

# 17B:27A-25.1

## LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 2001                    **CHAPTER:** 225  
**NJSA:** 17B:27A-25.1 (Small employer health benefits purchasing alliances)  
**BILL NO:** A1315                (Substituted for S2436)

**SPONSOR(S):** Myers and Augustine

**DATE INTRODUCED:** Pre-filed

**COMMITTEE:**                **ASSEMBLY:** Banking and Insurance

**SENATE:** ----

**AMENDED DURING PASSAGE:** Yes

**DATE OF PASSAGE:**                **ASSEMBLY:** June 21, 2001

**SENATE:** June 28, 2001

**DATE OF APPROVAL:** August 24, 2001

### FOLLOWING ARE ATTACHED IF AVAILABLE:

**FINAL TEXT OF BILL** (Assembly Committee Substitute (1R) enacted)

(Amendments during passage denoted by superscript numbers)

#### A1315

**ORIGINAL BILL W/SPONSORS STATEMENT:** (statement on pg 8)                Yes

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

**SENATE:**    No

**FLOOR AMENDMENT STATEMENTS:**    Yes

**LEGISLATIVE FISCAL ESTIMATE:**    No

#### S2436

**ORIGINAL BILL W/ SPONSORS STATEMENT:** (statement on pg 7)                Yes

<b>COMMITTEE STATEMENT:</b>	<b>ASSEMBLY:</b>	No
	<b>SENATE:</b>	Yes
<b>FLOOR AMENDMENT STATEMENTS:</b>		No
<b>LEGISLATIVE FISCAL ESTIMATE:</b>		No
<b>FINAL VERSION:</b> (1 <sup>st</sup> reprint)		Yes
<b>VETO MESSAGE:</b>		No
<b>GOVERNOR'S PRESS RELEASE ON SIGNING:</b>		No

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# ASSEMBLY, No. 1315

## STATE OF NEW JERSEY 209th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2000 SESSION

**Sponsored by:**

**Assemblyman ALAN M. AUGUSTINE**

**District 22 (Middlesex, Morris, Somerset and Union)**

**Co-Sponsored by:**

**Assemblyman Cohen, Assemblywoman Farragher, Assemblymen Garrett,  
Kean and Merkt**

**SYNOPSIS**

Permits certain small groups to combine for the purpose of self-insuring or purchasing traditional insurance for health benefits.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



**(Sponsorship Updated As Of: 5/18/2001)**

1 AN ACT concerning small group health-insurance plans and  
2 supplementing Title 17B of the New Jersey Statutes.

3  
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

6  
7 1. The Legislature finds and declares that:

8 a. Small employers have traditionally been at an economic  
9 disadvantage with respect to the provision of health insurance for their  
10 employees because they lack the ability to self-insure;

11 b. Self-insurance, which permits health benefits plans to be  
12 established which are specifically tailored to the needs of the  
13 employees, is often less expensive to administer than traditional  
14 insurance;

15 c. There are now a number of third party administrators who can  
16 provide claims payment and plan administration services at  
17 considerably reduced cost because their overhead is significantly lower  
18 than that of traditional insurance companies;

19 d. Self-insurance, if administered properly, presents the employer  
20 with greater opportunities to implement managed care and the closer  
21 monitoring of the utilization of benefits than does a traditional  
22 insurance program;

23 e. It is worthwhile to present an opportunity to small employers to  
24 join together to take advantage of the economy of scale which  
25 self-insurance brings to the delivery of health benefits to large groups;  
26 and

27 f. It is recognized that small employers do not have the resources  
28 to administer these plans as efficiently or skillfully as do large  
29 companies, and it is thus desirable, as a matter of public policy, to  
30 protect members of small employer groups by providing for a greater  
31 degree of supervision of their activities by the Department of  
32 Insurance than is the case with large employers.

33  
34 2. For the purposes of this act:

35 "Commissioner" means the Commissioner of Insurance.

36 "Eligible group of small employers" means any group of small  
37 employers which: (1) are engaged in the same type of trade or  
38 business; (2) are members of a common trade association, professional  
39 association, or other association; or (3) are affiliates of a common  
40 parent company.

41 "Exchange" means a Small Employers Health Benefits Exchange"  
42 as provided for in section 3 of this act.

43 "Health benefits plan" means any hospital or medical expense  
44 coverage, health, hospital, or medical service corporation contract,  
45 dental expense or dental plan organization coverage, or health  
46 maintenance organization subscriber contract.

1 "Member" means any small employer which is a member of an  
2 exchange as provided for in section 3 of this act.

3 "Small employer" means any person firm, corporation, partnership  
4 or association actively engaged in business which, on at least 50% of  
5 its working days during the preceding calendar year quarter, employed  
6 at least two but no more than 49 employees, the majority of whom are  
7 employed within the State of New Jersey. In determining the number  
8 of employees, businesses which are affiliated businesses shall be  
9 considered one employer, and the size of the small employer shall be  
10 determined annually. Except as otherwise specifically provided by the  
11 by-laws of an exchange, provisions of this act which apply to a small  
12 employer shall continue to apply until the anniversary date of the  
13 health benefits plan next following the date the employer no longer  
14 meets the definition of a small employer.

15 "Trustee" means a member of the board of trustees of an exchange  
16 as provided for in section 4 of this act.

17  
18 3. Any eligible group of small employers may join together by  
19 means of a joint contract under the procedures established by this act  
20 for the purpose of providing health benefits plans for their employees  
21 and the employees' dependents. The joint contract shall be executed  
22 by all members of the exchange, which may be a corporation, and the  
23 entity thus created shall be known as a "Small Employers Health  
24 Benefits Exchange."

25  
26 4. The exchange shall be governed by a board of trustees, elected  
27 by the members of the exchange, and shall be composed of not less  
28 than seven nor more than nine members, as provided in the exchange's  
29 by-laws. The trustees shall serve for terms of three years, and shall  
30 serve until their successors are elected and qualified. The by-laws  
31 shall provide for staggered terms. The trustees shall serve without  
32 compensation, except for reimbursement for actual expenses. At the  
33 annual meeting of the exchange, the members shall elect from among  
34 the trustees a chairman, a treasurer, and a secretary, whose terms of  
35 office shall be no longer than one year. No trustee shall be elected for  
36 more than three consecutive terms.

37  
38 5. The trustees shall, within 60 days of their initial election by the  
39 members after the effective date of this act, formulate by-laws for the  
40 operation of the exchange, which shall be ratified by a two-thirds  
41 majority of the members. The by-laws shall include, but not be limited  
42 to:

43 a. The establishment of procedures for the organization and  
44 administration of the exchange;

45 b. Procedures for the verification of eligibility and the assessment  
46 of members for their contributions to the exchange and for the

1 collection of assessments which may be in default; provided that the  
2 assessments may vary only by size of group and shall not vary by  
3 reason of the health status, age, or occupation of any member or  
4 employee thereof;

5 c. At the discretion of the trustees, procedures for the employment  
6 of a director of the exchange, whether on a full-time, part-time, or  
7 consulting basis;

8 d. Procedures for the appointment of selecting an insurer, health  
9 service corporation, health maintenance organization, or a third party  
10 administrator to pay claims or provide benefits, as the case may be,  
11 for the members of the exchange;

12 e. Procedures for the obtaining of other professional services as  
13 may be needed from time to time, which may include, but not be  
14 limited to, utilization review services, case management services,  
15 claims review services, accounting services, actuarial services, and  
16 legal services;

17 f. Procedures for obtaining stop-loss coverage, reinsurance, or  
18 other insurance services;

19 g. Procedures for the withdrawal of a member from the exchange;

20 h. Procedures for the admission of additional members to the  
21 exchange;

22 i. Procedures for the expulsion of a member of the exchange;

23 j. Procedures for the termination and liquidation of the exchange  
24 and the payment of its outstanding obligations.

25

26 6. Within 30 days after its election, the trustees shall file with the  
27 commissioner a certificate which shall list the members of the  
28 exchange, the names of the trustees and the chairman, treasurer, and  
29 secretary of the trustees, and the address at which communications for  
30 the exchange are to be received and service of process is to be made,  
31 a copy of the certificate of incorporation of the exchange, if any, and  
32 a copy of the joint contract to which members of the exchange are  
33 parties.

34

35 7. No exchange shall be established pursuant to this act unless  
36 health benefits are to be provided to at least 1,000 lives. The health  
37 benefits to be provided by the plan shall be evidenced by a health  
38 benefit plan document, which shall contain a statement of all health  
39 benefits to be made available to the plan beneficiaries, which may  
40 include, but shall not be limited to, any or all of the following: hospital  
41 expense coverage, medical expense coverage, major medical coverage,  
42 or dental benefits. The health benefits plan document shall contain a  
43 statement of the deductibles and copayments applicable to the plan, as  
44 well as coverage limitations, exclusions, and criteria for plan eligibility.

45

46 8. As a condition of receiving a certificate of authority pursuant to

1 the provisions of this act, the trustees of the exchange shall require a  
2 capital deposit from every member upon the member's entry into the  
3 exchange, which shall remain on deposit in cash or in approved  
4 investments as set forth by the commissioner by regulation. The  
5 capital deposits and any surplus from operations shall form the  
6 exchange's reserve, which shall equal no less than the equivalent of  
7 three months' average paid claims. If at any time the reserve is less  
8 than that required by this section, the members shall be assessed in an  
9 amount to make up the deficiency. In the event that there is a  
10 deficiency, the trustees shall notify the commissioner within 10 days  
11 of the occurrence of the deficiency. If the members fail to advance the  
12 sums necessary to satisfy the deficiency, the commissioner may order  
13 that the exchange be liquidated in accordance with the exchange's  
14 by-laws.

15

16 9. No exchange shall begin providing health benefits to its members  
17 pursuant to the provisions of this act until it has been issued a  
18 certificate of authority by the commissioner. The commissioner shall  
19 issue the certificate if he finds that the by-laws are adequate for a  
20 successful operation of the plan, the capital deposits have been paid  
21 into the exchange in an amount, form and manner, which is in  
22 accordance with the provisions of this act, the persons who are to  
23 administer the exchange are competent, of good moral character, and  
24 have sufficient experience with health benefits management to ensure  
25 a reasonable prospect of success. The commissioner shall collect a fee  
26 of \$1,000 for the issuance of each certificate of authority.

27

28 10. At least annually, the exchange shall submit to the  
29 commissioner a financial statement for the preceding calendar year, in  
30 a form prescribed by the commissioner, along with a filing fee of \$250.

31

32 11. Every exchange providing health benefits under this act on a  
33 self-insured basis shall purchase stop-loss coverage or reinsurance,  
34 either on an aggregate or individual case basis, or both, from an  
35 insurer providing such coverage which is licensed to do business in this  
36 State and which has a financial rating of A- or better, or its equivalent,  
37 from a national rating agency. Notwithstanding the foregoing, the  
38 commissioner may waive this requirement if he finds that the exchange  
39 and its members, jointly or severally, have sufficient financial resources  
40 to provide members with the health benefits contracted for, or if he  
41 finds that the benefit level provided by the exchange does not warrant  
42 the maintenance of this coverage. The commissioner may order any  
43 exchange to enhance or modify its coverage, after notice and hearing.

44

45 12. An exchange may contract with an insurer, health service  
46 corporation, or health maintenance organization licensed in this State,

1 or contract with a third party administrator, to provide health benefits  
2 to its members pursuant to the provisions of this act. A copy of the  
3 contract and any amendments thereto shall be filed with the  
4 commissioner.

5  
6 13. The exchange may employ any consultant, administrator, or  
7 clerical personnel as are provided for in the by-laws, provided that any  
8 consultant or administrator so employed shall be qualified by virtue of  
9 having at least five years' experience in health benefits management or  
10 risk management or equivalent educational or professional training, as  
11 determined by the commissioner. Any consultant or administrator  
12 hired by the exchange may be removed by the trustees or upon the  
13 vote of two thirds of the members of the exchange. The commissioner  
14 may, after notice and hearing, remove any consultant or administrator  
15 if he finds, after notice and hearing, that the consultant or  
16 administrator has acted improperly or negligently or has violated any  
17 provisions of this act or the by-laws of the exchange.

18  
19 14. a. The trustees shall establish procedures in the by-laws for the  
20 collection, investment, and disbursement of the moneys in the  
21 exchange. The procedures shall be established in a manner which will  
22 maximize the benefits to the members with respect to investment  
23 income and cash flow. An accounting of the exchange's income and  
24 claims paid shall be sent monthly to all exchange members.

25 b. No later than 60 days before the anniversary of the health  
26 benefits plan, the trustees shall determine each member's assessment  
27 for the ensuing calendar year and shall notify each member thereof.  
28 Assessments may be paid on an annual, semi-annual, quarterly,  
29 bi-monthly, or monthly basis, as provided in the by-laws.

30  
31 15. The exchange shall hold an annual meeting, at a time and place  
32 to be established by the board. The meetings shall be held within the  
33 first quarter of each calendar year, and all members shall be notified of  
34 the meeting at least 60 days in advance. Prior to the annual meeting  
35 nominations shall be made from the membership for vacancies on the  
36 board. Voting may be done by proxy, as provided in the by-laws.  
37 Additional meetings may be held at any time, upon at least 15 days'  
38 notice to the members of the exchange. Notice of the annual meeting  
39 and any additional meetings shall be sent to the commissioner.

40  
41 16. Amendments to the by-laws may be proposed by  
42 recommendation of the board or by petition of 60% of the members.  
43 Amendments shall be ratified by at least a two-thirds vote of the  
44 membership, and shall be approved by the commissioner. If the  
45 commissioner does not act within 30 days to disapprove any  
46 amendments, they shall be deemed approved.



1 17. The trustees may, from time to time, recommend modifications  
2 or additions to the health benefits plan provided by the exchange.  
3 These modifications shall become effective upon ratification by  
4 two-thirds of the members of the exchange, and shall be filed with the  
5 commissioner upon their ratification.

6  
7 18. The commissioner shall have the authority to suspend or  
8 terminate the authority of any exchange or to assume control of the  
9 exchange, for good cause, including, but not limited to:

10 a. The failure of the exchange to comply with this act or any rules  
11 and regulations promulgated pursuant hereto;

12 b. The failure to comply with any order of the commissioner;

13 c. A deterioration of the financial condition of the exchange to the  
14 extent that it can no longer meet its obligations.

15  
16 19. The trustees of the exchange shall cause an annual audit to be  
17 made of the exchange's financial condition, which shall be transmitted  
18 to all members of the exchange. The commissioner may conduct an  
19 examination of any exchange created pursuant to this act as he deems  
20 necessary. The trustees shall also cause a claims audit to be made at  
21 least biennially.

22  
23 20. The members of the exchange may be assessed, from time to  
24 time, for reasonable expenses for the administration of the exchange.

25  
26 21. Any exchange established pursuant to the provisions of this act  
27 is not an insurance company, health service corporation, hospital  
28 service corporation, medical service corporation, dental service  
29 corporation or health maintenance organization under the laws of this  
30 State, and the authorized activities of the exchange do not constitute  
31 the transaction of insurance nor doing an insurance business.

32  
33 22. Every member of the exchange, as a condition of membership,  
34 shall provide equal access to the benefits provided for herein by all of  
35 the member's employees.

36  
37 23. The commissioner shall promulgate rules and regulations  
38 pursuant to the "Administrative Procedure Act," P.L.1968, c.410  
39 (C.52:14B-1 et seq.) as are necessary to effectuate the purposes of this  
40 act.

41  
42 24. This act shall take effect immediately.

1 STATEMENT

2

3 This bill would permit certain small groups to combine for the  
4 purpose of self-insuring for health benefits or to combine for the  
5 purchase of traditional insurance. Small groups have been at a  
6 disadvantage because they do not have the financial or technical  
7 resources to assume the risk of self-insurance.

8 This bill is similar to the idea of a risk retention group or a  
9 reciprocal insurer as it is normally applied in property-casualty  
10 insurance. This bill provides a statutory framework, with some  
11 regulatory protection, for small employers who wish to combine to  
12 insure for health benefits. The employers would have to have some  
13 type of relationship with each other, whether being in a similar  
14 business or trade, being in a trade association or other professional  
15 association, or under common control of a parent company.

# ASSEMBLY BANKING AND INSURANCE COMMITTEE

## STATEMENT TO

### ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, No. 1315

# STATE OF NEW JERSEY

DATED: May 17, 2001

The Assembly Banking and Insurance Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 1315.

This bill, an Assembly Committee Substitute for Assembly Bill No. 1315, provides for the establishment of small employer health benefits plan purchasing alliances within the framework of the Small Employer Health Benefits Program. A small employer is an employer with between two and 50 employees. Under the bill, any eligible group of small employers may join together by means of a joint contract to establish a "Small Employer Purchasing Alliance," for the purpose of purchasing a small employer health benefits plan or plans for their employees and the employees' dependents.

The bill provides for the purchasing alliance to be governed by a board of directors, elected by the members of the purchasing alliance. No person may serve as an officer or director of an alliance who has a prior record of administrative, civil or criminal violations in the financial services industry. The board of directors shall adopt by-laws for the operation of the purchasing alliance, which shall include, but not be limited to: the establishment of procedures for the organization and administration of the purchasing alliance; procedures for the admission of the initial and additional members of the alliance; procedures for the withdrawal of members from the alliance; procedures for the expulsion of members from the alliance; and procedures for the termination of the alliance.

In addition, the bill provides that a purchasing alliance shall have the authority to: set reasonable fees for membership in the purchasing alliance that will finance reasonable and necessary costs incurred in administering the purchasing alliance; negotiate premium rates with carriers on behalf of member small employers of the purchasing alliance; provide premium collection services for small employer health plans purchased through the alliance for member small employers; and contract with third parties for any services necessary to carry out the powers and duties of the purchasing alliance.

The bill provides that a purchasing alliance shall not: purchase health care services, assume risk for the cost or provision of health care services or otherwise contract with health care providers for the

provision of health care services to eligible employees or their dependents; exclude a small employer, eligible employee or dependent from membership in the purchasing alliance who agrees to pay fees for membership and the premium for health benefits coverage and who abides by the by-laws and rules of the purchasing alliance; engage in any competitive act or practice that results in the selection of member small employers or eligible employees based on any other rating factor other than age, gender and geography; or engage in any trade practice or activity prohibited by law.

The bill also provides that a small employer carrier may use a premium rate structure to establish different premium rates for small employer health benefits contracts or policies purchased by an alliance or a small employer who is a member of an alliance.

The provisions of the bill would not apply to a Multiple Employer Welfare Association.

Finally, the bill requires that certain informational documentation pertaining to the establishment and operations of the purchasing alliance be filed with the Commissioner of Banking and Insurance.

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 1315**

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**STATE OF NEW JERSEY**  
**209th LEGISLATURE**

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ADOPTED MAY 17, 2001

**Sponsored by:**

**Assemblywoman CONNIE MYERS**

**District 23 (Warren, Hunterdon and Mercer)**

**Assemblyman ALAN M. AUGUSTINE**

**District 22 (Middlesex, Morris, Somerset and Union)**

**Co-Sponsored by:**

**Assemblyman Cohen, Assemblywoman Farragher, Assemblymen Garrett,  
Kean, Merkt and Bateman**

**SYNOPSIS**

Permits establishment of small employer health benefits purchasing alliances.

**CURRENT VERSION OF TEXT**

Substitute as adopted by the Assembly Banking and Insurance Committee.



**(Sponsorship Updated As Of: 5/25/2001)**

1 AN ACT concerning small employer health benefits purchasing  
2 alliances and amending and supplementing P.L.1992, c.162.

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 1. (New section) The Legislature finds and declares that:

8 a. Small employers, that is, employers that employ between two  
9 and 50 employees, have traditionally been at an economic disadvantage  
10 with respect to the purchase and provision of health benefits for their  
11 employees because certain administrative and premium rate savings  
12 that are available to larger employers are not available to them by  
13 virtue of their size;

14 b. Providing for the establishment of purchasing alliances  
15 comprised of groups of small employers would enable small employers  
16 to take advantage of the economies of scale in the delivery of health  
17 benefits currently available to large employer groups; and

18 c. Working within the framework of the Small Employer Health  
19 Benefits Program established by P.L.1992, c.162 (C.17B:27A-17 et  
20 seq.), small employer purchasing alliances, with the voluntary  
21 participation of insurance carriers, would have access to the standard  
22 health benefits plans developed under that law at a reduced premium,  
23 along with the protections afforded under that law, including:  
24 guaranteed access to health benefits coverage for their employees;  
25 guaranteed renewability of health plans regardless of the health status  
26 of employees or their dependents; and prohibitions against the use of  
27 certain rating factors such as health status, prior claims history or  
28 occupation.

29  
30 2. (New section) As used in this act:

31 "Board" means a small employer purchasing alliance board of  
32 directors provided for in section 4 of this act.

33 "Carrier" means a small employer carrier as defined in section 1 of  
34 P.L.1992, c.162 (C.17B:27A-17).

35 "Commissioner" means the Commissioner of Banking and  
36 Insurance.

37 "Dependent" means the same as defined in section 1 of P.L.1992,  
38 c.162 (C.17B:27A-17).

39 "Eligible employee" means the same as defined in section 1 of  
40 P.L.1992, c.162 (C.17B:27A-17).

41 "Eligible group of small employers" means a group of small  
42 employers which: (1) are engaged in the same or similar type of trade  
43 or business; (2) are members of a common trade association,

**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 professional association, or other association; (3) or are located in a  
2 common geographic area.

3 "Health benefits plan" means a small employer health benefits plan  
4 approved by the commissioner pursuant to section 17 of P.L.1992,  
5 c.162 (C.17B:27A-33).

6 "Member" means a small employer who is a member of a  
7 purchasing alliance as provided for in section 3 of this act.

8 "Small Employer Purchasing Alliance," "purchasing alliance" or  
9 "alliance" means a small employer purchasing alliance as established  
10 pursuant to section 3 of this act.

11 "Small employer" means the same as defined in section 1 of  
12 P.L.1992, c.162 (C.17B:27A-17).

13

14 3. (New section) Any eligible group of small employers may join  
15 together, by means of a joint contract under the procedures established  
16 by this act, to form a "Small Employer Purchasing Alliance" for the  
17 purpose of purchasing a small employer health benefits plan or plans  
18 for their eligible employees and the employees' dependents. The joint  
19 contract shall be executed by all members of the purchasing alliance.

20

21 4. (New section) The purchasing alliance, which may be a  
22 corporation, shall be governed by a board of directors, elected by the  
23 members of the purchasing alliance. No person may serve as an officer  
24 or director of an alliance who has a prior record of administrative, civil  
25 or criminal violations within the financial services industry. The  
26 directors shall serve for terms of three years, and shall serve until their  
27 successors are elected and qualified. The directors shall serve without  
28 compensation, except for reimbursement for actual expenses.

29

30 5. (New section) The board shall adopt by-laws for the operation  
31 of the purchasing alliance, which shall be effective upon ratification by  
32 a two-thirds majority of the members. The by-laws shall include, but  
33 not be limited to:

34 a. The establishment of procedures for the organization and  
35 administration of the alliance.

36 b. Procedures for the admission of the initial and additional  
37 members of the alliance.

38 c. Procedures for the withdrawal of members from the alliance.

39 d. Procedures for the expulsion of members from the alliance.

40 The bases for expulsion shall include, but not be limited to:

41 (1) Failure to pay membership or other fees required by the  
42 purchasing alliance;

43 (2) Failure to pay premiums in accordance with the terms of the  
44 health benefits plan or the terms of the joint contract; or

1 (3) Performance of an act or practice that constitutes fraud or  
2 intentional misrepresentation of material fact.

3 e. Procedures for the termination of the alliance.  
4

5 6. (New section) In addition to the powers authorized under of  
6 this act, a purchasing alliance shall have the authority to:

7 a. Set reasonable fees for membership in the alliance that will  
8 finance reasonable and necessary costs incurred in administering the  
9 purchasing alliance;

10 b. Negotiate premium rates with carriers on behalf of the members  
11 of the alliance;

12 c. Provide premium collection services for small employer health  
13 benefits plans or plans purchased through the alliance for member  
14 small employers; and

15 d. Contract with third parties for any services necessary to carry  
16 out the powers and duties authorized or required pursuant to this act.  
17

18 7. (New section) A purchasing alliance established pursuant to the  
19 provisions of this act shall not:

20 a. Purchase health care services, assume risk for the cost or  
21 provision of health care services or otherwise contract with health care  
22 providers for the provision of health care services to eligible  
23 employees or their dependents;

24 b. Exclude a small employer, eligible employee or dependent from  
25 membership in the purchasing alliance who agrees to pay fees for  
26 membership and the premium for health benefits coverage and who  
27 abides by the by-laws and rules of the purchasing alliance;

28 c. Engage in any competitive act or practice that results in the  
29 selection of member small employers or eligible employees based on  
30 any rating factor other than the rating factors included in paragraph (3)  
31 of subsection a. of section 9 of P.L.1992, c.162 (C. 17B:27A-25); or

32 d. Engage in any trade practice or activity prohibited pursuant to  
33 chapter 30 of Title 17B of the New Jersey Statutes.  
34

35 8. (New section) Within 30 days after its organization, the  
36 purchasing alliance board shall file with the commissioner a certificate  
37 which shall list the members of the alliance, the names of the board of  
38 directors and the chairman, treasurer, and secretary of the purchasing  
39 alliance, and the address at which communications for the purchasing  
40 alliance are to be received, a copy of the certificate of incorporation  
41 of the purchasing alliance, if any, and a copy of the joint contract  
42 executed by all of the members. Any change in the information  
43 required by the provisions of this section shall be filed with the  
44 commissioner within 30 days of the change.



1       9. Section 9 of P.L.1992, c.162 (C.17B:27A-25) is amended to  
2 read as follows:

3       9. a. (1) (Deleted by amendment, P.L.1997, c.146).

4       (2) (Deleted by amendment, P.L.1997, c.146).

5       (3) For all policies or contracts providing health benefits plans for  
6 small employers issued pursuant to section 3 of P.L.1992, c.162  
7 (C.17B:27A-19), the premium rate charged by a carrier to the highest  
8 rated small group purchasing a small employer health benefits plan  
9 issued pursuant to section 3 of P.L.1992, c.162 (C.17B:27A-19) shall  
10 not be greater than 200% of the premium rate charged for the lowest  
11 rated small group purchasing that same health benefits plan; provided,  
12 however, that the only factors upon which the rate differential may be  
13 based are age, gender and geography, and provided further, that such  
14 factors are applied in a manner consistent with regulations adopted by  
15 the board.

16       A health benefits plan issued pursuant to subsection j. of section 3  
17 of P.L.1992, c.162 (C.17B:27A-19) shall be rated in accordance with  
18 the provisions of section 7 of P.L.1995, c.340 (C.17B:27A-19.3), for  
19 the purposes of meeting the requirements of this paragraph.

20       (4) (Deleted by amendment, P.L.1994, c.11).

21       (5) Any policy or contract issued after January 1, 1994 to a small  
22 employer who was not previously covered by a health benefits plan  
23 issued by the issuing small employer carrier, shall be subject to the  
24 same premium rate restrictions as provided in paragraphs (1), (2) and  
25 (3) of this subsection, which rate restrictions shall be effective on the  
26 date the policy or contract is issued.

27       (6) The board shall establish, pursuant to section 17 of P.L.1993,  
28 c.162 (C.17B:27A-51):

29       (a) up to six geographic territories, none of which is smaller than  
30 a county; and

31       (b) age classifications which, at a minimum, shall be in five-year  
32 increments.

33       b. (Deleted by amendment, P.L.1993, c.162).

34       c. (Deleted by amendment, P.L.1995, c.298).

35       d. Notwithstanding any other provision of law to the contrary, this  
36 act shall apply to a carrier which provides a health benefits plan to one  
37 or more small employers through a policy issued to an association or  
38 trust of employers.

39       A carrier which provides a health benefits plan to one or more  
40 small employers through a policy issued to an association or trust of  
41 employers after the effective date of P.L.1992, c.162 (C.17B:27A-17  
42 et seq.), shall be required to offer small employer health benefits plans  
43 to non-association or trust employers in the same manner as any other  
44 small employer carrier is required pursuant to P.L.1992, c.162  
45 (C.17B:27A-17 et seq.).

1 e. Nothing contained herein shall prohibit the use of premium rate  
2 structures to establish different premium rates for individuals and  
3 family units.

4 f. No insurance contract or policy subject to this act , including a  
5 contract or policy entered into with a Small Employer Purchasing  
6 Alliance pursuant to the provisions of P.L. , c. (C. )(now before  
7 the Legislature as this bill) or entered into with a small employer who  
8 is a member of a Small Employer Purchasing Alliance, may be entered  
9 into unless and until the carrier has made an informational filing with  
10 the commissioner of a schedule of premiums, not to exceed 12 months  
11 in duration, to be paid pursuant to such contract or policy, of the  
12 carrier's rating plan and classification system in connection with such  
13 contract or policy, and of the actuarial assumptions and methods used  
14 by the carrier in establishing premium rates for such contract or policy.

15 g. (1) Beginning January 1, 1995, a carrier desiring to increase or  
16 decrease premiums for any policy form or benefit rider offered  
17 pursuant to subsection i. of section 3 of P.L.1992, c.162  
18 (C.17B:27A-19) subject to this act may implement such increase or  
19 decrease upon making an informational filing with the commissioner  
20 of such increase or decrease, along with the actuarial assumptions and  
21 methods used by the carrier in establishing such increase or decrease,  
22 provided that the anticipated minimum loss ratio for all policy forms  
23 shall not be less than 75% of the premium therefor as provided in  
24 paragraph (2) of this subsection. Until December 31, 1996, the  
25 informational filing shall also include the carrier's rating plan and  
26 classification system in connection with such increase or decrease.

27 (2) Each calendar year, a carrier shall return, in the form of  
28 aggregate benefits for all of the five standard policy forms offered by  
29 the carrier pursuant to subsection a. of section 3 of P.L.1992, c.162  
30 (C.17B:27A-19), at least 75% of the aggregate premiums collected for  
31 all of the standard policy forms and at least 75% of the aggregate  
32 premiums collected for all of the non-standard policy forms during that  
33 calendar year. Carriers shall annually report, no later than August 1st  
34 of each year, the loss ratio calculated pursuant to this section for all of  
35 the standard and non-standard policy forms for the previous calendar  
36 year. In each case where the loss ratio fails to substantially comply  
37 with the 75% loss ratio requirement, the carrier shall issue a dividend  
38 or credit against future premiums for all policyholders with the  
39 standard or nonstandard policy forms, as applicable, in an amount  
40 sufficient to assure that the aggregate benefits paid in the previous  
41 calendar year plus the amount of the dividends and credits shall equal  
42 75% of the aggregate premiums collected for the respective policy  
43 forms in the previous calendar year. All dividends and credits must be  
44 distributed by December 31 of the year following the calendar year in  
45 which the loss ratio requirements were not satisfied. The annual report  
46 required by this paragraph shall include a carrier's calculation of the

1 dividends and credits applicable to standard and non-standard policy  
2 forms, as well as an explanation of the carrier's plan to issue dividends  
3 or credits. The instructions and format for calculating and reporting  
4 loss ratios and issuing dividends or credits shall be specified by the  
5 commissioner by regulation. Such regulations shall include provisions  
6 for the distribution of a dividend or credit in the event of cancellation  
7 or termination by a policyholder.

8 (3) The loss ratio of a health benefits plan issued pursuant to  
9 subsection j. of section 3 of P.L.1992, c.162 (C.17B:27A-19) shall be  
10 calculated in accordance with the provisions of section 7 of P.L.1995,  
11 c.340 (C.17B:27A-19.3), for the purposes of meeting the requirements  
12 of this subsection.

13 h. (Deleted by amendment, P.L.1993, c.162).

14 i. The provisions of this act shall apply to health benefits plans  
15 which are delivered, issued for delivery, renewed or continued on or  
16 after January 1, 1994.

17 j. (Deleted by amendment, P.L.1995, c.340).

18 k. Nothing contained herein shall prohibit the use of premium rate  
19 structures to establish different premium rates for contracts or policies  
20 purchased by a Small Employer Purchasing Alliance or a small  
21 employer who is member of a Small Employer Purchasing Alliance.  
22 (cf: P.L.1997, c.146, s.11)

23

24 10. (New section) The commissioner shall promulgate rules and  
25 regulations pursuant to the "Administrative Procedure Act," P.L.1968,  
26 c.410 (C.52:14B-1 et seq.) necessary to effectuate the provisions of  
27 this act.

28

29 11. This act shall take effect 180 days after enactment.

**STATEMENT TO**  
**ASSEMBLY COMMITTEE SUBSTITUTE FOR**  
**ASSEMBLY, No. 1315**

with Assembly Floor Amendments  
(Proposed By Assemblywoman MYERS)

ADOPTED: JUNE 14, 2001

These amendments clarify certain aspects of the organization and operation of a Small Employer Purchasing Alliance.

The amendments provide that the by-laws of a Small Employer Purchasing Alliance, or alliance, shall include procedures for the qualifications and admission of the members of the alliance and provide that the bases for denial of membership in the alliance shall include, but not be limited to: (1) performance of an act or practice that constitutes fraud or intentional misrepresentation of material fact; (2) previous denial of membership in the alliance; or (3) previous expulsion from the alliance.

The amendments also clarify that each small employer member of a purchasing alliance will be the contract holder of its health benefits plan. Because members of the alliance will be responsible for premium payments to the health insurance carrier, the amendments delete language from section 6 which would have allowed a purchasing alliance to collect premiums for small employer health benefits plans on behalf of its members.

The amendments specify that a carrier is required to make an informational rate filing with the Commissioner of Banking and Insurance of a schedule of its reduced premium rates for small employers who are members of an alliance, and requires that the reduction shall be expressed as a percentage, based on volume or other efficiencies or economies of scale and shall not be based on health status related factors. The amendments also clarify that the 75% loss ratio requirement applies to alliance policy forms, and that carriers shall report this information separately from all of their other business in the small employer market.

The amendments further provide that an alliance shall not engage in any act or practice that results in the selection of members based on any health status related factors.

Finally, the amendments also provide that the commissioner may disapprove or deny the premium reduction permitted under the bill if the commissioner determines that the premium reduction results in rates that are excessive, inadequate or unfairly discriminatory or upon a finding that a carrier or a purchasing alliance has violated any provision of the bill.

[First Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 1315**

---

**STATE OF NEW JERSEY**  
**209th LEGISLATURE**

---

ADOPTED MAY 17, 2001

**Sponsored by:**

**Assemblywoman CONNIE MYERS**

**District 23 (Warren, Hunterdon and Mercer)**

**Assemblyman ALAN M. AUGUSTINE**

**District 22 (Middlesex, Morris, Somerset and Union)**

**Co-Sponsored by:**

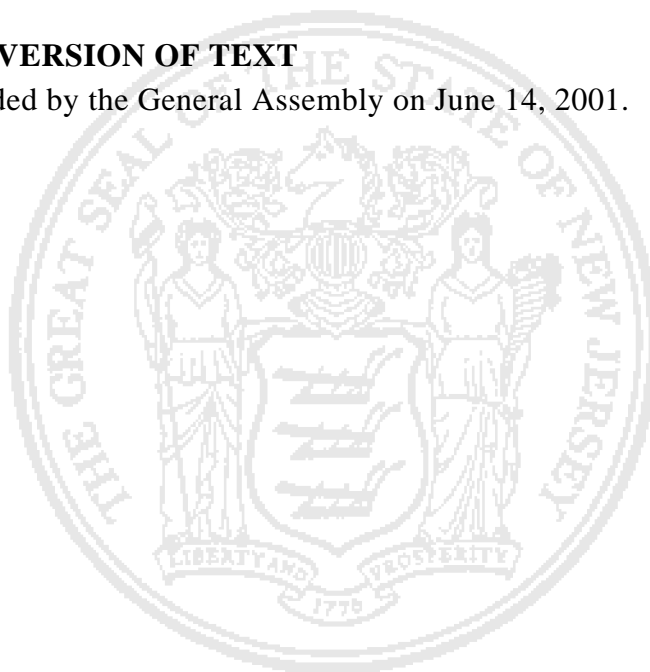
**Assemblyman Cohen, Assemblywoman Farragher, Assemblymen Garrett,  
Kean, Merkt, Bateman, Assemblywoman Gill, Senators Matheussen,  
Cardinale, Zane, Kosco, Cafiero and Inverso**

**SYNOPSIS**

Permits establishment of small employer health benefits purchasing alliances.

**CURRENT VERSION OF TEXT**

As amended by the General Assembly on June 14, 2001.



**(Sponsorship Updated As Of: 6/29/2001)**

1 AN ACT concerning small employer health benefits purchasing  
2 alliances and amending and supplementing P.L.1992, c.162.

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 1. (New section) The Legislature finds and declares that:

8 a. Small employers, that is, employers that employ between two  
9 and 50 employees, have traditionally been at an economic disadvantage  
10 with respect to the purchase and provision of health benefits for their  
11 employees because certain administrative and premium rate savings  
12 that are available to larger employers are not available to them by  
13 virtue of their size;

14 b. Providing for the establishment of purchasing alliances  
15 comprised of groups of small employers would enable small employers  
16 to take advantage of the economies of scale in the delivery of health  
17 benefits currently available to large employer groups; and

18 c. Working within the framework of the Small Employer Health  
19 Benefits Program established by P.L.1992, c.162 (C.17B:27A-17 et  
20 seq.), small employer purchasing alliances, with the voluntary  
21 participation of insurance carriers, would have access to the standard  
22 health benefits plans developed under that law at a reduced premium,  
23 along with the protections afforded under that law, including:  
24 guaranteed access to health benefits coverage for their employees;  
25 guaranteed renewability of health plans regardless of the health status  
26 of employees or their dependents; and prohibitions against the use of  
27 certain rating factors such as health status, prior claims history or  
28 occupation.

29  
30 2. (New section) As used in this act:

31 "Board" means a small employer purchasing alliance board of  
32 directors provided for in section 4 of this act.

33 "Carrier" means a small employer carrier as defined in section 1 of  
34 P.L.1992, c.162 (C.17B:27A-17).

35 "Commissioner" means the Commissioner of Banking and  
36 Insurance.

37 "Dependent" means the same as defined in section 1 of P.L.1992,  
38 c.162 (C.17B:27A-17).

39 "Eligible employee" means the same as defined in section 1 of  
40 P.L.1992, c.162 (C.17B:27A-17).

41 "Eligible group of small employers" means a group of small  
42 employers which: (1) are engaged in the same or similar type of trade

**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.**

**Matter enclosed in superscript numerals has been adopted as follows:**

**<sup>1</sup> Assembly floor amendments adopted June 14, 2001.**

1 or business; (2) are members of a common trade association,  
2 professional association, or other association; <sup>1</sup>or<sup>1</sup> (3) <sup>1</sup>[or]<sup>1</sup> are  
3 located in a common geographic area.

4 "Health benefits plan" means a small employer health benefits plan  
5 approved by the commissioner pursuant to section 17 of P.L.1992,  
6 c.162 (C.17B:27A-33).

7 "Health status-related factor" means the same as defined in  
8 section 1 of P.L.1992, c.162 (C.17B:27A-17).<sup>1</sup>

9 "Member" means a small employer who is a member of a  
10 purchasing alliance as provided for in section 3 of this act.

11 "Small Employer Purchasing Alliance," "purchasing alliance" or  
12 "alliance" means a small employer purchasing alliance as established  
13 pursuant to section 3 of this act.

14 "Small employer" means the same as defined in section 1 of  
15 P.L.1992, c.162 (C.17B:27A-17).

16

17 3. (New section) Any eligible group of small employers may join  
18 together, by means of a joint contract under the procedures established  
19 by this act, to form a "Small Employer Purchasing Alliance" for the  
20 purpose of <sup>1</sup>negotiating a reduced premium for its members<sup>1</sup>  
21 purchasing a small employer health benefits plan or plans for their  
22 eligible employees and the employees' dependents. The joint contract  
23 shall be executed by all members of the purchasing alliance.

24

25 4. (New section) The purchasing alliance, which may be a  
26 corporation, shall be governed by a board of directors, elected by the  
27 members of the purchasing alliance. No person may serve as an officer  
28 or director of an alliance who has a prior record of administrative, civil  
29 or criminal violations within the financial services industry. The  
30 directors shall serve for terms of three years, and shall serve until their  
31 successors are elected and qualified. The directors shall serve without  
32 compensation, except for reimbursement for actual expenses.

33

34 5. (New section) The board shall adopt by-laws for the operation  
35 of the purchasing alliance, which shall be effective upon ratification by  
36 a two-thirds majority of the members. The by-laws shall include, but  
37 not be limited to:

38 a. The establishment of procedures for the organization and  
39 administration of the alliance.

40 b. Procedures for the <sup>1</sup>qualifications and<sup>1</sup> admission of the <sup>1</sup>[initial  
41 and additional]<sup>1</sup> members of the alliance. <sup>1</sup>The bases for denial of  
42 membership shall include, but not be limited to:

43 (1) Performance of an act or practice that constitutes fraud or  
44 intentional misrepresentation of material fact;

- 1        (2) Previous denial of membership in the alliance; or  
2        (3) Previous expulsion from the alliance.<sup>1</sup>
- 3        c. Procedures for the withdrawal of members from the alliance.  
4        d. Procedures for the expulsion of members from the alliance.
- 5        The bases for expulsion shall include, but not be limited to:
- 6            (1) Failure to pay membership or other fees required by the  
7        purchasing alliance;
- 8            (2) Failure to pay premiums in accordance with the terms of the  
9        health benefits plan or the terms of the joint contract; or
- 10          (3) Performance of an act or practice that constitutes fraud or  
11        intentional misrepresentation of material fact.
- 12          e. Procedures for the termination of the alliance.
- 13
- 14          6. (New section) In addition to the powers authorized under  
15        <sup>1</sup>[of]<sup>1</sup> this act, a purchasing alliance shall have the authority to:
- 16            a. Set reasonable fees for membership in the alliance that will  
17        finance reasonable and necessary costs incurred in administering the  
18        purchasing alliance;
- 19            b. Negotiate premium rates with carriers on behalf of the members  
20        of the alliance; <sup>1</sup>and<sup>1</sup>
- 21            c. <sup>1</sup>[Provide premium collection services for small employer  
22        health benefits plans or plans purchased through the alliance for  
23        member small employers; and
- 24            d.]<sup>1</sup> Contract with third parties for any services necessary to carry  
25        out the powers and duties authorized or required pursuant to this act.  
26
- 27          7. (New section) A purchasing alliance established pursuant to the  
28        provisions of this act shall not:
- 29            a. Purchase health care services, assume risk for the cost or  
30        provision of health care services or otherwise contract with health care  
31        providers for the provision of health care services to eligible  
32        employees or their dependents;
- 33            b. Exclude a small employer, eligible employee or dependent from  
34        membership in the purchasing alliance who agrees to pay fees for  
35        membership and the premium for health benefits coverage and who  
36        abides by the by-laws and rules of the purchasing alliance;
- 37            c. Engage in any <sup>1</sup>[competitive]<sup>1</sup> act or practice that results in the  
38        selection of member small employers or eligible employees based on  
39        any <sup>1</sup>[rating] health status-related<sup>1</sup> factor <sup>1</sup>[other than the rating  
40        factors included in paragraph (3) of subsection a. of section 9 of  
41        P.L.1992, c.162 (C. 17B:27A-25)]<sup>1</sup>; or
- 42            d. Engage in any trade practice or activity prohibited pursuant to  
43        chapter 30 of Title 17B of the New Jersey Statutes.
- 44
- 45          8. (New section) <sup>1</sup>a.<sup>1</sup> Within 30 days after its organization, the  
46        purchasing alliance board shall file with the commissioner a certificate



1 which shall list the members of the alliance, the names of the board of  
2 directors and the chairman, treasurer, and secretary of the purchasing  
3 alliance, and the address at which communications for the purchasing  
4 alliance are to be received, a copy of the certificate of incorporation  
5 of the purchasing alliance, if any, and a copy of the joint contract  
6 executed by all of the members. Any change in the information  
7 required by the provisions of this section shall be filed with the  
8 commissioner within 30 days of the change.

9 <sup>1</sup>b. If the commissioner determines that the premium reduction,  
10 permitted pursuant to subsection k. of section 9 of P.L.1992, c.162  
11 (C.17B:27A-25) and filed by a carrier in the informational filing  
12 required pursuant to subsection f. of that section, results in rates that  
13 are excessive, inadequate or unfairly discriminatory, the commissioner  
14 may disapprove or deny the premium reduction. If, after notice and a  
15 hearing pursuant to the "Administrative Procedure Act," P.L.1968,  
16 c.410 (C.52:14b-1 et seq.), a carrier or purchasing alliance is found by  
17 the commissioner to be in violation of any provision of this act, the  
18 commissioner may disapprove or deny the premium reduction  
19 permitted pursuant to subsection k. of section 9 of P.L.1992, c.162  
20 (C.17B:27A-25).<sup>1</sup>

21  
22 9. Section 9 of P.L.1992, c.162 (C.17B:27A-25) is amended to  
23 read as follows:

24 9. a. (1) (Deleted by amendment, P.L.1997, c.146).

25 (2) (Deleted by amendment, P.L.1997, c.146).

26 (3) For all policies or contracts providing health benefits plans for  
27 small employers issued pursuant to section 3 of P.L.1992, c.162  
28 (C.17B:27A-19), <sup>1</sup>and including policies or contracts offered by a  
29 carrier to a small employer who is a member of a Small Employer  
30 Purchasing Alliance pursuant to the provisions of P.L. , c.  
31 (C. ) (now before the Legislature as this bill)<sup>1</sup> the premium rate  
32 charged by a carrier to the highest rated small group purchasing a  
33 small employer health benefits plan issued pursuant to section 3 of  
34 P.L.1992, c.162 (C.17B:27A-19) shall not be greater than 200% of the  
35 premium rate charged for the lowest rated small group purchasing that  
36 same health benefits plan; provided, however, that the only factors  
37 upon which the rate differential may be based are age, gender and  
38 geography, and provided further, that such factors are applied in a  
39 manner consistent with regulations adopted by the board.

40 A health benefits plan issued pursuant to subsection j. of section 3  
41 of P.L.1992, c.162 (C.17B:27A-19) shall be rated in accordance with  
42 the provisions of section 7 of P.L.1995, c.340 (C.17B:27A-19.3), for  
43 the purposes of meeting the requirements of this paragraph.

44 (4) (Deleted by amendment, P.L.1994, c.11).

45 (5) Any policy or contract issued after January 1, 1994 to a small  
46 employer who was not previously covered by a health benefits plan

1 issued by the issuing small employer carrier, shall be subject to the  
2 same premium rate restrictions as provided in paragraphs (1), (2) and  
3 (3) of this subsection, which rate restrictions shall be effective on the  
4 date the policy or contract is issued.

5 (6) The board shall establish, pursuant to section 17 of P.L.1993,  
6 c.162 (C.17B:27A-51):

7 (a) up to six geographic territories, none of which is smaller than  
8 a county; and

9 (b) age classifications which, at a minimum, shall be in five-year  
10 increments.

11 b. (Deleted by amendment, P.L.1993, c.162).

12 c. (Deleted by amendment, P.L.1995, c.298).

13 d. Notwithstanding any other provision of law to the contrary, this  
14 act shall apply to a carrier which provides a health benefits plan to one  
15 or more small employers through a policy issued to an association or  
16 trust of employers.

17 A carrier which provides a health benefits plan to one or more  
18 small employers through a policy issued to an association or trust of  
19 employers after the effective date of P.L.1992, c.162 (C.17B:27A-17  
20 et seq.), shall be required to offer small employer health benefits plans  
21 to non-association or trust employers in the same manner as any other  
22 small employer carrier is required pursuant to P.L.1992, c.162  
23 (C.17B:27A-17 et seq.).

24 e. Nothing contained herein shall prohibit the use of premium rate  
25 structures to establish different premium rates for individuals and  
26 family units.

27 f. No insurance contract or policy subject to this act, including a  
28 contract or policy entered into with a <sup>1</sup>small employer who is a  
29 member of a<sup>1</sup> Small Employer Purchasing Alliance pursuant to the  
30 provisions of P.L. \_\_\_\_\_, c.  
31 (C. \_\_\_\_\_)(now before the Legislature as this bill) <sup>1</sup>[or entered into with  
32 a small employer who is a member of a Small Employer Purchasing  
33 Alliance]<sup>1</sup>, may be entered into unless and until the carrier has made  
34 an informational filing with the commissioner of a schedule of  
35 premiums, not to exceed 12 months in duration, to be paid pursuant  
36 to such contract or policy, of the carrier's rating plan and classification  
37 system in connection with such contract or policy, and of the actuarial  
38 assumptions and methods used by the carrier in establishing premium  
39 rates for such contract or policy.

40 g. (1) Beginning January 1, 1995, a carrier desiring to increase or  
41 decrease premiums for any policy form or benefit rider offered  
42 pursuant to subsection i. of section 3 of P.L.1992, c.162  
43 (C.17B:27A-19) subject to this act may implement such increase or  
44 decrease upon making an informational filing with the commissioner  
45 of such increase or decrease, along with the actuarial assumptions and  
46 methods used by the carrier in establishing such increase or decrease,

1 provided that the anticipated minimum loss ratio for all policy forms  
2 shall not be less than 75% of the premium therefor as provided in  
3 paragraph (2) of this subsection. Until December 31, 1996, the  
4 informational filing shall also include the carrier's rating plan and  
5 classification system in connection with such increase or decrease.

6 (2) Each calendar year, a carrier shall return, in the form of  
7 aggregate benefits for all of the five standard policy forms offered by  
8 the carrier pursuant to subsection a. of section 3 of P.L.1992, c.162  
9 (C.17B:27A-19), at least 75% of the aggregate premiums collected for  
10 all of the standard policy forms <sup>1</sup>[and] , other than alliance policy  
11 forms.<sup>1</sup> at least 75% of the aggregate premiums collected for all of the  
12 non-standard policy forms <sup>1</sup>and at least 75% of the aggregate  
13 premiums collected for all of the alliance policy forms<sup>1</sup> during that  
14 calendar year. Carriers shall annually report, no later than August 1st  
15 of each year, the loss ratio calculated pursuant to this section for all of  
16 the standard <sup>1</sup>[and] , other than alliance policy forms.<sup>1</sup> non-standard  
17 policy forms <sup>1</sup>and alliance policy forms<sup>1</sup> for the previous calendar  
18 year. In each case where the loss ratio fails to substantially comply  
19 with the 75% loss ratio requirement, the carrier shall issue a dividend  
20 or credit against future premiums for all policyholders with the  
21 standard <sup>1</sup>[or] , other than alliance policy forms.<sup>1</sup> nonstandard policy  
22 forms <sup>1</sup>or alliance policy forms<sup>1</sup>, as applicable, in an amount sufficient  
23 to assure that the aggregate benefits paid in the previous calendar year  
24 plus the amount of the dividends and credits shall equal 75% of the  
25 aggregate premiums collected for the respective policy forms in the  
26 previous calendar year. All dividends and credits must be distributed  
27 by December 31 of the year following the calendar year in which the  
28 loss ratio requirements were not satisfied. The annual report required  
29 by this paragraph shall include a carrier's calculation of the dividends  
30 and credits applicable to standard <sup>1</sup>[and] , other than alliance policy  
31 forms.<sup>1</sup> non-standard policy forms <sup>1</sup>and alliance policy forms<sup>1</sup>, as well  
32 as an explanation of the carrier's plan to issue dividends or credits.  
33 The instructions and format for calculating and reporting loss ratios  
34 and issuing dividends or credits shall be specified by the commissioner  
35 by regulation. Such regulations shall include provisions for the  
36 distribution of a dividend or credit in the event of cancellation or  
37 termination by a policyholder. <sup>1</sup>For purposes of this paragraph,  
38 "alliance policy forms" means policies purchased by small employers  
39 who are members of Small Employer Purchasing Alliances.<sup>1</sup>

40 (3) The loss ratio of a health benefits plan issued pursuant to  
41 subsection j. of section 3 of P.L.1992, c.162 (C.17B:27A-19) shall be  
42 calculated in accordance with the provisions of section 7 of P.L.1995,  
43 c.340 (C.17B:27A-19.3), for the purposes of meeting the requirements  
44 of this subsection.

45 h. (Deleted by amendment, P.L.1993, c.162).

46 i. The provisions of this act shall apply to health benefits plans

1 which are delivered, issued for delivery, renewed or continued on or  
2 after January 1, 1994.

3 j. (Deleted by amendment, P.L.1995, c.340).

4 k. <sup>1</sup>[Nothing contained herein shall prohibit the use of premium  
5 rate structures to establish different premium rates for contracts or  
6 policies purchased by a Small Employer Purchasing Alliance or a small  
7 employer who is member of a Small Employer Purchasing Alliance.]  
8 A carrier who negotiates a reduced premium rate with a Small  
9 Employer Purchasing Alliance for members of that alliance shall  
10 provide a reduction in the premium rate filed in accordance with  
11 paragraph (3) of subsection a. of this section, expressed as a  
12 percentage, which reduction shall be based on volume or other  
13 efficiencies or economies of scale and shall not be based on health  
14 status-related factors.<sup>1</sup>

15 (cf: P.L.1997, c.146, s.11)

16

17 10. (New section) The commissioner shall promulgate rules and  
18 regulations pursuant to the "Administrative Procedure Act," P.L.1968,  
19 c.410 (C.52:14B-1 et seq.) necessary to effectuate the provisions of  
20 this act.

21

22 11. This act shall take effect 180 days after enactment.

**SENATE, No. 2436**

**STATE OF NEW JERSEY**  
**209th LEGISLATURE**

INTRODUCED MAY 31, 2001

**Sponsored by:**

**Senator JOHN J. MATHEUSSEN**

**District 4 (Camden and Gloucester)**

**SYNOPSIS**

Permits establishment of small employer health benefits purchasing alliances.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning small employer health benefits purchasing  
2 alliances and amending and supplementing P.L.1992, c.162.

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 1. (New section) The Legislature finds and declares that:

8 a. Small employers, that is, employers that employ between two  
9 and 50 employees, have traditionally been at an economic disadvantage  
10 with respect to the purchase and provision of health benefits for their  
11 employees because certain administrative and premium rate savings  
12 that are available to larger employers are not available to them by  
13 virtue of their size;

14 b. Providing for the establishment of purchasing alliances  
15 comprised of groups of small employers would enable small employers  
16 to take advantage of the economies of scale in the delivery of health  
17 benefits currently available to large employer groups; and

18 c. Working within the framework of the Small Employer Health  
19 Benefits Program established by P.L.1992, c.162 (C.17B:27A-17 et  
20 seq.), small employer purchasing alliances, with the voluntary  
21 participation of insurance carriers, would have access to the standard  
22 health benefits plans developed under that law at a reduced premium,  
23 along with the protections afforded under that law, including:  
24 guaranteed access to health benefits coverage for their employees;  
25 guaranteed renewability of health plans regardless of the health status  
26 of employees or their dependents; and prohibitions against the use of  
27 certain rating factors such as health status, prior claims history or  
28 occupation.

29  
30 2. (New section) As used in this act:

31 "Board" means a small employer purchasing alliance board of  
32 directors provided for in section 4 of this act.

33 "Carrier" means a small employer carrier as defined in section 1 of  
34 P.L.1992, c.162 (C.17B:27A-17).

35 "Commissioner" means the Commissioner of Banking and  
36 Insurance.

37 "Dependent" means the same as defined in section 1 of P.L.1992,  
38 c.162 (C.17B:27A-17).

39 "Eligible employee" means the same as defined in section 1 of  
40 P.L.1992, c.162 (C.17B:27A-17).

41 "Eligible group of small employers" means a group of small  
42 employers which: (1) are engaged in the same or similar type of trade  
43 or business; (2) are members of a common trade association,

**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 professional association, or other association; or (3) are located in a  
2 common geographic area.

3 "Health benefits plan" means a small employer health benefits plan  
4 approved by the commissioner pursuant to section 17 of P.L.1992,  
5 c.162 (C.17B:27A-33).

6 "Member" means a small employer who is a member of a purchasing  
7 alliance as provided for in section 3 of this act.

8 "Small Employer Purchasing Alliance," "purchasing alliance" or  
9 "alliance" means a small employer purchasing alliance as established  
10 pursuant to section 3 of this act.

11 "Small employer" means the same as defined in section 1 of  
12 P.L.1992, c.162 (C.17B:27A-17).

13

14 3. (New section) Any eligible group of small employers may join  
15 together, by means of a joint contract under the procedures established  
16 by this act, to form a "Small Employer Purchasing Alliance" for the  
17 purpose of purchasing a small employer health benefits plan or plans  
18 for their eligible employees and the employees' dependents. The joint  
19 contract shall be executed by all members of the purchasing alliance.

20

21 4. (New section) The purchasing alliance, which may be a  
22 corporation, shall be governed by a board of directors, elected by the  
23 members of the purchasing alliance. No person may serve as an officer  
24 or director of an alliance who has a prior record of administrative, civil  
25 or criminal violations within the financial services industry. The  
26 directors shall serve for terms of three years, and shall serve until their  
27 successors are elected and qualified. The directors shall serve without  
28 compensation, except for reimbursement for actual expenses.

29

30 5. (New section) The board shall adopt by-laws for the operation  
31 of the purchasing alliance, which shall be effective upon ratification by  
32 a two-thirds majority of the members. The by-laws shall include, but  
33 not be limited to:

34 a. The establishment of procedures for the organization and  
35 administration of the alliance.

36 b. Procedures for the admission of the initial and additional  
37 members of the alliance.

38 c. Procedures for the withdrawal of members from the alliance.

39 d. Procedures for the expulsion of members from the alliance. The  
40 bases for expulsion shall include, but not be limited to:

41 (1) Failure to pay membership or other fees required by the  
42 purchasing alliance;

43 (2) Failure to pay premiums in accordance with the terms of the  
44 health benefits plan or the terms of the joint contract; or

45 (3) Performance of an act or practice that constitutes fraud or  
46 intentional misrepresentation of material fact.

47 e. Procedures for the termination of the alliance.

1       6. (New section) In addition to the powers authorized under this  
2 act, a purchasing alliance shall have the authority to:

3       a. Set reasonable fees for membership in the alliance that will  
4 finance reasonable and necessary costs incurred in administering the  
5 purchasing alliance;

6       b. Negotiate premium rates with carriers on behalf of the members  
7 of the alliance;

8       c. Provide premium collection services for small employer health  
9 benefits plans or plans purchased through the alliance for member  
10 small employers; and

11       d. Contract with third parties for any services necessary to carry  
12 out the powers and duties authorized or required pursuant to this act.  
13

14       7. (New section) A purchasing alliance established pursuant to the  
15 provisions of this act shall not:

16       a. Purchase health care services, assume risk for the cost or  
17 provision of health care services or otherwise contract with health care  
18 providers for the provision of health care services to eligible  
19 employees or their dependents;

20       b. Exclude a small employer, eligible employee or dependent from  
21 membership in the purchasing alliance who agrees to pay fees for  
22 membership and the premium for health benefits coverage and who  
23 abides by the by-laws and rules of the purchasing alliance;

24       c. Engage in any competitive act or practice that results in the  
25 selection of member small employers or eligible employees based on  
26 any rating factor other than the rating factors included in paragraph (3)  
27 of subsection a. of section 9 of P.L.1992, c.162 (C. 17B:27A-25); or

28       d. Engage in any trade practice or activity prohibited pursuant to  
29 chapter 30 of Title 17B of the New Jersey Statutes.  
30

31       8. (New section) Within 30 days after its organization, the  
32 purchasing alliance board shall file with the commissioner a certificate  
33 which shall list the members of the alliance, the names of the board of  
34 directors and the chairman, treasurer, and secretary of the purchasing  
35 alliance, and the address at which communications for the purchasing  
36 alliance are to be received, a copy of the certificate of incorporation  
37 of the purchasing alliance, if any, and a copy of the joint contract  
38 executed by all of the members. Any change in the information  
39 required by the provisions of this section shall be filed with the  
40 commissioner within 30 days of the change.  
41

42       9. Section 9 of P.L.1992, c.162 (C.17B:27A-25) is amended to read  
43 as follows:

44       9. a. (1) (Deleted by amendment, P.L.1997, c.146).

45       (2) (Deleted by amendment, P.L.1997, c.146).

46       (3) For all policies or contracts providing health benefits plans for



1 small employers issued pursuant to section 3 of P.L.1992, c.162  
2 (C.17B:27A-19), the premium rate charged by a carrier to the highest  
3 rated small group purchasing a small employer health benefits plan  
4 issued pursuant to section 3 of P.L.1992, c.162 (C.17B:27A-19) shall  
5 not be greater than 200% of the premium rate charged for the lowest  
6 rated small group purchasing that same health benefits plan; provided,  
7 however, that the only factors upon which the rate differential may be  
8 based are age, gender and geography, and provided further, that such  
9 factors are applied in a manner consistent with regulations adopted by  
10 the board.

11 A health benefits plan issued pursuant to subsection j. of section 3  
12 of P.L.1992, c.162 (C.17B:27A-19) shall be rated in accordance with  
13 the provisions of section 7 of P.L.1995, c.340 (C.17B:27A-19.3), for  
14 the purposes of meeting the requirements of this paragraph.

15 (4) (Deleted by amendment, P.L.1994, c.11).

16 (5) Any policy or contract issued after January 1, 1994 to a small  
17 employer who was not previously covered by a health benefits plan  
18 issued by the issuing small employer carrier, shall be subject to the  
19 same premium rate restrictions as provided in paragraphs (1), (2) and  
20 (3) of this subsection, which rate restrictions shall be effective on the  
21 date the policy or contract is issued.

22 (6) The board shall establish, pursuant to section 17 of P.L.1993,  
23 c.162 (C.17B:27A-51):

24 (a) up to six geographic territories, none of which is smaller than  
25 a county; and

26 (b) age classifications which, at a minimum, shall be in five-year  
27 increments.

28 b. (Deleted by amendment, P.L.1993, c.162).

29 c. (Deleted by amendment, P.L.1995, c.298).

30 d. Notwithstanding any other provision of law to the contrary, this  
31 act shall apply to a carrier which provides a health benefits plan to one  
32 or more small employers through a policy issued to an association or  
33 trust of employers.

34 A carrier which provides a health benefits plan to one or more small  
35 employers through a policy issued to an association or trust of  
36 employers after the effective date of P.L.1992, c.162 (C.17B:27A-17  
37 et seq.), shall be required to offer small employer health benefits plans  
38 to non-association or trust employers in the same manner as any other  
39 small employer carrier is required pursuant to P.L.1992, c.162  
40 (C.17B:27A-17 et seq.).

41 e. Nothing contained herein shall prohibit the use of premium rate  
42 structures to establish different premium rates for individuals and  
43 family units.

44 f. No insurance contract or policy subject to this act , including a  
45 contract or policy entered into with a Small Employer Purchasing  
46 Alliance pursuant to the provisions of P.L. , c. (C. )(now before

1 the Legislature as this bill) or entered into with a small employer who  
2 is a member of a Small Employer Purchasing Alliance, may be entered  
3 into unless and until the carrier has made an informational filing with  
4 the commissioner of a schedule of premiums, not to exceed 12 months  
5 in duration, to be paid pursuant to such contract or policy, of the  
6 carrier's rating plan and classification system in connection with such  
7 contract or policy, and of the actuarial assumptions and methods used  
8 by the carrier in establishing premium rates for such contract or policy.

9 g. (1) Beginning January 1, 1995, a carrier desiring to increase or  
10 decrease premiums for any policy form or benefit rider offered  
11 pursuant to subsection i. of section 3 of P.L.1992, c.162  
12 (C.17B:27A-19) subject to this act may implement such increase or  
13 decrease upon making an informational filing with the commissioner  
14 of such increase or decrease, along with the actuarial assumptions and  
15 methods used by the carrier in establishing such increase or decrease,  
16 provided that the anticipated minimum loss ratio for all policy forms  
17 shall not be less than 75% of the premium therefor as provided in  
18 paragraph (2) of this subsection. Until December 31, 1996, the  
19 informational filing shall also include the carrier's rating plan and  
20 classification system in connection with such increase or decrease.

21 (2) Each calendar year, a carrier shall return, in the form of  
22 aggregate benefits for all of the five standard policy forms offered by  
23 the carrier pursuant to subsection a. of section 3 of P.L.1992, c.162  
24 (C.17B:27A-19), at least 75% of the aggregate premiums collected for  
25 all of the standard policy forms and at least 75% of the aggregate  
26 premiums collected for all of the non-standard policy forms during that  
27 calendar year. Carriers shall annually report, no later than August 1st  
28 of each year, the loss ratio calculated pursuant to this section for all of  
29 the standard and non-standard policy forms for the previous calendar  
30 year. In each case where the loss ratio fails to substantially comply  
31 with the 75% loss ratio requirement, the carrier shall issue a dividend  
32 or credit against future premiums for all policyholders with the  
33 standard or nonstandard policy forms, as applicable, in an amount  
34 sufficient to assure that the aggregate benefits paid in the previous  
35 calendar year plus the amount of the dividends and credits shall equal  
36 75% of the aggregate premiums collected for the respective policy  
37 forms in the previous calendar year. All dividends and credits must be  
38 distributed by December 31 of the year following the calendar year in  
39 which the loss ratio requirements were not satisfied. The annual report  
40 required by this paragraph shall include a carrier's calculation of the  
41 dividends and credits applicable to standard and non-standard policy  
42 forms, as well as an explanation of the carrier's plan to issue dividends  
43 or credits. The instructions and format for calculating and reporting  
44 loss ratios and issuing dividends or credits shall be specified by the  
45 commissioner by regulation. Such regulations shall include provisions  
46 for the distribution of a dividend or credit in the event of cancellation

1 or termination by a policyholder.

2 (3) The loss ratio of a health benefits plan issued pursuant to  
3 subsection j. of section 3 of P.L.1992, c.162 (C.17B:27A-19) shall be  
4 calculated in accordance with the provisions of section 7 of P.L.1995,  
5 c.340 (C.17B:27A-19.3), for the purposes of meeting the requirements  
6 of this subsection.

7 h. (Deleted by amendment, P.L.1993, c.162).

8 i. The provisions of this act shall apply to health benefits plans  
9 which are delivered, issued for delivery, renewed or continued on or  
10 after January 1, 1994.

11 j. (Deleted by amendment, P.L.1995, c.340).

12 k. Nothing contained herein shall prohibit the use of premium rate  
13 structures to establish different premium rates for contracts or policies  
14 purchased by a Small Employer Purchasing Alliance or a small  
15 employer who is member of a Small Employer Purchasing Alliance.  
16 (cf: P.L.1997, c.146, s.11)

17  
18 10. (New section) The commissioner shall promulgate rules and  
19 regulations pursuant to the "Administrative Procedure Act," P.L.1968,  
20 c.410 (C.52:14B-1 et seq.) necessary to effectuate the provisions of  
21 this act.

22  
23 11. This act shall take effect 180 days after enactment.

24  
25  
26 STATEMENT

27  
28 This bill provides for the establishment of small employer health  
29 benefits plan purchasing alliances within the framework of the Small  
30 Employer Health Benefits Program. A small employer is an employer  
31 with between two and 50 employees. Under the bill, any eligible  
32 group of small employers may join together by means of a joint  
33 contract to establish a "Small Employer Purchasing Alliance," for the  
34 purpose of purchasing a small employer health benefits plan or plans  
35 for their employees and the employees' dependents.

36 The bill provides for the purchasing alliance to be governed by a  
37 board of directors, elected by the members of the purchasing alliance.  
38 No person may serve as an officer or director of an alliance who has  
39 a prior record of administrative, civil or criminal violations in the  
40 financial services industry. The board of directors shall adopt by-laws  
41 for the operation of the purchasing alliance, which shall include, but  
42 not be limited to: the establishment of procedures for the organization  
43 and administration of the purchasing alliance; procedures for the  
44 admission of the initial and additional members of the alliance;  
45 procedures for the withdrawal of members from the alliance;  
46 procedures for the expulsion of members from the alliance; and

1 procedures for the termination of the alliance.

2 In addition, the bill provides that a purchasing alliance shall have  
3 the authority to: set reasonable fees for membership in the purchasing  
4 alliance that will finance reasonable and necessary costs incurred in  
5 administering the purchasing alliance; negotiate premium rates with  
6 carriers on behalf of member small employers of the purchasing  
7 alliance; provide premium collection services for small employer health  
8 benefits plans purchased through the alliance for member small  
9 employers; and contract with third parties for any services necessary  
10 to carry out the powers and duties of the purchasing alliance.

11 The bill provides that a purchasing alliance shall not: purchase  
12 health care services, assume risk for the cost or provision of health  
13 care services or otherwise contract with health care providers for the  
14 provision of health care services to eligible employees or their  
15 dependents; exclude a small employer, eligible employee or dependent  
16 from membership in the purchasing alliance who agrees to pay fees for  
17 membership and the premium for health benefits coverage and who  
18 abides by the by-laws and rules of the purchasing alliance; engage in  
19 any competitive act or practice that results in the selection of member  
20 small employers or eligible employees based on any other rating factor  
21 other than age, gender and geography; or engage in any trade practice  
22 or activity prohibited by law.

23 The bill also provides that a small employer carrier may use a  
24 premium rate structure to establish different premium rates for small  
25 employer health benefits contracts or policies purchased by an alliance  
26 or a small employer who is a member of an alliance.

27 The provisions of the bill would not apply to a Multiple Employer  
28 Welfare Association.

29 Finally, the bill requires that certain informational documentation  
30 pertaining to the establishment and operations of the purchasing  
31 alliance be filed with the Commissioner of Banking and Insurance.

# SENATE COMMERCE COMMITTEE

## STATEMENT TO

### **SENATE, No. 2436**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 11, 2001

The Senate Commerce Committee reports favorably and with committee amendments Senate Bill No. 2436.

This bill, as amended by the committee, provides for the establishment of small employer health benefits plan purchasing alliances within the framework of the Small Employer Health Benefits Program. A small employer is an employer with between two and 50 employees. Under the bill, any eligible group of small employers may join together by means of a joint contract to establish a "Small Employer Purchasing Alliance," for the purpose of negotiating a reduced premium for its members purchasing a small employer health benefits plan or plans for their employees and the employees' dependents.

The bill provides for the purchasing alliance to be governed by a board of directors, elected by the members of the purchasing alliance. No person may serve as an officer or director of an alliance who has a prior record of administrative, civil or criminal violations in the financial services industry. The board of directors shall adopt by-laws for the operation of the purchasing alliance, which shall include, but not be limited to: the establishment of procedures for the organization and administration of the purchasing alliance; procedures for the qualification and admission of members of the alliance; procedures for the withdrawal of members from the alliance; procedures for the expulsion of members from the alliance; and procedures for the termination of the alliance.

The bill provides that a purchasing alliance shall have the authority to: set reasonable fees for membership in the purchasing alliance that will finance reasonable and necessary costs incurred in administering the purchasing alliance; negotiate premium rates with carriers on behalf of member small employers of the purchasing alliance; and contract with third parties for any services necessary to carry out the powers and duties of the purchasing alliance.

The bill provides that a purchasing alliance shall not: purchase health care services, assume risk for the cost or provision of health care services or otherwise contract with health care providers for the

provision of health care services to eligible employees or their dependents; exclude a small employer, eligible employee or dependent from membership in the purchasing alliance who agrees to pay fees for membership and the premium for health benefits coverage and who abides by the by-laws and rules of the purchasing alliance; engage in any act or practice that results in the selection of member small employers or eligible employees based on any health status-related factor; or engage in any trade practice or activity prohibited by law.

The bill also provides that a small employer carrier that negotiates a reduced rate with a Small Employer Purchasing Alliance for its members must make an informational filing with the commissioner and the reduction must be expressed as a percentage, based on volume or other efficiencies or economies of scale and shall not be based on health status-related factors. If the commissioner determines that the premium reduction filed by a carrier in its informational filing results in rates that are excessive, inadequate or unfairly discriminatory, the commissioner may disapprove or deny the premium reduction. In addition, if a carrier or purchasing alliance violates any provision of the bill, the commissioner may disapprove or deny the premium reduction.

Current law requires that a carrier must return in the form of benefits 75% of the premiums collected. The bill requires that this loss ratio apply separately to policy forms issued to purchasing alliances.

Finally, the bill requires that certain informational documentation pertaining to the establishment and operation of the purchasing alliance be filed with the Commissioner of Banking and Insurance.

The provisions of the bill would not apply to a Multiple Employer Welfare Association.

[First Reprint]

**SENATE, No. 2436**

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**STATE OF NEW JERSEY**  
**209th LEGISLATURE**

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INTRODUCED MAY 31, 2001

**Sponsored by:**

**Senator JOHN J. MATHEUSSEN**

**District 4 (Camden and Gloucester)**

**Senator GERALD CARDINALE**

**District 39 (Bergen)**

**Co-Sponsored by:**

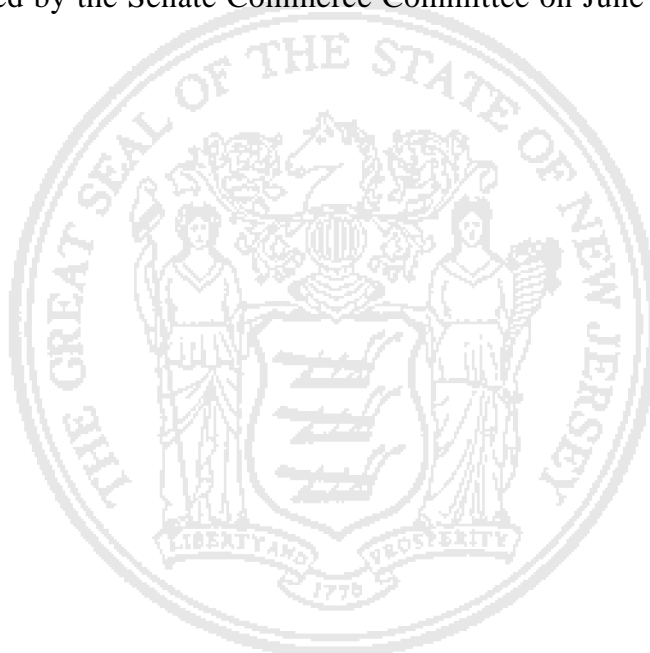
**Senators Zane, Kosco, Cafiero and Inverso**

**SYNOPSIS**

Permits establishment of small employer health benefits purchasing alliances.

**CURRENT VERSION OF TEXT**

As reported by the Senate Commerce Committee on June 11, 2001, with amendments.



**(Sponsorship Updated As Of: 6/29/2001)**

1 AN ACT concerning small employer health benefits purchasing  
2 alliances and amending and supplementing P.L.1992, c.162.

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 1. (New section) The Legislature finds and declares that:

8 a. Small employers, that is, employers that employ between two  
9 and 50 employees, have traditionally been at an economic disadvantage  
10 with respect to the purchase and provision of health benefits for their  
11 employees because certain administrative and premium rate savings  
12 that are available to larger employers are not available to them by  
13 virtue of their size;

14 b. Providing for the establishment of purchasing alliances  
15 comprised of groups of small employers would enable small employers  
16 to take advantage of the economies of scale in the delivery of health  
17 benefits currently available to large employer groups; and

18 c. Working within the framework of the Small Employer Health  
19 Benefits Program established by P.L.1992, c.162 (C.17B:27A-17 et  
20 seq.), small employer purchasing alliances, with the voluntary  
21 participation of insurance carriers, would have access to the standard  
22 health benefits plans developed under that law at a reduced premium,  
23 along with the protections afforded under that law, including:  
24 guaranteed access to health benefits coverage for their employees;  
25 guaranteed renewability of health plans regardless of the health status  
26 of employees or their dependents; and prohibitions against the use of  
27 certain rating factors such as health status, prior claims history or  
28 occupation.

29  
30 2. (New section) As used in this act:

31 "Board" means a small employer purchasing alliance board of  
32 directors provided for in section 4 of this act.

33 "Carrier" means a small employer carrier as defined in section 1 of  
34 P.L.1992, c.162 (C.17B:27A-17).

35 "Commissioner" means the Commissioner of Banking and  
36 Insurance.

37 "Dependent" means the same as defined in section 1 of P.L.1992,  
38 c.162 (C.17B:27A-17).

39 "Eligible employee" means the same as defined in section 1 of  
40 P.L.1992, c.162 (C.17B:27A-17).

41 "Eligible group of small employers" means a group of small  
42 employers which: (1) are engaged in the same or similar type of trade

**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.**

**Matter enclosed in superscript numerals has been adopted as follows:**

**<sup>1</sup> Senate SCM committee amendments adopted June 11, 2001.**



1 or business; (2) are members of a common trade association,  
2 professional association, or other association; or (3) are located in a  
3 common geographic area.

4 "Health benefits plan" means a small employer health benefits plan  
5 approved by the commissioner pursuant to section 17 of P.L.1992,  
6 c.162 (C.17B:27A-33).

7 "Health status-related factor" means the same as defined in section  
8 1 of P.L.1992, c.162 (C.17B:27A-17).<sup>1</sup>

9 "Member" means a small employer who is a member of a purchasing  
10 alliance as provided for in section 3 of this act.

11 "Small Employer Purchasing Alliance," "purchasing alliance" or  
12 "alliance" means a small employer purchasing alliance as established  
13 pursuant to section 3 of this act.

14 "Small employer" means the same as defined in section 1 of  
15 P.L.1992, c.162 (C.17B:27A-17).

16

17 3. (New section) Any eligible group of small employers may join  
18 together, by means of a joint contract under the procedures established  
19 by this act, to form a "Small Employer Purchasing Alliance" for the  
20 purpose of negotiating a reduced premium for its members<sup>1</sup>  
21 purchasing a small employer health benefits plan or plans for their  
22 eligible employees and the employees' dependents. The joint contract  
23 shall be executed by all members of the purchasing alliance.

24

25 4. (New section) The purchasing alliance, which may be a  
26 corporation, shall be governed by a board of directors, elected by the  
27 members of the purchasing alliance. No person may serve as an officer  
28 or director of an alliance who has a prior record of administrative, civil  
29 or criminal violations within the financial services industry. The  
30 directors shall serve for terms of three years, and shall serve until their  
31 successors are elected and qualified. The directors shall serve without  
32 compensation, except for reimbursement for actual expenses.

33

34 5. (New section) The board shall adopt by-laws for the operation  
35 of the purchasing alliance, which shall be effective upon ratification by  
36 a two-thirds majority of the members. The by-laws shall include, but  
37 not be limited to:

38 a. The establishment of procedures for the organization and  
39 administration of the alliance.

40 b. Procedures for the qualifications and<sup>1</sup> admission of the <sup>1</sup>[initial  
41 and additional]<sup>1</sup> members of the alliance. <sup>1</sup>The bases for denial of  
42 membership shall include, but not be limited to:

43 (1) Performance of an act or practice that constitutes fraud or  
44 intentional misrepresentation of material fact;

45 (2) Previous denial of membership in the alliance; or

46 (3) Previous expulsion from the alliance.<sup>1</sup>

47 c. Procedures for the withdrawal of members from the alliance.

- 1 d. Procedures for the expulsion of members from the alliance. The  
2 bases for expulsion shall include, but not be limited to:
- 3 (1) Failure to pay membership or other fees required by the  
4 purchasing alliance;
- 5 (2) Failure to pay premiums in accordance with the terms of the  
6 health benefits plan or the terms of the joint contract; or
- 7 (3) Performance of an act or practice that constitutes fraud or  
8 intentional misrepresentation of material fact.
- 9 e. Procedures for the termination of the alliance.
- 10
- 11 6. (New section) In addition to the powers authorized under this  
12 act, a purchasing alliance shall have the authority to:
- 13 a. Set reasonable fees for membership in the alliance that will  
14 finance reasonable and necessary costs incurred in administering the  
15 purchasing alliance;
- 16 b. Negotiate premium rates with carriers on behalf of the members  
17 of the alliance; <sup>1</sup>and<sup>1</sup>
- 18 c. <sup>1</sup>[Provide premium collection services for small employer health  
19 benefits plans or plans purchased through the alliance for member  
20 small employers; and
- 21 d.]<sup>1</sup> Contract with third parties for any services necessary to carry  
22 out the powers and duties authorized or required pursuant to this act.  
23
- 24 7. (New section) A purchasing alliance established pursuant to the  
25 provisions of this act shall not:
- 26 a. Purchase health care services, assume risk for the cost or  
27 provision of health care services or otherwise contract with health care  
28 providers for the provision of health care services to eligible  
29 employees or their dependents;
- 30 b. Exclude a small employer, eligible employee or dependent from  
31 membership in the purchasing alliance who agrees to pay fees for  
32 membership and the premium for health benefits coverage and who  
33 abides by the by-laws and rules of the purchasing alliance;
- 34 c. Engage in any <sup>1</sup>[competitive]<sup>1</sup> act or practice that results in the  
35 selection of member small employers or eligible employees based on  
36 any <sup>1</sup>[rating] health status-related<sup>1</sup> factor <sup>1</sup>[other than the rating  
37 factors included in paragraph (3) of subsection a. of section 9 of  
38 P.L.1992, c.162 (C. 17B:27A-25)]<sup>1</sup>; or
- 39 d. Engage in any trade practice or activity prohibited pursuant to  
40 chapter 30 of Title 17B of the New Jersey Statutes.
- 41
- 42 8. (New section) <sup>1</sup>a.<sup>1</sup> Within 30 days after its organization, the  
43 purchasing alliance board shall file with the commissioner a certificate  
44 which shall list the members of the alliance, the names of the board of  
45 directors and the chairman, treasurer, and secretary of the purchasing  
46 alliance, and the address at which communications for the purchasing

1 alliance are to be received, a copy of the certificate of incorporation  
2 of the purchasing alliance, if any, and a copy of the joint contract  
3 executed by all of the members. Any change in the information  
4 required by the provisions of this section shall be filed with the  
5 commissioner within 30 days of the change.

6 <sup>1</sup>b. If the commissioner determines that the premium reduction,  
7 permitted pursuant to subsection k. of section 9 of P.L.1992, c.162  
8 (C.17B:27A-25) and filed by a carrier in the informational filing  
9 required pursuant to subsection f. of that section, results in rates that  
10 are excessive, inadequate or unfairly discriminatory, the commissioner  
11 may disapprove or deny the premium reduction. If, after notice and a  
12 hearing pursuant to the "Administrative Procedure Act," P.L.1968,  
13 c.410 (C.52:14b-1 et seq.), a carrier or purchasing alliance is found by  
14 the commissioner to be in violation of any provision of this act, the  
15 commissioner may disapprove or deny the premium reduction  
16 permitted pursuant to subsection k. of section 9 of P.L.1992, c.162  
17 (C.17B:27A-25).<sup>1</sup>

18

19 9. Section 9 of P.L.1992, c.162 (C.17B:27A-25) is amended to read  
20 as follows:

21 9. a. (1) (Deleted by amendment, P.L.1997, c.146).

22 (2) (Deleted by amendment, P.L.1997, c.146).

23 (3) For all policies or contracts providing health benefits plans for  
24 small employers issued pursuant to section 3 of P.L.1992, c.162  
25 (C.17B:27A-19), <sup>1</sup>and including policies or contracts offered by a  
26 carrier to a small employer who is a member of a Small Employer  
27 Purchasing Alliance pursuant to the provisions of P.L. , c. (C.  
28 )(now before the Legislature as this bill)<sup>1</sup> the premium rate charged by  
29 a carrier to the highest rated small group purchasing a small employer  
30 health benefits plan issued pursuant to section 3 of P.L.1992, c.162  
31 (C.17B:27A-19) shall not be greater than 200% of the premium rate  
32 charged for the lowest rated small group purchasing that same health  
33 benefits plan; provided, however, that the only factors upon which the  
34 rate differential may be based are age, gender and geography, and  
35 provided further, that such factors are applied in a manner consistent  
36 with regulations adopted by the board.

37 A health benefits plan issued pursuant to subsection j. of section 3  
38 of P.L.1992, c.162 (C.17B:27A-19) shall be rated in accordance with  
39 the provisions of section 7 of P.L.1995, c.340 (C.17B:27A-19.3), for  
40 the purposes of meeting the requirements of this paragraph.

41 (4) (Deleted by amendment, P.L.1994, c.11).

42 (5) Any policy or contract issued after January 1, 1994 to a small  
43 employer who was not previously covered by a health benefits plan  
44 issued by the issuing small employer carrier, shall be subject to the  
45 same premium rate restrictions as provided in paragraphs (1), (2) and  
46 (3) of this subsection, which rate restrictions shall be effective on the

1 date the policy or contract is issued.

2 (6) The board shall establish, pursuant to section 17 of P.L.1993,  
3 c.162 (C.17B:27A-51):

4 (a) up to six geographic territories, none of which is smaller than  
5 a county; and

6 (b) age classifications which, at a minimum, shall be in five-year  
7 increments.

8 b. (Deleted by amendment, P.L.1993, c.162).

9 c. (Deleted by amendment, P.L.1995, c.298).

10 d. Notwithstanding any other provision of law to the contrary, this  
11 act shall apply to a carrier which provides a health benefits plan to one  
12 or more small employers through a policy issued to an association or  
13 trust of employers.

14 A carrier which provides a health benefits plan to one or more small  
15 employers through a policy issued to an association or trust of  
16 employers after the effective date of P.L.1992, c.162 (C.17B:27A-17  
17 et seq.), shall be required to offer small employer health benefits plans  
18 to non-association or trust employers in the same manner as any other  
19 small employer carrier is required pursuant to P.L.1992, c.162  
20 (C.17B:27A-17 et seq.).

21 e. Nothing contained herein shall prohibit the use of premium rate  
22 structures to establish different premium rates for individuals and  
23 family units.

24 f. No insurance contract or policy subject to this act including a  
25 contract or policy entered into with a <sup>1</sup>small employer who is a  
26 member of a<sup>1</sup> Small Employer Purchasing Alliance pursuant to the  
27 provisions of P.L. , c. (C. )(now before the Legislature as this  
28 bill) <sup>1</sup>[or entered into with a small employer who is a member of a  
29 Small Employer Purchasing Alliance]<sup>1</sup>, may be entered into unless and  
30 until the carrier has made an informational filing with the  
31 commissioner of a schedule of premiums, not to exceed 12 months in  
32 duration, to be paid pursuant to such contract or policy, of the carrier's  
33 rating plan and classification system in connection with such contract  
34 or policy, and of the actuarial assumptions and methods used by the  
35 carrier in establishing premium rates for such contract or policy.

36 g. (1) Beginning January 1, 1995, a carrier desiring to increase or  
37 decrease premiums for any policy form or benefit rider offered  
38 pursuant to subsection i. of section 3 of P.L.1992, c.162  
39 (C.17B:27A-19) subject to this act may implement such increase or  
40 decrease upon making an informational filing with the commissioner  
41 of such increase or decrease, along with the actuarial assumptions and  
42 methods used by the carrier in establishing such increase or decrease,  
43 provided that the anticipated minimum loss ratio for all policy forms  
44 shall not be less than 75% of the premium therefor as provided in  
45 paragraph (2) of this subsection. Until December 31, 1996, the  
46 informational filing shall also include the carrier's rating plan and

- 1 classification system in connection with such increase or decrease.
- 2 (2) Each calendar year, a carrier shall return, in the form of  
3 aggregate benefits for all of the five standard policy forms offered by  
4 the carrier pursuant to subsection a. of section 3 of P.L.1992, c.162  
5 (C.17B:27A-19), at least 75% of the aggregate premiums collected for  
6 all of the standard policy forms <sup>1</sup>[and] , other than alliance policy  
7 forms.<sup>1</sup> at least 75% of the aggregate premiums collected for all of the  
8 non-standard policy forms <sup>1</sup>and at least 75% of the aggregate  
9 premiums collected for all of the alliance policy forms<sup>1</sup> during that  
10 calendar year. Carriers shall annually report, no later than August 1st  
11 of each year, the loss ratio calculated pursuant to this section for all of  
12 the standard <sup>1</sup>[and] , other than alliance policy forms.<sup>1</sup> non-standard  
13 policy forms <sup>1</sup>and alliance policy forms<sup>1</sup> for the previous calendar  
14 year. In each case where the loss ratio fails to substantially comply  
15 with the 75% loss ratio requirement, the carrier shall issue a dividend  
16 or credit against future premiums for all policyholders with the  
17 standard <sup>1</sup>[or] , other than alliance policy forms.<sup>1</sup> nonstandard policy  
18 forms <sup>1</sup>or alliance policy forms<sup>1</sup>, as applicable, in an amount sufficient  
19 to assure that the aggregate benefits paid in the previous calendar year  
20 plus the amount of the dividends and credits shall equal 75% of the  
21 aggregate premiums collected for the respective policy forms in the  
22 previous calendar year. All dividends and credits must be distributed  
23 by December 31 of the year following the calendar year in which the  
24 loss ratio requirements were not satisfied. The annual report required  
25 by this paragraph shall include a carrier's calculation of the dividends  
26 and credits applicable to standard <sup>1</sup>[and] , other than alliance policy  
27 forms.<sup>1</sup> non-standard policy forms <sup>1</sup>and alliance policy forms<sup>1</sup>, as well  
28 as an explanation of the carrier's plan to issue dividends or credits.  
29 The instructions and format for calculating and reporting loss ratios  
30 and issuing dividends or credits shall be specified by the commissioner  
31 by regulation. Such regulations shall include provisions for the  
32 distribution of a dividend or credit in the event of cancellation or  
33 termination by a policyholder. <sup>1</sup>For purposes of this paragraph,  
34 "alliance policy forms" means policies purchased by small employers  
35 who are members of Small Employer Purchasing Alliances.<sup>1</sup>
- 36 (3) The loss ratio of a health benefits plan issued pursuant to  
37 subsection j. of section 3 of P.L.1992, c.162 (C.17B:27A-19) shall be  
38 calculated in accordance with the provisions of section 7 of P.L.1995,  
39 c.340 (C.17B:27A-19.3), for the purposes of meeting the requirements  
40 of this subsection.
- 41 h. (Deleted by amendment, P.L.1993, c.162).
- 42 i. The provisions of this act shall apply to health benefits plans  
43 which are delivered, issued for delivery, renewed or continued on or  
44 after January 1, 1994.
- 45 j. (Deleted by amendment, P.L.1995, c.340).
- 46 k. <sup>1</sup>[Nothing contained herein shall prohibit the use of premium

1 rate structures to establish different premium rates for contracts or  
2 policies purchased by a Small Employer Purchasing Alliance or a small  
3 employer who is member of a Small Employer Purchasing Alliance.】  
4 A carrier who negotiates a reduced premium rate with a Small  
5 Employer Purchasing Alliance for members of that alliance shall  
6 provide a reduction in the premium rate filed in accordance with  
7 paragraph (3) of subsection a. of this section, expressed as a  
8 percentage, which reduction shall be based on volume or other  
9 efficiencies or economies of scale and shall not be based on health  
10 status-related factors.<sup>1</sup>

11 (cf: P.L.1997, c.146, s.11)

12

13 10. (New section) The commissioner shall promulgate rules and  
14 regulations pursuant to the "Administrative Procedure Act," P.L.1968,  
15 c.410 (C.52:14B-1 et seq.) necessary to effectuate the provisions of  
16 this act.

17

18 11. This act shall take effect 180 days after enactment.

P.L. 2001, CHAPTER 225, *approved August 24, 2001*  
Assembly Committee Substitute (*First Reprint*) for  
Assembly, No. 1315

1 **AN ACT** concerning small employer health benefits purchasing  
2 alliances and amending and supplementing P.L.1992, c.162.

3

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

6

7 1. (New section) The Legislature finds and declares that:

8 a. Small employers, that is, employers that employ between two  
9 and 50 employees, have traditionally been at an economic disadvantage  
10 with respect to the purchase and provision of health benefits for their  
11 employees because certain administrative and premium rate savings  
12 that are available to larger employers are not available to them by  
13 virtue of their size;

14 b. Providing for the establishment of purchasing alliances  
15 comprised of groups of small employers would enable small employers  
16 to take advantage of the economies of scale in the delivery of health  
17 benefits currently available to large employer groups; and

18 c. Working within the framework of the Small Employer Health  
19 Benefits Program established by P.L.1992, c.162 (C.17B:27A-17 et  
20 seq.), small employer purchasing alliances, with the voluntary  
21 participation of insurance carriers, would have access to the standard  
22 health benefits plans developed under that law at a reduced premium,  
23 along with the protections afforded under that law, including:  
24 guaranteed access to health benefits coverage for their employees;  
25 guaranteed renewability of health plans regardless of the health status  
26 of employees or their dependents; and prohibitions against the use of  
27 certain rating factors such as health status, prior claims history or  
28 occupation.

29

30 2. (New section) As used in this act:

31 "Board" means a small employer purchasing alliance board of  
32 directors provided for in section 4 of this act.

33 "Carrier" means a small employer carrier as defined in section 1 of  
34 P.L.1992, c.162 (C.17B:27A-17).

35 "Commissioner" means the Commissioner of Banking and  
36 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.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Assembly floor amendments adopted June 14, 2001.

1 "Dependent" means the same as defined in section 1 of P.L.1992,  
2 c.162 (C.17B:27A-17).

3 "Eligible employee" means the same as defined in section 1 of  
4 P.L.1992, c.162 (C.17B:27A-17).

5 "Eligible group of small employers" means a group of small  
6 employers which: (1) are engaged in the same or similar type of trade  
7 or business; (2) are members of a common trade association,  
8 professional association, or other association; <sup>1</sup>or<sup>1</sup> (3) <sup>1</sup>[or]<sup>1</sup> are  
9 located in a common geographic area.

10 "Health benefits plan" means a small employer health benefits plan  
11 approved by the commissioner pursuant to section 17 of P.L.1992,  
12 c.162 (C.17B:27A-33).

13 <sup>1</sup>"Health status-related factor" means the same as defined in  
14 section 1 of P.L.1992, c.162 (C.17B:27A-17).<sup>1</sup>

15 "Member" means a small employer who is a member of a  
16 purchasing alliance as provided for in section 3 of this act.

17 "Small Employer Purchasing Alliance," "purchasing alliance" or  
18 "alliance" means a small employer purchasing alliance as established  
19 pursuant to section 3 of this act.

20 "Small employer" means the same as defined in section 1 of  
21 P.L.1992, c.162 (C.17B:27A-17).

22

23 3. (New section) Any eligible group of small employers may join  
24 together, by means of a joint contract under the procedures established  
25 by this act, to form a "Small Employer Purchasing Alliance" for the  
26 purpose of <sup>1</sup>negotiating a reduced premium for its members<sup>1</sup>  
27 purchasing a small employer health benefits plan or plans for their  
28 eligible employees and the employees' dependents. The joint contract  
29 shall be executed by all members of the purchasing alliance.

30

31 4. (New section) The purchasing alliance, which may be a  
32 corporation, shall be governed by a board of directors, elected by the  
33 members of the purchasing alliance. No person may serve as an officer  
34 or director of an alliance who has a prior record of administrative, civil  
35 or criminal violations within the financial services industry. The  
36 directors shall serve for terms of three years, and shall serve until their  
37 successors are elected and qualified. The directors shall serve without  
38 compensation, except for reimbursement for actual expenses.

39

40 5. (New section) The board shall adopt by-laws for the operation  
41 of the purchasing alliance, which shall be effective upon ratification by  
42 a two-thirds majority of the members. The by-laws shall include, but  
43 not be limited to:

44 a. The establishment of procedures for the organization and  
45 administration of the alliance.

46 b. Procedures for the <sup>1</sup>qualifications and<sup>1</sup> admission of the <sup>1</sup>[initial



1 and additional]<sup>1</sup> members of the alliance. <sup>1</sup>The bases for denial of  
2 membership shall include, but not be limited to:

3 (1) Performance of an act or practice that constitutes fraud or  
4 intentional misrepresentation of material fact;

5 (2) Previous denial of membership in the alliance; or

6 (3) Previous expulsion from the alliance.<sup>1</sup>

7 c. Procedures for the withdrawal of members from the alliance.

8 d. Procedures for the expulsion of members from the alliance.

9 The bases for expulsion shall include, but not be limited to:

10 (1) Failure to pay membership or other fees required by the  
11 purchasing alliance;

12 (2) Failure to pay premiums in accordance with the terms of the  
13 health benefits plan or the terms of the joint contract; or

14 (3) Performance of an act or practice that constitutes fraud or  
15 intentional misrepresentation of material fact.

16 e. Procedures for the termination of the alliance.

17

18 6. (New section) In addition to the powers authorized under  
19 <sup>1</sup>[of]<sup>1</sup> this act, a purchasing alliance shall have the authority to:

20 a. Set reasonable fees for membership in the alliance that will  
21 finance reasonable and necessary costs incurred in administering the  
22 purchasing alliance;

23 b. Negotiate premium rates with carriers on behalf of the members  
24 of the alliance; <sup>1</sup>and<sup>1</sup>

25 c. <sup>1</sup>[Provide premium collection services for small employer  
26 health benefits plans or plans purchased through the alliance for  
27 member small employers; and

28 d.]<sup>1</sup> Contract with third parties for any services necessary to carry  
29 out the powers and duties authorized or required pursuant to this act.

30

31 7. (New section) A purchasing alliance established pursuant to the  
32 provisions of this act shall not:

33 a. Purchase health care services, assume risk for the cost or  
34 provision of health care services or otherwise contract with health care  
35 providers for the provision of health care services to eligible  
36 employees or their dependents;

37 b. Exclude a small employer, eligible employee or dependent from  
38 membership in the purchasing alliance who agrees to pay fees for  
39 membership and the premium for health benefits coverage and who  
40 abides by the by-laws and rules of the purchasing alliance;

41 c. Engage in any <sup>1</sup>[competitive]<sup>1</sup> act or practice that results in the  
42 selection of member small employers or eligible employees based on  
43 any <sup>1</sup>[rating] health status-related<sup>1</sup> factor <sup>1</sup>[other than the rating  
44 factors included in paragraph (3) of subsection a. of section 9 of  
45 P.L.1992, c.162 (C. 17B:27A-25)]<sup>1</sup>; or

46 d. Engage in any trade practice or activity prohibited pursuant to

1 chapter 30 of Title 17B of the New Jersey Statutes.

2

3 8. (New section) <sup>1</sup>a.<sup>1</sup> Within 30 days after its organization, the  
4 purchasing alliance board shall file with the commissioner a certificate  
5 which shall list the members of the alliance, the names of the board of  
6 directors and the chairman, treasurer, and secretary of the purchasing  
7 alliance, and the address at which communications for the purchasing  
8 alliance are to be received, a copy of the certificate of incorporation  
9 of the purchasing alliance, if any, and a copy of the joint contract  
10 executed by all of the members. Any change in the information  
11 required by the provisions of this section shall be filed with the  
12 commissioner within 30 days of the change.

13 <sup>1</sup>b. If the commissioner determines that the premium reduction,  
14 permitted pursuant to subsection k. of section 9 of P.L.1992, c.162  
15 (C.17B:27A-25) and filed by a carrier in the informational filing  
16 required pursuant to subsection f. of that section, results in rates that  
17 are excessive, inadequate or unfairly discriminatory, the commissioner  
18 may disapprove or deny the premium reduction. If, after notice and a  
19 hearing pursuant to the "Administrative Procedure Act," P.L.1968,  
20 c.410 (C.52:14b-1 et seq.), a carrier or purchasing alliance is found by  
21 the commissioner to be in violation of any provision of this act, the  
22 commissioner may disapprove or deny the premium reduction  
23 permitted pursuant to subsection k. of section 9 of P.L.1992, c.162  
24 (C.17B:27A-25).<sup>1</sup>

25

26 9. Section 9 of P.L.1992, c.162 (C.17B:27A-25) is amended to  
27 read as follows:

28 9. a. (1) (Deleted by amendment, P.L.1997, c.146).

29 (2) (Deleted by amendment, P.L.1997, c.146).

30 (3) For all policies or contracts providing health benefits plans for  
31 small employers issued pursuant to section 3 of P.L.1992, c.162  
32 (C.17B:27A-19), <sup>1</sup>and including policies or contracts offered by a  
33 carrier to a small employer who is a member of a Small Employer  
34 Purchasing Alliance pursuant to the provisions of P.L. , c.  
35 (C. ) (now before the Legislature as this bill)<sup>1</sup> the premium rate  
36 charged by a carrier to the highest rated small group purchasing a  
37 small employer health benefits plan issued pursuant to section 3 of  
38 P.L.1992, c.162 (C.17B:27A-19) shall not be greater than 200% of the  
39 premium rate charged for the lowest rated small group purchasing that  
40 same health benefits plan; provided, however, that the only factors  
41 upon which the rate differential may be based are age, gender and  
42 geography, and provided further, that such factors are applied in a  
43 manner consistent with regulations adopted by the board.

44 A health benefits plan issued pursuant to subsection j. of section 3  
45 of P.L.1992, c.162 (C.17B:27A-19) shall be rated in accordance with  
46 the provisions of section 7 of P.L.1995, c.340 (C.17B:27A-19.3), for

1 the purposes of meeting the requirements of this paragraph.

2 (4) (Deleted by amendment, P.L.1994, c.11).

3 (5) Any policy or contract issued after January 1, 1994 to a small  
4 employer who was not previously covered by a health benefits plan  
5 issued by the issuing small employer carrier, shall be subject to the  
6 same premium rate restrictions as provided in paragraphs (1), (2) and  
7 (3) of this subsection, which rate restrictions shall be effective on the  
8 date the policy or contract is issued.

9 (6) The board shall establish, pursuant to section 17 of P.L.1993,  
10 c.162 (C.17B:27A-51):

11 (a) up to six geographic territories, none of which is smaller than  
12 a county; and

13 (b) age classifications which, at a minimum, shall be in five-year  
14 increments.

15 b. (Deleted by amendment, P.L.1993, c.162).

16 c. (Deleted by amendment, P.L.1995, c.298).

17 d. Notwithstanding any other provision of law to the contrary, this  
18 act shall apply to a carrier which provides a health benefits plan to one  
19 or more small employers through a policy issued to an association or  
20 trust of employers.

21 A carrier which provides a health benefits plan to one or more  
22 small employers through a policy issued to an association or trust of  
23 employers after the effective date of P.L.1992, c.162 (C.17B:27A-17  
24 et seq.), shall be required to offer small employer health benefits plans  
25 to non-association or trust employers in the same manner as any other  
26 small employer carrier is required pursuant to P.L.1992, c.162  
27 (C.17B:27A-17 et seq.).

28 e. Nothing contained herein shall prohibit the use of premium rate  
29 structures to establish different premium rates for individuals and  
30 family units.

31 f. No insurance contract or policy subject to this act, including a  
32 contract or policy entered into with a <sup>1</sup>small employer who is a  
33 member of a<sup>1</sup> Small Employer Purchasing Alliance pursuant to the  
34 provisions of P.L. \_\_\_\_\_, c.  
35 (C. \_\_\_\_\_)(now before the Legislature as this bill) <sup>1</sup>[or entered into with  
36 a small employer who is a member of a Small Employer Purchasing  
37 Alliance]<sup>1</sup>, may be entered into unless and until the carrier has made  
38 an informational filing with the commissioner of a schedule of  
39 premiums, not to exceed 12 months in duration, to be paid pursuant  
40 to such contract or policy, of the carrier's rating plan and classification  
41 system in connection with such contract or policy, and of the actuarial  
42 assumptions and methods used by the carrier in establishing premium  
43 rates for such contract or policy.

44 g. (1) Beginning January 1, 1995, a carrier desiring to increase or  
45 decrease premiums for any policy form or benefit rider offered  
46 pursuant to subsection i. of section 3 of P.L.1992, c.162

1 (C.17B:27A-19) subject to this act may implement such increase or  
2 decrease upon making an informational filing with the commissioner  
3 of such increase or decrease, along with the actuarial assumptions and  
4 methods used by the carrier in establishing such increase or decrease,  
5 provided that the anticipated minimum loss ratio for all policy forms  
6 shall not be less than 75% of the premium therefor as provided in  
7 paragraph (2) of this subsection. Until December 31, 1996, the  
8 informational filing shall also include the carrier's rating plan and  
9 classification system in connection with such increase or decrease.

10 (2) Each calendar year, a carrier shall return, in the form of  
11 aggregate benefits for all of the five standard policy forms offered by  
12 the carrier pursuant to subsection a. of section 3 of P.L.1992, c.162  
13 (C.17B:27A-19), at least 75% of the aggregate premiums collected for  
14 all of the standard policy forms <sup>1</sup>[and] , other than alliance policy  
15 forms.<sup>1</sup> at least 75% of the aggregate premiums collected for all of the  
16 non-standard policy forms <sup>1</sup>and at least 75% of the aggregate  
17 premiums collected for all of the alliance policy forms<sup>1</sup> during that  
18 calendar year. Carriers shall annually report, no later than August 1st  
19 of each year, the loss ratio calculated pursuant to this section for all of  
20 the standard <sup>1</sup>[and] , other than alliance policy forms.<sup>1</sup> non-standard  
21 policy forms <sup>1</sup>and alliance policy forms<sup>1</sup> for the previous calendar  
22 year. In each case where the loss ratio fails to substantially comply  
23 with the 75% loss ratio requirement, the carrier shall issue a dividend  
24 or credit against future premiums for all policyholders with the  
25 standard <sup>1</sup>[or] , other than alliance policy forms.<sup>1</sup> nonstandard policy  
26 forms <sup>1</sup>or alliance policy forms<sup>1</sup>, as applicable, in an amount sufficient  
27 to assure that the aggregate benefits paid in the previous calendar year  
28 plus the amount of the dividends and credits shall equal 75% of the  
29 aggregate premiums collected for the respective policy forms in the  
30 previous calendar year. All dividends and credits must be distributed  
31 by December 31 of the year following the calendar year in which the  
32 loss ratio requirements were not satisfied. The annual report required  
33 by this paragraph shall include a carrier's calculation of the dividends  
34 and credits applicable to standard <sup>1</sup>[and] , other than alliance policy  
35 forms.<sup>1</sup> non-standard policy forms <sup>1</sup>and alliance policy forms<sup>1</sup>, as well  
36 as an explanation of the carrier's plan to issue dividends or credits.  
37 The instructions and format for calculating and reporting loss ratios  
38 and issuing dividends or credits shall be specified by the commissioner  
39 by regulation. Such regulations shall include provisions for the  
40 distribution of a dividend or credit in the event of cancellation or  
41 termination by a policyholder. <sup>1</sup>For purposes of this paragraph,  
42 "alliance policy forms" means policies purchased by small employers  
43 who are members of Small Employer Purchasing Alliances.<sup>1</sup>

44 (3) The loss ratio of a health benefits plan issued pursuant to  
45 subsection j. of section 3 of P.L.1992, c.162 (C.17B:27A-19) shall be  
46 calculated in accordance with the provisions of section 7 of P.L.1995,

1 c.340 (C.17B:27A-19.3), for the purposes of meeting the requirements  
2 of this subsection.

3 h. (Deleted by amendment, P.L.1993, c.162).

4 i. The provisions of this act shall apply to health benefits plans  
5 which are delivered, issued for delivery, renewed or continued on or  
6 after January 1, 1994.

7 j. (Deleted by amendment, P.L.1995, c.340).

8 k. <sup>1</sup>[Nothing contained herein shall prohibit the use of premium  
9 rate structures to establish different premium rates for contracts or  
10 policies purchased by a Small Employer Purchasing Alliance or a small  
11 employer who is member of a Small Employer Purchasing Alliance.]  
12 A carrier who negotiates a reduced premium rate with a Small  
13 Employer Purchasing Alliance for members of that alliance shall  
14 provide a reduction in the premium rate filed in accordance with  
15 paragraph (3) of subsection a. of this section, expressed as a  
16 percentage, which reduction shall be based on volume or other  
17 efficiencies or economies of scale and shall not be based on health  
18 status-related factors.<sup>1</sup>

19 (cf: P.L.1997, c.146, s.11)

20

21 10. (New section) The commissioner shall promulgate rules and  
22 regulations pursuant to the "Administrative Procedure Act," P.L.1968,  
23 c.410 (C.52:14B-1 et seq.) necessary to effectuate the provisions of  
24 this act.

25

26 11. This act shall take effect 180 days after enactment.

27

28

29

30

31 Permits establishment of small employer health benefits purchasing  
32 alliances.

## CHAPTER 225

AN ACT concerning small employer health benefits purchasing alliances and amending and supplementing P.L.1992, c.162.

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

C.17B:27A-25.1 Findings, declarations relative to small employer health benefits purchasing alliances.

1. The Legislature finds and declares that:

a. Small employers, that is, employers that employ between two and 50 employees, have traditionally been at an economic disadvantage with respect to the purchase and provision of health benefits for their employees because certain administrative and premium rate savings that are available to larger employers are not available to them by virtue of their size;

b. Providing for the establishment of purchasing alliances comprised of groups of small employers would enable small employers to take advantage of the economies of scale in the delivery of health benefits currently available to large employer groups; and

c. Working within the framework of the Small Employer Health Benefits Program established by P.L.1992, c.162 (C.17B:27A-17 et seq.), small employer purchasing alliances, with the voluntary participation of insurance carriers, would have access to the standard health benefits plans developed under that law at a reduced premium, along with the protections afforded under that law, including: guaranteed access to health benefits coverage for their employees; guaranteed renewability of health plans regardless of the health status of employees or their dependents; and prohibitions against the use of certain rating factors such as health status, prior claims history or occupation.

C.17B:27A-25.2 Definitions relative to small employer benefits purchasing alliances.

2. As used in this act:

"Board" means a small employer purchasing alliance board of directors provided for in section 4 of this act.

"Carrier" means a small employer carrier as defined in section 1 of P.L.1992, c.162 (C.17B:27A-17).

"Commissioner" means the Commissioner of Banking and Insurance.

"Dependent" means the same as defined in section 1 of P.L.1992, c.162 (C.17B:27A-17).

"Eligible employee" means the same as defined in section 1 of P.L.1992, c.162 (C.17B:27A-17).

"Eligible group of small employers" means a group of small employers which: (1) are engaged in the same or similar type of trade or business; (2) are members of a common trade association, professional association, or other association; or (3) are located in a common geographic area.

"Health benefits plan" means a small employer health benefits plan approved by the commissioner pursuant to section 17 of P.L.1992, c.162 (C.17B:27A-33).

"Health status-related factor" means the same as defined in section 1 of P.L.1992, c.162 (C.17B:27A-17).

"Member" means a small employer who is a member of a purchasing alliance as provided for in section 3 of this act.

"Small Employer Purchasing Alliance," "purchasing alliance" or "alliance" means a small employer purchasing alliance as established pursuant to section 3 of this act.

"Small employer" means the same as defined in section 1 of P.L.1992, c.162 (C.17B:27A-17).

C.17B:27A-25.3 "Small Employer Purchasing Alliance formation."

3. Any eligible group of small employers may join together, by means of a joint contract under the procedures established by this act, to form a "Small Employer Purchasing Alliance" for the purpose of negotiating a reduced premium for its members purchasing a small employer health benefits plan or plans for their eligible employees and the employees' dependents. The joint contract shall be executed by all members of the purchasing alliance.

C.17B:27A-25.4 Board of directors.

4. The purchasing alliance, which may be a corporation, shall be governed by a board of directors, elected by the members of the purchasing alliance. No person may serve as an officer or director of an alliance who has a prior record of administrative, civil or criminal violations within the financial services industry. The directors shall serve for terms of three years, and shall serve until their successors are elected and qualified. The directors shall serve without compensation, except for reimbursement for actual expenses.

C.17B:27A-25.5 Bylaws, contents.

5. The board shall adopt by-laws for the operation of the purchasing alliance, which shall be effective upon ratification by a two-thirds majority of the members. The by-laws shall include, but not be limited to:

- a. The establishment of procedures for the organization and administration of the alliance.
- b. Procedures for the qualifications and admission of the members of the alliance. The bases for denial of membership shall include, but not be limited to:
  - (1) Performance of an act or practice that constitutes fraud or intentional misrepresentation of material fact;
  - (2) Previous denial of membership in the alliance; or
  - (3) Previous expulsion from the alliance.
- c. Procedures for the withdrawal of members from the alliance.
- d. Procedures for the expulsion of members from the alliance. The bases for expulsion shall include, but not be limited to:
  - (1) Failure to pay membership or other fees required by the purchasing alliance;
  - (2) Failure to pay premiums in accordance with the terms of the health benefits plan or the terms of the joint contract; or
  - (3) Performance of an act or practice that constitutes fraud or intentional misrepresentation of material fact.
- e. Procedures for the termination of the alliance.

C.17B:27A-25.6 Further authority of alliance.

6. In addition to the powers authorized under this act, a purchasing alliance shall have the authority to:

- a. Set reasonable fees for membership in the alliance that will finance reasonable and necessary costs incurred in administering the purchasing alliance;
- b. Negotiate premium rates with carriers on behalf of the members of the alliance; and
- c. Contract with third parties for any services necessary to carry out the powers and duties authorized or required pursuant to this act.

C.17B:27A-25.7 Restrictions on alliances.

7. A purchasing alliance established pursuant to the provisions of this act shall not:
- a. Purchase health care services, assume risk for the cost or provision of health care services or otherwise contract with health care providers for the provision of health care services to eligible employees or their dependents;
  - b. Exclude a small employer, eligible employee or dependent from membership in the purchasing alliance who agrees to pay fees for membership and the premium for health benefits coverage and who abides by the by-laws and rules of the purchasing alliance;
  - c. Engage in any act or practice that results in the selection of member small employers or eligible employees based on any health status-related factor; or
  - d. Engage in any trade practice or activity prohibited pursuant to chapter 30 of Title 17B of the New Jersey Statutes.

C.17B:27A-25.8 Certificate from alliance to commissioner.

8. a. Within 30 days after its organization, the purchasing alliance board shall file with the commissioner a certificate which shall list the members of the alliance, the names of the board of directors and the chairman, treasurer, and secretary of the purchasing alliance, and the address

at which communications for the purchasing alliance are to be received, a copy of the certificate of incorporation of the purchasing alliance, if any, and a copy of the joint contract executed by all of the members. Any change in the information required by the provisions of this section shall be filed with the commissioner within 30 days of the change.

b. If the commissioner determines that the premium reduction, permitted pursuant to subsection k. of section 9 of P.L.1992, c.162 (C.17B:27A-25) and filed by a carrier in the informational filing required pursuant to subsection f. of that section, results in rates that are excessive, inadequate or unfairly discriminatory, the commissioner may disapprove or deny the premium reduction. If, after notice and a hearing pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14b-1 et seq.), a carrier or purchasing alliance is found by the commissioner to be in violation of any provision of this act, the commissioner may disapprove or deny the premium reduction permitted pursuant to subsection k. of section 9 of P.L.1992, c.162 (C.17B:27A-25).

9. Section 9 of P.L.1992, c.162 (C.17B:27A-25) is amended to read as follows:

C.17B:27A-25 Premium rates; other plan requirements.

9. a. (1) (Deleted by amendment, P.L.1997, c.146).

(2) (Deleted by amendment, P.L.1997, c.146).

(3) For all policies or contracts providing health benefits plans for small employers issued pursuant to section 3 of P.L.1992, c.162 (C.17B:27A-19), and including policies or contracts offered by a carrier to a small employer who is a member of a Small Employer Purchasing Alliance pursuant to the provisions of P.L.2001, c.225 (C.17B:27A-25.1 et al.) the premium rate charged by a carrier to the highest rated small group purchasing a small employer health benefits plan issued pursuant to section 3 of P.L.1992, c.162 (C.17B:27A-19) shall not be greater than 200% of the premium rate charged for the lowest rated small group purchasing that same health benefits plan; provided, however, that the only factors upon which the rate differential may be based are age, gender and geography, and provided further, that such factors are applied in a manner consistent with regulations adopted by the board.

A health benefits plan issued pursuant to subsection j. of section 3 of P.L.1992, c.162 (C.17B:27A-19) shall be rated in accordance with the provisions of section 7 of P.L.1995, c.340 (C.17B:27A-19.3), for the purposes of meeting the requirements of this paragraph.

(4) (Deleted by amendment, P.L.1994, c.11).

(5) Any policy or contract issued after January 1, 1994 to a small employer who was not previously covered by a health benefits plan issued by the issuing small employer carrier, shall be subject to the same premium rate restrictions as provided in paragraphs (1), (2) and (3) of this subsection, which rate restrictions shall be effective on the date the policy or contract is issued.

(6) The board shall establish, pursuant to section 17 of P.L.1993, c.162 (C.17B:27A-51):

(a) up to six geographic territories, none of which is smaller than a county; and

(b) age classifications which, at a minimum, shall be in five-year increments.

b. (Deleted by amendment, P.L.1993, c.162).

c. (Deleted by amendment, P.L.1995, c.298).

d. Notwithstanding any other provision of law to the contrary, this act shall apply to a carrier which provides a health benefits plan to one or more small employers through a policy issued to an association or trust of employers.

A carrier which provides a health benefits plan to one or more small employers through a policy issued to an association or trust of employers after the effective date of P.L.1992, c.162 (C.17B:27A-17 et seq.), shall be required to offer small employer health benefits plans to non-association or trust employers in the same manner as any other small employer carrier is required pursuant to P.L.1992, c.162 (C.17B:27A-17 et seq.).

e. Nothing contained herein shall prohibit the use of premium rate structures to establish different premium rates for individuals and family units.

f. No insurance contract or policy subject to this act, including a contract or policy entered



into with a small employer who is a member of a Small Employer Purchasing Alliance pursuant to the provisions of P.L.2001, c.225 (C.17B:27A-25.1 et al.), may be entered into unless and until the carrier has made an informational filing with the commissioner of a schedule of premiums, not to exceed 12 months in duration, to be paid pursuant to such contract or policy, of the carrier's rating plan and classification system in connection with such contract or policy, and of the actuarial assumptions and methods used by the carrier in establishing premium rates for such contract or policy.

g. (1) Beginning January 1, 1995, a carrier desiring to increase or decrease premiums for any policy form or benefit rider offered pursuant to subsection i. of section 3 of P.L.1992, c.162 (C.17B:27A-19) subject to this act may implement such increase or decrease upon making an informational filing with the commissioner of such increase or decrease, along with the actuarial assumptions and methods used by the carrier in establishing such increase or decrease, provided that the anticipated minimum loss ratio for all policy forms shall not be less than 75% of the premium therefor as provided in paragraph (2) of this subsection. Until December 31, 1996, the informational filing shall also include the carrier's rating plan and classification system in connection with such increase or decrease.

(2) Each calendar year, a carrier shall return, in the form of aggregate benefits for all of the five standard policy forms offered by the carrier pursuant to subsection a. of section 3 of P.L.1992, c.162 (C.17B:27A-19), at least 75% of the aggregate premiums collected for all of the standard policy forms, other than alliance policy forms, at least 75% of the aggregate premiums collected for all of the non-standard policy forms and at least 75% of the aggregate premiums collected for all of the alliance policy forms during that calendar year. Carriers shall annually report, no later than August 1st of each year, the loss ratio calculated pursuant to this section for all of the standard, other than alliance policy forms, non-standard policy forms and alliance policy forms for the previous calendar year. In each case where the loss ratio fails to substantially comply with the 75% loss ratio requirement, the carrier shall issue a dividend or credit against future premiums for all policyholders with the standard, other than alliance policy forms, nonstandard policy forms or alliance policy forms, as applicable, in an amount sufficient to assure that the aggregate benefits paid in the previous calendar year plus the amount of the dividends and credits shall equal 75% of the aggregate premiums collected for the respective policy forms in the previous calendar year. All dividends and credits must be distributed by December 31 of the year following the calendar year in which the loss ratio requirements were not satisfied. The annual report required by this paragraph shall include a carrier's calculation of the dividends and credits applicable to standard, other than alliance policy forms, non-standard policy forms and alliance policy forms, as well as an explanation of the carrier's plan to issue dividends or credits. The instructions and format for calculating and reporting loss ratios and issuing dividends or credits shall be specified by the commissioner by regulation. Such regulations shall include provisions for the distribution of a dividend or credit in the event of cancellation or termination by a policyholder. For purposes of this paragraph, "alliance policy forms" means policies purchased by small employers who are members of Small Employer Purchasing Alliances.

(3) The loss ratio of a health benefits plan issued pursuant to subsection j. of section 3 of P.L.1992, c.162 (C.17B:27A-19) shall be calculated in accordance with the provisions of section 7 of P.L.1995, c.340 (C.17B:27A-19.3), for the purposes of meeting the requirements of this subsection.

h. (Deleted by amendment, P.L.1993, c.162).

i. The provisions of this act shall apply to health benefits plans which are delivered, issued for delivery, renewed or continued on or after January 1, 1994.

j. (Deleted by amendment, P.L.1995, c.340).

k. A carrier who negotiates a reduced premium rate with a Small Employer Purchasing Alliance for members of that alliance shall provide a reduction in the premium rate filed in accordance with paragraph (3) of subsection a. of this section, expressed as a percentage, which reduction shall be based on volume or other efficiencies or economies of scale and shall not be based on health status-related factors.(cf: P.L.1997, c.146, s.11)

C.17B:27A-25.9 Rules, regulations.

10. The commissioner shall promulgate rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) necessary to effectuate the provisions of this act.

11. This act shall take effect 180 days after enactment.

Approved August 24, 2001.