.

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2 agreement to commit, or by any concerted action committing, any act
3 of boycott, coercion or intimidation resulting in or tending to result in
4 unreasonable restraint of, or monopoly in, the business of insurance,
5 or resulting in or tending to result in unreasonable influence being
6 exerted upon any producer that has an in-force contract as of the
7 effective date of P.L.1997, c.151 (C.17:33B-64 et al.) for the purpose
8 of replacing the in-force contract with a UEZ agent contract pursuant
9 to section 22 of P.L.1997, c.151 (C.17:33C-4).

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11 public official, or making, publishing, disseminating, circulating or
12 delivering to any person, or placing before the public, or causing
13 directly or indirectly, to be made, published, disseminated, circulated,
14 delivered to any person, or placed before the public, any false
15 statement of financial condition of an insurer with intent to deceive.

16 Making any false entry in any book, report or statement of any
17 insurer with intent to deceive any agent or examiner lawfully appointed
18 to examine into its condition or into any of its affairs, or any public
19 official to whom such insurer is required by law to report, or who was
20 authorized by law to examine into its condition or into any of its
21 affairs, or, with like intent, willfully omitting to make a true entry of
22 any material fact pertaining to the business of such insurer in any
23 book, report or statement of such insurer.

24 (6) Stock operations and advisory board contracts. Issuing or
25 delivering or permitting agents, officers, or employees to issue or
26 deliver, agency company stock or other capital stock, or benefit
27 certificates or shares in any common-law corporation, or securities or
28 any special or advisory board contracts or other contracts of any kind
29 promising returns and profits as an inducement to insurance.

30 (7) Unfair discrimination. (a) Making or permitting any unfair
31 discrimination between individuals of the same class and equal
32 expectation of life in the rates charged for any contract of life
33 insurance or of life annuity or in the dividends or other benefits
34 payable thereon, or in any other of the terms and conditions of such
35 contract.

36 (b) Making or permitting any unfair discrimination between
37 individuals of the same class and of essentially the same hazard in the
38 amount of premium, policy fees, or rates charged for any policy or
39 contract of accident or health insurance or in the benefits payable
40 thereunder, or in any of the terms or conditions of such contract, or in
41 any other manner whatsoever.

42 (c) Making or permitting any discrimination against any person or
43 group of persons because of race, creed, color, national origin or
44 ancestry of such person or group of persons in the issuance,
45 withholding, extension or renewal of any policy of insurance, or in the
46 fixing of the rates, terms or conditions therefor, or in the issuance or

1 acceptance of any application therefor.

2 (d) Making or permitting discrimination in the use of any form of
3 policy of insurance which expresses, directly or indirectly, any
4 limitation or discrimination as to race, creed, color, national origin or
5 ancestry or any intent to make any such limitation or discrimination.

6 (e) Making or permitting any unfair discrimination solely because
7 of age in the issuance, withholding, extension or renewal of any policy
8 or contract of automobile liability insurance or in the fixing of the
9 rates, terms or conditions therefor, or in the issuance or acceptance of
10 any application therefor, provided, that nothing herein shall be
11 construed to interfere with the application of any applicable rate
12 classification filed with and approved by the commissioner pursuant to
13 P.L.1944, c. 27 (C.17:29A-1 to 17:29A-28), or any amendment or
14 supplement thereof, which is in effect with respect to such policy or
15 contract of insurance.

16 (8) Rebates. (a) Except as otherwise expressly provided by law,
17 knowingly permitting or offering to make or making any contract of
18 life insurance, life annuity or accident and health insurance, or
19 agreement as to such contract other than as plainly expressed in the
20 contract issued thereon, or paying or allowing, or giving or offering to
21 pay, allow, or give, directly or indirectly, as inducement to such
22 insurance, or annuity, any rebate of premiums payable on the contract,
23 or any special favor or advantage in the dividends or other benefits
24 thereon, or any valuable consideration or inducement whatsoever not
25 specified in the contract; or giving, or selling, or purchasing or
26 offering to give, sell, or purchase as inducement to such insurance or
27 annuity or in connection therewith, any stocks, bonds, or other
28 securities of any insurance company or other corporation, association,
29 or partnership, or any dividends or profits accrued thereon, or
30 anything of value whatsoever not specified in the contract.

31 (b) Nothing in clause 7 or paragraph (a) of this clause 8 shall be
32 construed as including within the definition of discrimination or
33 rebates any of the following practices: (i) in the case of any contract
34 of life insurance or life annuity, paying bonuses to policyholders or
35 otherwise abating their premiums in whole or in part out of surplus
36 accumulated from nonparticipating insurance; provided, that any such
37 bonuses or abatement of premiums shall be fair and equitable to
38 policyholders and for the best interests of the company and its
39 policyholders; (ii) in the case of life insurance policies issued on the
40 industrial debit plan, making allowance to policyholders who have
41 continuously for a specified period made premium payments directly
42 to an office of the insurer in an amount which fairly represents the
43 saving in collection expense; (iii) readjustment of the rate of premium
44 for a group policy based on the loss or expense experience thereunder,
45 at the end of the first or any subsequent policy year of insurance
46 thereunder, which may be made retroactive only for such policy year.

- 1 (9) Unfair claim settlement practices. Committing or performing
2 with such frequency as to indicate a general business practice any of
3 the following:
- 4 (a) Misrepresenting pertinent facts or insurance policy provisions
5 relating to coverages at issue;
 - 6 (b) Failing to acknowledge and act reasonably promptly upon
7 communications with respect to claims arising under insurance
8 policies;
 - 9 (c) Failing to adopt and implement reasonable standards for the
10 prompt investigation of claims arising under insurance policies;
 - 11 (d) Refusing to pay claims without conducting a reasonable
12 investigation based upon all available information;
 - 13 (e) Failing to affirm or deny coverage of claims within a reasonable
14 time after proof of loss statements have been completed;
 - 15 (f) Not attempting in good faith to effectuate prompt, fair and
16 equitable settlements of claims in which liability has become
17 reasonably clear;
 - 18 (g) Compelling insureds to institute litigation to recover amounts
19 due under an insurance policy by offering substantially less than the
20 amounts ultimately recovered in actions brought by such insureds;
 - 21 (h) Attempting to settle a claim for less than the amount to which
22 a reasonable man would have believed he was entitled by reference to
23 written or printed advertising material accompanying or made part of
24 an application;
 - 25 (i) Attempting to settle claims on the basis of an application which
26 was altered without notice to, or knowledge or consent of the insured;
 - 27 (j) Making claims payments to insureds or beneficiaries not
28 accompanied by a statement setting forth the coverage under which the
29 payments are being made;
 - 30 (k) Making known to insureds or claimants a policy of appealing
31 from arbitration awards in favor of insureds or claimants for the
32 purpose of compelling them to accept settlements or compromises less
33 than the amount awarded in arbitration;
 - 34 (l) Delaying the investigation or payment of claims by requiring an
35 insured, claimant or the physician of either to submit a preliminary
36 claim report and then requiring the subsequent submission of formal
37 proof of loss forms, both of which submissions contain substantially
38 the same information;
 - 39 (m) Failing to promptly settle claims, where liability has become
40 reasonably clear, under one portion of the insurance policy coverage
41 in order to influence settlements under other portions of the insurance
42 policy coverage;
 - 43 (n) Failing to promptly provide a reasonable explanation of the
44 basis in the insurance policy in relation to the facts or applicable law
45 for denial of a claim or for the offer of a compromise settlement;
 - 46 (o) Requiring insureds or claimants to institute or prosecute

1 complaints regarding motor vehicle violations in the municipal court
2 as a condition of paying private passenger automobile insurance
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5 any person to maintain a complete record of all the complaints which
6 it has received since the date of its last examination. This record shall
7 indicate the total number of complaints, their classification by line of
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11 communication primarily expressing a grievance.

12 (11) The enumeration of this act of specific unfair methods of
13 competition and unfair or deceptive acts and practices in the business
14 of insurance is not exclusive or restrictive or intended to limit the
15 powers of the commissioner or any court of review under the
16 provisions of section 9 of this act.

17 (cf: P.L.1997, c.151, s.29)

18

19 2. This act shall take effect on the 90th day after the date of
20 enactment.

ASSEMBLY, No. 3224

STATE OF NEW JERSEY 209th LEGISLATURE

INTRODUCED FEBRUARY 15, 2001

Sponsored by:

Assemblyman GEORGE F. GEIST

District 4 (Camden and Gloucester)

Assemblyman CHRISTOPHER "KIP" BATEMAN

District 16 (Morris and Somerset)

SYNOPSIS

Prohibits insurers from requiring filing of municipal court complaint as precondition to payment of certain claims.

CURRENT VERSION OF TEXT

As introduced.



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2 amending P.L.1947, c.379.

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17 the surplus to be received thereon, or making any false or misleading
18 statement as to the dividends or share of surplus previously paid on
19 similar policies, or making any misleading representation or any
20 misrepresentation as to the financial condition of any insurer, or as to
21 the legal reserve system upon which any life insurer operates, or using
22 any name or title of any policy or class of policies misrepresenting the
23 true nature thereof, or making any misrepresentation to any
24 policyholder insured in any company for the purpose of inducing or
25 tending to induce such policyholder to lapse, forfeit, or surrender his
26 insurance.

27 (2) False information and advertising generally. Making,
28 publishing, disseminating, circulating, or placing before the public, or
29 causing, directly or indirectly, to be made, published, disseminated,
30 circulated, or placed before the public, in a newspaper, magazine or
31 other publication, or in the form of a notice, circular, pamphlet, letter
32 or poster, or over any radio station, or in any other way, an
33 advertisement, announcement or statement containing any assertion,
34 representation or statement with respect to the business of insurance
35 or with respect to any person in the conduct of his insurance business,
36 which is untrue, deceptive or misleading.

37 (3) Defamation. Making, publishing, disseminating, or circulating,
38 directly or indirectly, or aiding, abetting or encouraging the making,
39 publishing, disseminating or circulating of any oral or written
40 statement or any pamphlet, circular, article or literature which is false,
41 or maliciously critical of or derogatory to the financial condition of an
42 insurer, and which is calculated to injure any person engaged in the
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2 agreement to commit, or by any concerted action committing, any act
3 of boycott, coercion or intimidation resulting in or tending to result in
4 unreasonable restraint of, or monopoly in, the business of insurance,
5 or resulting in or tending to result in unreasonable influence being
6 exerted upon any producer that has an in-force contract as of the
7 effective date of P.L.1997, c.151 (C.17:33B-64 et al.) for the purpose
8 of replacing the in-force contract with a UEZ agent contract pursuant
9 to section 22 of P.L.1997, c.151 (C.17:33C-4).

10 (5) False financial statements. Filing with any supervisory or other
11 public official, or making, publishing, disseminating, circulating or
12 delivering to any person, or placing before the public, or causing
13 directly or indirectly, to be made, published, disseminated, circulated,
14 delivered to any person, or placed before the public, any false
15 statement of financial condition of an insurer with intent to deceive.

16 Making any false entry in any book, report or statement of any
17 insurer with intent to deceive any agent or examiner lawfully appointed
18 to examine into its condition or into any of its affairs, or any public
19 official to whom such insurer is required by law to report, or who was
20 authorized by law to examine into its condition or into any of its
21 affairs, or, with like intent, willfully omitting to make a true entry of
22 any material fact pertaining to the business of such insurer in any
23 book, report or statement of such insurer.

24 (6) Stock operations and advisory board contracts. Issuing or
25 delivering or permitting agents, officers, or employees to issue or
26 deliver, agency company stock or other capital stock, or benefit
27 certificates or shares in any common-law corporation, or securities or
28 any special or advisory board contracts or other contracts of any kind
29 promising returns and profits as an inducement to insurance.

30 (7) Unfair discrimination. (a) Making or permitting any unfair
31 discrimination between individuals of the same class and equal
32 expectation of life in the rates charged for any contract of life
33 insurance or of life annuity or in the dividends or other benefits
34 payable thereon, or in any other of the terms and conditions of such
35 contract.

36 (b) Making or permitting any unfair discrimination between
37 individuals of the same class and of essentially the same hazard in the
38 amount of premium, policy fees, or rates charged for any policy or
39 contract of accident or health insurance or in the benefits payable
40 thereunder, or in any of the terms or conditions of such contract, or in
41 any other manner whatsoever.

42 (c) Making or permitting any discrimination against any person or
43 group of persons because of race, creed, color, national origin or
44 ancestry of such person or group of persons in the issuance,
45 withholding, extension or renewal of any policy of insurance, or in the
46 fixing of the rates, terms or conditions therefor, or in the issuance or

1 acceptance of any application therefor.

2 (d) Making or permitting discrimination in the use of any form of
3 policy of insurance which expresses, directly or indirectly, any
4 limitation or discrimination as to race, creed, color, national origin or
5 ancestry or any intent to make any such limitation or discrimination.

6 (e) Making or permitting any unfair discrimination solely because
7 of age in the issuance, withholding, extension or renewal of any policy
8 or contract of automobile liability insurance or in the fixing of the
9 rates, terms or conditions therefor, or in the issuance or acceptance of
10 any application therefor, provided, that nothing herein shall be
11 construed to interfere with the application of any applicable rate
12 classification filed with and approved by the commissioner pursuant to
13 P.L.1944, c.27 (C.17:29A-1 to 17:29A-28), or any amendment or
14 supplement thereof, which is in effect with respect to such policy or
15 contract of insurance.

16 (8) Rebates. (a) Except as otherwise expressly provided by law,
17 knowingly permitting or offering to make or making any contract of
18 life insurance, life annuity or accident and health insurance, or
19 agreement as to such contract other than as plainly expressed in the
20 contract issued thereon, or paying or allowing, or giving or offering to
21 pay, allow, or give, directly or indirectly, as inducement to such
22 insurance, or annuity, any rebate of premiums payable on the contract,
23 or any special favor or advantage in the dividends or other benefits
24 thereon, or any valuable consideration or inducement whatsoever not
25 specified in the contract; or giving, or selling, or purchasing or
26 offering to give, sell, or purchase as inducement to such insurance or
27 annuity or in connection therewith, any stocks, bonds, or other
28 securities of any insurance company or other corporation, association,
29 or partnership, or any dividends or profits accrued thereon, or
30 anything of value whatsoever not specified in the contract.

31 (b) Nothing in clause 7 or paragraph (a) of this clause 8 shall be
32 construed as including within the definition of discrimination or
33 rebates any of the following practices: (i) in the case of any contract
34 of life insurance or life annuity, paying bonuses to policyholders or
35 otherwise abating their premiums in whole or in part out of surplus
36 accumulated from nonparticipating insurance; provided, that any such
37 bonuses or abatement of premiums shall be fair and equitable to
38 policyholders and for the best interests of the company and its
39 policyholders; (ii) in the case of life insurance policies issued on the
40 industrial debit plan, making allowance to policyholders who have
41 continuously for a specified period made premium payments directly
42 to an office of the insurer in an amount which fairly represents the
43 saving in collection expense; (iii) readjustment of the rate of premium
44 for a group policy based on the loss or expense experience thereunder,
45 at the end of the first or any subsequent policy year of insurance
46 thereunder, which may be made retroactive only for such policy year.

- 1 (9) Unfair claim settlement practices. Committing or performing
2 with such frequency as to indicate a general business practice any of
3 the following:
- 4 (a) Misrepresenting pertinent facts or insurance policy provisions
5 relating to coverages at issue;
 - 6 (b) Failing to acknowledge and act reasonably promptly upon
7 communications with respect to claims arising under insurance
8 policies;
 - 9 (c) Failing to adopt and implement reasonable standards for the
10 prompt investigation of claims arising under insurance policies;
 - 11 (d) Refusing to pay claims without conducting a reasonable
12 investigation based upon all available information;
 - 13 (e) Failing to affirm or deny coverage of claims within a reasonable
14 time after proof of loss statements have been completed;
 - 15 (f) Not attempting in good faith to effectuate prompt, fair and
16 equitable settlements of claims in which liability has become
17 reasonably clear;
 - 18 (g) Compelling insureds to institute litigation to recover amounts
19 due under an insurance policy by offering substantially less than the
20 amounts ultimately recovered in actions brought by such insureds;
 - 21 (h) Attempting to settle a claim for less than the amount to which
22 a reasonable man would have believed he was entitled by reference to
23 written or printed advertising material accompanying or made part of
24 an application;
 - 25 (i) Attempting to settle claims on the basis of an application which
26 was altered without notice to, or knowledge or consent of the insured;
 - 27 (j) Making claims payments to insureds or beneficiaries not
28 accompanied by a statement setting forth the coverage under which the
29 payments are being made;
 - 30 (k) Making known to insureds or claimants a policy of appealing
31 from arbitration awards in favor of insureds or claimants for the
32 purpose of compelling them to accept settlements or compromises less
33 than the amount awarded in arbitration;
 - 34 (l) Delaying the investigation or payment of claims by requiring an
35 insured, claimant or the physician of either to submit a preliminary
36 claim report and then requiring the subsequent submission of formal
37 proof of loss forms, both of which submissions contain substantially
38 the same information;
 - 39 (m) Failing to promptly settle claims, where liability has become
40 reasonably clear, under one portion of the insurance policy coverage
41 in order to influence settlements under other portions of the insurance
42 policy coverage;
 - 43 (n) Failing to promptly provide a reasonable explanation of the
44 basis in the insurance policy in relation to the facts or applicable law
45 for denial of a claim or for the offer of a compromise settlement;
 - 46 (o) Requiring insureds or claimants to institute or prosecute

1 complaints regarding motor vehicle violations in the municipal court
2 as a condition of paying private passenger automobile insurance
3 claims.

4 (10) Failure to maintain complaint handling procedures. Failure of
5 any person to maintain a complete record of all the complaints which
6 it has received since the date of its last examination. This record shall
7 indicate the total number of complaints, their classification by line of
8 insurance, the nature of each complaint, the disposition of these
9 complaints, and the time it took to process each complaint. For
10 purposes of this subsection, "complaint" shall mean any written
11 communication primarily expressing a grievance.

12 (11) The enumeration of this act of specific unfair methods of
13 competition and unfair or deceptive acts and practices in the business
14 of insurance is not exclusive or restrictive or intended to limit the
15 powers of the commissioner or any court of review under the
16 provisions of section 9 of this act.

17 (cf: P.L.1997, c.151, s.29)

18

19 2. This act shall take effect on the 90th day after the date of
20 enactment.

21

22

23

STATEMENT

24

25 This bill makes it an unfair claim practice for an insurance company
26 to require insureds or claimants to file or prosecute complaints
27 regarding motor vehicle violations in municipal court as a condition of
28 payment of private passenger automobile insurance claims.

ASSEMBLY BANKING AND INSURANCE COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3224

STATE OF NEW JERSEY

DATED: MAY 3, 2001

The Assembly Banking and Insurance Committee reports favorably Assembly Bill No. 3224.

This bill makes it an unfair claim practice for an insurance company to require insureds or claimants to file or prosecute complaints regarding motor vehicle violations in municipal court as a condition of payment of private passenger automobile insurance claims.

This bill is identical to Senate Bill No. 78 which was also reported by the committee.

P.L. 2001, CHAPTER 168, *approved July 26, 2001*

Senate, No. 78

1 **AN ACT** concerning unfair insurance claim settlement practices and
2 amending P.L.1947, c.379.

3

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

6

7 1. Section 4 of P.L.1947, c.379 (C.17:29B-4) is amended to read
8 as follows:

9 4. The following are hereby defined as unfair methods of
10 competition and unfair and deceptive acts or practices in the business
11 of insurance:

12 (1) Misrepresentations and false advertising of policy contracts.
13 Making, issuing, circulating, or causing to be made, issued or
14 circulated, any estimate, illustration, circular or statement
15 misrepresenting the terms of any policy issued or to be issued or the
16 benefits or advantages promised thereby or the dividends or share of
17 the surplus to be received thereon, or making any false or misleading
18 statement as to the dividends or share of surplus previously paid on
19 similar policies, or making any misleading representation or any
20 misrepresentation as to the financial condition of any insurer, or as to
21 the legal reserve system upon which any life insurer operates, or using
22 any name or title of any policy or class of policies misrepresenting the
23 true nature thereof, or making any misrepresentation to any
24 policyholder insured in any company for the purpose of inducing or
25 tending to induce such policyholder to lapse, forfeit, or surrender his
26 insurance.

27 (2) False information and advertising generally. Making,
28 publishing, disseminating, circulating, or placing before the public, or
29 causing, directly or indirectly, to be made, published, disseminated,
30 circulated, or placed before the public, in a newspaper, magazine or
31 other publication, or in the form of a notice, circular, pamphlet, letter
32 or poster, or over any radio station, or in any other way, an
33 advertisement, announcement or statement containing any assertion,
34 representation or statement with respect to the business of insurance
35 or with respect to any person in the conduct of his insurance business,
36 which is untrue, deceptive or misleading.

37 (3) Defamation. Making, publishing, disseminating, or circulating,
38 directly or indirectly, or aiding, abetting or encouraging the making,
39 publishing, disseminating or circulating of any oral or written
40 statement or any pamphlet, circular, article or literature which is false,
41 or maliciously critical of or derogatory to the financial condition of an

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

Matter underlined thus is new matter.

1 insurer, and which is calculated to injure any person engaged in the
2 business of insurance.

3 (4) Boycott, coercion and intimidation. Entering into any
4 agreement to commit, or by any concerted action committing, any act
5 of boycott, coercion or intimidation resulting in or tending to result in
6 unreasonable restraint of, or monopoly in, the business of insurance,
7 or resulting in or tending to result in unreasonable influence being
8 exerted upon any producer that has an in-force contract as of the
9 effective date of P.L.1997, c.151 (C.17:33B-64 et al.) for the purpose
10 of replacing the in-force contract with a UEZ agent contract pursuant
11 to section 22 of P.L.1997, c.151 (C.17:33C-4).

12 (5) False financial statements. Filing with any supervisory or other
13 public official, or making, publishing, disseminating, circulating or
14 delivering to any person, or placing before the public, or causing
15 directly or indirectly, to be made, published, disseminated, circulated,
16 delivered to any person, or placed before the public, any false
17 statement of financial condition of an insurer with intent to deceive.

18 Making any false entry in any book, report or statement of any
19 insurer with intent to deceive any agent or examiner lawfully appointed
20 to examine into its condition or into any of its affairs, or any public
21 official to whom such insurer is required by law to report, or who was
22 authorized by law to examine into its condition or into any of its
23 affairs, or, with like intent, willfully omitting to make a true entry of
24 any material fact pertaining to the business of such insurer in any
25 book, report or statement of such insurer.

26 (6) Stock operations and advisory board contracts. Issuing or
27 delivering or permitting agents, officers, or employees to issue or
28 deliver, agency company stock or other capital stock, or benefit
29 certificates or shares in any common-law corporation, or securities or
30 any special or advisory board contracts or other contracts of any kind
31 promising returns and profits as an inducement to insurance.

32 (7) Unfair discrimination. (a) Making or permitting any unfair
33 discrimination between individuals of the same class and equal
34 expectation of life in the rates charged for any contract of life
35 insurance or of life annuity or in the dividends or other benefits
36 payable thereon, or in any other of the terms and conditions of such
37 contract.

38 (b) Making or permitting any unfair discrimination between
39 individuals of the same class and of essentially the same hazard in the
40 amount of premium, policy fees, or rates charged for any policy or
41 contract of accident or health insurance or in the benefits payable
42 thereunder, or in any of the terms or conditions of such contract, or in
43 any other manner whatsoever.

44 (c) Making or permitting any discrimination against any person or
45 group of persons because of race, creed, color, national origin or
46 ancestry of such person or group of persons in the issuance,

1 withholding, extension or renewal of any policy of insurance, or in the
2 fixing of the rates, terms or conditions therefor, or in the issuance or
3 acceptance of any application therefor.

4 (d) Making or permitting discrimination in the use of any form of
5 policy of insurance which expresses, directly or indirectly, any
6 limitation or discrimination as to race, creed, color, national origin or
7 ancestry or any intent to make any such limitation or discrimination.

8 (e) Making or permitting any unfair discrimination solely because
9 of age in the issuance, withholding, extension or renewal of any policy
10 or contract of automobile liability insurance or in the fixing of the
11 rates, terms or conditions therefor, or in the issuance or acceptance of
12 any application therefor, provided, that nothing herein shall be
13 construed to interfere with the application of any applicable rate
14 classification filed with and approved by the commissioner pursuant to
15 P.L.1944, c. 27 (C.17:29A-1 to 17:29A-28), or any amendment or
16 supplement thereof, which is in effect with respect to such policy or
17 contract of insurance.

18 (8) Rebates. (a) Except as otherwise expressly provided by law,
19 knowingly permitting or offering to make or making any contract of
20 life insurance, life annuity or accident and health insurance, or
21 agreement as to such contract other than as plainly expressed in the
22 contract issued thereon, or paying or allowing, or giving or offering to
23 pay, allow, or give, directly or indirectly, as inducement to such
24 insurance, or annuity, any rebate of premiums payable on the contract,
25 or any special favor or advantage in the dividends or other benefits
26 thereon, or any valuable consideration or inducement whatsoever not
27 specified in the contract; or giving, or selling, or purchasing or
28 offering to give, sell, or purchase as inducement to such insurance or
29 annuity or in connection therewith, any stocks, bonds, or other
30 securities of any insurance company or other corporation, association,
31 or partnership, or any dividends or profits accrued thereon, or
32 anything of value whatsoever not specified in the contract.

33 (b) Nothing in clause 7 or paragraph (a) of this clause 8 shall be
34 construed as including within the definition of discrimination or
35 rebates any of the following practices: (i) in the case of any contract
36 of life insurance or life annuity, paying bonuses to policyholders or
37 otherwise abating their premiums in whole or in part out of surplus
38 accumulated from nonparticipating insurance; provided, that any such
39 bonuses or abatement of premiums shall be fair and equitable to
40 policyholders and for the best interests of the company and its
41 policyholders; (ii) in the case of life insurance policies issued on the
42 industrial debit plan, making allowance to policyholders who have
43 continuously for a specified period made premium payments directly
44 to an office of the insurer in an amount which fairly represents the
45 saving in collection expense; (iii) readjustment of the rate of premium
46 for a group policy based on the loss or expense experience thereunder,

- 1 at the end of the first or any subsequent policy year of insurance
2 thereunder, which may be made retroactive only for such policy year.
- 3 (9) Unfair claim settlement practices. Committing or performing
4 with such frequency as to indicate a general business practice any of
5 the following:
- 6 (a) Misrepresenting pertinent facts or insurance policy provisions
7 relating to coverages at issue;
 - 8 (b) Failing to acknowledge and act reasonably promptly upon
9 communications with respect to claims arising under insurance
10 policies;
 - 11 (c) Failing to adopt and implement reasonable standards for the
12 prompt investigation of claims arising under insurance policies;
 - 13 (d) Refusing to pay claims without conducting a reasonable
14 investigation based upon all available information;
 - 15 (e) Failing to affirm or deny coverage of claims within a reasonable
16 time after proof of loss statements have been completed;
 - 17 (f) Not attempting in good faith to effectuate prompt, fair and
18 equitable settlements of claims in which liability has become
19 reasonably clear;
 - 20 (g) Compelling insureds to institute litigation to recover amounts
21 due under an insurance policy by offering substantially less than the
22 amounts ultimately recovered in actions brought by such insureds;
 - 23 (h) Attempting to settle a claim for less than the amount to which
24 a reasonable man would have believed he was entitled by reference to
25 written or printed advertising material accompanying or made part of
26 an application;
 - 27 (i) Attempting to settle claims on the basis of an application which
28 was altered without notice to, or knowledge or consent of the insured;
 - 29 (j) Making claims payments to insureds or beneficiaries not
30 accompanied by a statement setting forth the coverage under which the
31 payments are being made;
 - 32 (k) Making known to insureds or claimants a policy of appealing
33 from arbitration awards in favor of insureds or claimants for the
34 purpose of compelling them to accept settlements or compromises less
35 than the amount awarded in arbitration;
 - 36 (l) Delaying the investigation or payment of claims by requiring an
37 insured, claimant or the physician of either to submit a preliminary
38 claim report and then requiring the subsequent submission of formal
39 proof of loss forms, both of which submissions contain substantially
40 the same information;
 - 41 (m) Failing to promptly settle claims, where liability has become
42 reasonably clear, under one portion of the insurance policy coverage
43 in order to influence settlements under other portions of the insurance
44 policy coverage;
 - 45 (n) Failing to promptly provide a reasonable explanation of the
46 basis in the insurance policy in relation to the facts or applicable law

1 for denial of a claim or for the offer of a compromise settlement;

2 (o) Requiring insureds or claimants to institute or prosecute
3 complaints regarding motor vehicle violations in the municipal court
4 as a condition of paying private passenger automobile insurance
5 claims.

6 (10) Failure to maintain complaint handling procedures. Failure of
7 any person to maintain a complete record of all the complaints which
8 it has received since the date of its last examination. This record shall
9 indicate the total number of complaints, their classification by line of
10 insurance, the nature of each complaint, the disposition of these
11 complaints, and the time it took to process each complaint. For
12 purposes of this subsection, "complaint" shall mean any written
13 communication primarily expressing a grievance.

14 (11) The enumeration of this act of specific unfair methods of
15 competition and unfair or deceptive acts and practices in the business
16 of insurance is not exclusive or restrictive or intended to limit the
17 powers of the commissioner or any court of review under the
18 provisions of section 9 of this act.

19 (cf: P.L.1997, c.151, s.29)

20

21 2. This act shall take effect on the 90th day after the date of
22 enactment.

23

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26

27 Prohibits insurers from requiring filing of municipal court complaint as
28 precondition to payment of certain claims.

CHAPTER 168

AN ACT concerning unfair insurance claim settlement practices and amending P.L.1947, c.379.

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

1. Section 4 of P.L.1947, c.379 (C.17:29B-4) is amended to read as follows:

C.17:29B-4 Unfair methods of competition, unfair deceptive acts, practices, defined.

4. The following are hereby defined as unfair methods of competition and unfair and deceptive acts or practices in the business of insurance:

(1) Misrepresentations and false advertising of policy contracts. Making, issuing, circulating, or causing to be made, issued or circulated, any estimate, illustration, circular or statement misrepresenting the terms of any policy issued or to be issued or the benefits or advantages promised thereby or the dividends or share of the surplus to be received thereon, or making any false or misleading statement as to the dividends or share of surplus previously paid on similar policies, or making any misleading representation or any misrepresentation as to the financial condition of any insurer, or as to the legal reserve system upon which any life insurer operates, or using any name or title of any policy or class of policies misrepresenting the true nature thereof, or making any misrepresentation to any policyholder insured in any company for the purpose of inducing or tending to induce such policyholder to lapse, forfeit, or surrender his insurance.

(2) False information and advertising generally. Making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio station, or in any other way, an advertisement, announcement or statement containing any assertion, representation or statement with respect to the business of insurance or with respect to any person in the conduct of his insurance business, which is untrue, deceptive or misleading.

(3) Defamation. Making, publishing, disseminating, or circulating, directly or indirectly, or aiding, abetting or encouraging the making, publishing, disseminating or circulating of any oral or written statement or any pamphlet, circular, article or literature which is false, or maliciously critical of or derogatory to the financial condition of an insurer, and which is calculated to injure any person engaged in the business of insurance.

(4) Boycott, coercion and intimidation. Entering into any agreement to commit, or by any concerted action committing, any act of boycott, coercion or intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the business of insurance, or resulting in or tending to result in unreasonable influence being exerted upon any producer that has an in-force contract as of the effective date of P.L.1997, c.151 (C.17:33B-64 et al.) for the purpose of replacing the in-force contract with a UEZ agent contract pursuant to section 22 of P.L.1997, c.151 (C.17:33C-4).

(5) False financial statements. Filing with any supervisory or other public official, or making, publishing, disseminating, circulating or delivering to any person, or placing before the public, or causing directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false statement of financial condition of an insurer with intent to deceive.

Making any false entry in any book, report or statement of any insurer with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to whom such insurer is required by law to report, or who was authorized by law to examine into its condition or into any of its affairs, or, with like intent, willfully omitting to make a true entry of any material fact pertaining to the business of such insurer in any book, report or statement of such insurer.

(6) Stock operations and advisory board contracts. Issuing or delivering or permitting agents, officers, or employees to issue or deliver, agency company stock or other capital stock, or benefit certificates or shares in any common-law corporation, or securities or any special or advisory board contracts or other contracts of any kind promising returns and profits as an inducement to insurance.

(7) Unfair discrimination. (a) Making or permitting any unfair discrimination between individuals of the same class and equal expectation of life in the rates charged for any contract

of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract.

(b) Making or permitting any unfair discrimination between individuals of the same class and of essentially the same hazard in the amount of premium, policy fees, or rates charged for any policy or contract of accident or health insurance or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatsoever.

(c) Making or permitting any discrimination against any person or group of persons because of race, creed, color, national origin or ancestry of such person or group of persons in the issuance, withholding, extension or renewal of any policy of insurance, or in the fixing of the rates, terms or conditions therefor, or in the issuance or acceptance of any application therefor.

(d) Making or permitting discrimination in the use of any form of policy of insurance which expresses, directly or indirectly, any limitation or discrimination as to race, creed, color, national origin or ancestry or any intent to make any such limitation or discrimination.

(e) Making or permitting any unfair discrimination solely because of age in the issuance, withholding, extension or renewal of any policy or contract of automobile liability insurance or in the fixing of the rates, terms or conditions therefor, or in the issuance or acceptance of any application therefor, provided, that nothing herein shall be construed to interfere with the application of any applicable rate classification filed with and approved by the commissioner pursuant to P.L.1944, c. 27 (C.17:29A-1 to 17:29A-28), or any amendment or supplement thereof, which is in effect with respect to such policy or contract of insurance.

(8) Rebates. (a) Except as otherwise expressly provided by law, knowingly permitting or offering to make or making any contract of life insurance, life annuity or accident and health insurance, or agreement as to such contract other than as plainly expressed in the contract issued thereon, or paying or allowing, or giving or offering to pay, allow, or give, directly or indirectly, as inducement to such insurance, or annuity, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement whatsoever not specified in the contract; or giving, or selling, or purchasing or offering to give, sell, or purchase as inducement to such insurance or annuity or in connection therewith, any stocks, bonds, or other securities of any insurance company or other corporation, association, or partnership, or any dividends or profits accrued thereon, or anything of value whatsoever not specified in the contract.

(b) Nothing in clause 7 or paragraph (a) of this clause 8 shall be construed as including within the definition of discrimination or rebates any of the following practices: (i) in the case of any contract of life insurance or life annuity, paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance; provided, that any such bonuses or abatement of premiums shall be fair and equitable to policyholders and for the best interests of the company and its policyholders; (ii) in the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expense; (iii) readjustment of the rate of premium for a group policy based on the loss or expense experience thereunder, at the end of the first or any subsequent policy year of insurance thereunder, which may be made retroactive only for such policy year.

(9) Unfair claim settlement practices. Committing or performing with such frequency as to indicate a general business practice any of the following:

(a) Misrepresenting pertinent facts or insurance policy provisions relating to coverages at issue;

(b) Failing to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies;

(c) Failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies;

(d) Refusing to pay claims without conducting a reasonable investigation based upon all available information;

(e) Failing to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed;

(f) Not attempting in good faith to effectuate prompt, fair and equitable settlements of claims in which liability has become reasonably clear;

(g) Compelling insureds to institute litigation to recover amounts due under an insurance policy by offering substantially less than the amounts ultimately recovered in actions brought by such insureds;

(h) Attempting to settle a claim for less than the amount to which a reasonable man would have believed he was entitled by reference to written or printed advertising material accompanying or made part of an application;

(i) Attempting to settle claims on the basis of an application which was altered without notice to, or knowledge or consent of the insured;

(j) Making claims payments to insureds or beneficiaries not accompanied by a statement setting forth the coverage under which the payments are being made;

(k) Making known to insureds or claimants a policy of appealing from arbitration awards in favor of insureds or claimants for the purpose of compelling them to accept settlements or compromises less than the amount awarded in arbitration;

(l) Delaying the investigation or payment of claims by requiring an insured, claimant or the physician of either to submit a preliminary claim report and then requiring the subsequent submission of formal proof of loss forms, both of which submissions contain substantially the same information;

(m) Failing to promptly settle claims, where liability has become reasonably clear, under one portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage;

(n) Failing to promptly provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement;

(o) Requiring insureds or claimants to institute or prosecute complaints regarding motor vehicle violations in the municipal court as a condition of paying private passenger automobile insurance claims.

(10) Failure to maintain complaint handling procedures. Failure of any person to maintain a complete record of all the complaints which it has received since the date of its last examination. This record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of these complaints, and the time it took to process each complaint. For purposes of this subsection, "complaint" shall mean any written communication primarily expressing a grievance.

(11) The enumeration of this act of specific unfair methods of competition and unfair or deceptive acts and practices in the business of insurance is not exclusive or restrictive or intended to limit the powers of the commissioner or any court of review under the provisions of section 9 of this act.

2. This act shall take effect on the 90th day after the date of enactment.

Approved July 26, 2001.

Office of the Governor

PO BOX 004
TRENTON, NJ 08625

NEWS RELEASE

CONTACT: Rae Hutton
or Kristin Zebrowski
609-777-2600

RELEASE: July 27 , 2001

Acting Governor Donald T. DiFrancesco signed the following legislation:

A-2478, sponsored by Senate Majority Leader, John Bennett (R-Monmouth) and Assemblymen Jack Gibson (R-Cape May/Atlantic/Cumberland) and John Kelly (R-Bergen/Essex/Passaic), provides that any relevant municipal ordinance would not apply to property for which any person is conducting actions related to historic pesticide contamination under the oversight of the Department of Environmental Protection, provided that such person, as a condition of any development approval by the municipality, obtains a full-site no further action letter from the department.

A-1755, sponsored by Assembly members David Wolfe (R-Monmouth/Ocean) and Joel Weingarten (R-Essex/Union), expands indemnification for school board members and employees and establishes a code of ethics for school board members.

S-78, sponsored by Senator Raymond Zane (R-Salem/Cumberland/Gloucester) and Assemblymen George Geist (R-Camden/Gloucester) and Kip Bateman (R-Morris/ Somerset), prohibits insurers from requiring filing of municipal court complaint as precondition to payment of certain claims.

A-1332, sponsored by Senators Peter Inverso (R-Mercer/Middlesex) and Robert Singer (R-Burlington/Monmouth/Ocean) and the late Assemblyman Alan Augustine (R-Middlesex/Morris/Somerset/Union), allows stalking victims protected by temporary restraining orders to register to vote without disclosing their street address.

AJR-49, sponsored by Senator Raymond Lesniak (D-Union) and Assemblymen Kip Bateman (R-Morris/Somerset) and Richard Bagger (R-Middlesex/Morris/Somerset/ Union), designates the third Thursday of October of each year as "New Jersey Credit Union Day."

S-1978, sponsored by Senators Gerald Cardinale (R-Bergen) and Anthony Bucco (R-Morris) and Assemblymen Kip Bateman (R-Morris/Somerset) and Peter Biondi (R- Morris/Somerset), provides that records of dispositive or final judgments in bankruptcies, records regarding collateral and the perfection of security interests and records of transfers by a financial institution of collateral that is real property shall be retained for six years as opposed to the current 20-year period.