

17: 23A-1 et seq.

LEGISLATIVE HISTORY CHECKLIST

NJSA: 17:23A-1 et. seq.

(Insurance--transactions--
information--standards for
collection, use, and
disclosure)

LAWS OF: 1985

CHAPTER: 179

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Sponsor(s): Feldman

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(See vol. 2--pp. 625-1 to 625-20)

CHAPTER 119 LAWS OF N. J. 1985
APPROVED 6-10-85

[SECOND OFFICIAL COPY REPRINT]

SENATE, No. 1013

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1984 SESSION

By Senator FELDMAN

AN ACT establishing standards for the collection, use, and disclosure of information gathered in connection with insurance transactions.

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

1 1. a. The obligations imposed by this act shall apply to those
2 insurance institutions, agents or insurance-support organizations
3 which, on or after the effective date of this act:

4 (1) In the case of life, health or disability insurance:

5 (a) Collect, receive, or maintain information in connection
6 with insurance transactions which pertains to natural persons
7 who are residents of this State, or

8 (b) Engage in insurance transactions with applicants, in-
9 dividuals or policyholders who are residents of this State, and

10 (2) In the case of property or casualty insurance:

11 (a) Collect, receive or maintain information in connection
12 with insurance transactions involving policies, contracts or
13 certificates of insurance delivered, issued for delivery or re-
14 newed in this State, or

15 (b) Engage in insurance transactions involving policies,
16 contracts or certificates of insurance delivered, issued for
17 delivery or renewed in this State.

18 b. The rights granted by this act shall extend to:

19 (1) In the case of life, health or disability insurance, the follow-
20 ing persons who are residents of this State:

21 (a) Natural persons who are the subject of information
22 collected, received or maintained in connection with insurance
23 transactions, and

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

Matter printed in italics *thus* is new matter.

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

*—Senate committee amendments adopted February 27, 1984.

**—Senate amendments adopted May 21, 1984.

24 (b) Applicants, individuals or policyholders who engage in
25 or seek to engage in insurance transactions, and

26 (2) In the case of property or casualty insurance, the following
27 persons:

28 (a) Natural persons who are the subject of information
29 collected, received or maintained in connection with insurance
30 transactions involving policies, contracts or certificates of
31 insurance delivered, issued for delivery or renewed in this
32 State, and

33 (b) Applicants, individuals or policyholders who engage
34 in or seek to engage in insurance transactions involving
35 policies, contracts or certificates of insurance delivered, issued
36 for delivery or renewed in this State.

37 c. For purposes of this section, a person shall be considered
38 a resident of this State if the person's last known mailing address,
39 as shown in the records of the insurance institution, agent or
40 insurance-support organization, is located in this State.

41 d. Notwithstanding subsections a. and b. above, this act shall
42 not apply to information collected from the public records of a
43 governmental authority and maintained by an insurance institution
44 or its representatives for the purpose of insuring the title to real
45 property located in this State.

1 2. Definitions.

2 As used in this act:

3 a. "Adverse underwriting decision" means:

4 (1) Any of the following actions with respect to insurance
5 transactions involving insurance coverage which is individually
6 underwritten for an individual:

7 (a) A declination of insurance coverage,

8 (b) A termination of insurance coverage,

9 (c) Failure of an agent to apply for insurance coverage
10 with a specific insurance institution which the agent represents
11 and which is requested by an applicant,

12 (d) In the case of a property or casualty insurance coverage:

13 (i) Placement by an insurance institution or agent of a
14 risk with a residual market mechanism or an unauthorized
15 insurer, or

16 (ii) The charging of a higher rate on the basis of infor-
17 mation which differs from that which the applicant or policy-
18 holder furnished,

19 (e) In the case of a life, health or disability insurance
20 coverage, an offer to insure at a higher rate than the insurance

21 institution's table of premium rates applicable to the age and
22 class of risk of each person to be covered under that coverage
23 and to the type and amount of insurance provided.

24 (2) Notwithstanding paragraph (1) above, the following actions,
25 if permitted by law, shall not be considered adverse underwriting
26 decisions but the insurance institution or agent responsible for
27 their occurrence shall nevertheless provide the applicant or policy-
28 holder with the specific reason or reasons for their occurrence:

29 (a) The termination of an individual policy form on a
30 class or Statewide basis,

31 (b) A declination of insurance coverage solely because such
32 coverage is not available on a class or Statewide basis, or

33 (c) The rescission of a policy.

34 b. "Affiliate" or "affiliated" means a person that directly, or
35 indirectly through one or more intermediaries, controls, is con-
36 trolled by or is under common control with another person.

37 c. "Agent" means any person defined in chapter 22 of Title 17
38 of the Revised Statutes, chapter 22 of Title 17B of the New Jersey
39 Statutes and in R. S. 17:35-23.

40 d. "Applicant" means a person who seeks to contract for
41 insurance coverage other than a person seeking group insurance
42 that is not individually underwritten.

43 e. "Commissioner" means the Commissioner of Insurance.

44 f. "Consumer report" means any written, oral or other com-
45 munication of information bearing on a natural person's credit
46 worthiness, credit standing, credit capacity, character, general
47 reputation, personal characteristics or mode of living which is
48 used or expected to be used in connection with an insurance
49 transaction.

50 g. "Consumer reporting agency" means any person who:

51 (1) Regularly engages, in whole or in part, in the practice of
52 assembling or preparing consumer reports, for a monetary fee,
53 and

54 (2) Obtains information primarily from sources other than
55 insurance institutions, and

56 (3) Furnishes consumer reports to other persons.

57 h. "Control," including the terms "controlled by" or "under
58 common control with," means the possession, direct or indirect
59 of the power to direct or cause the direction of the management
60 and policies of a person, whether through the ownership of voting
61 securities, by contract other than a commercial contract of goods
62 or nonmanagement services, or otherwise, unless the power is the

63 result of an official position with or corporate office held by the
64 person.

65 i. "Declination of insurance coverage" means a denial, in whole
66 or in part, by an insurance institution or agent of requested in-
67 surance coverage.

68 j. "Individual" means any natural person who:

69 (1) In the case of property or casualty insurance, is a past,
70 present or proposed named insured or certificateholder;

71 (2) In the case of life, health or disability insurance, is a past,
72 present or proposed principal insured or certificateholder;

73 (3) Is a past, present or proposed policyowner;

74 (4) Is a past or present applicant; or

75 (5) Is a past or present claimant, or

76 (6) Derived, derives or is proposed to derive insurance coverage
77 under an insurance policy or certificate subject to this act.

78 k. "Institutional source" means any person or governmental
79 entity that provides information about an individual to an agent,
80 insurance institution or insurance support organization, other than:

81 (1) An agent,

82 (2) The individual who is the subject of the information, or

83 (3) A natural person acting in a personal capacity rather than in
84 a business or professional capacity.

85 l. "Insurance institution" means any corporation, association,
86 partnership, reciprocal exchange, interinsurer, Lloyd's insurer,
87 fraternal benefit society or other person engaged in the business
88 of insurance; including health maintenance organizations, medical
89 service corporations, hospital service corporations, dental service
90 corporations, automobile insurance plan and the New Jersey
91 Automobile Full Insurance Underwriting Association as defined
92 in section 2 of P. L. 1973, c. 337 (C. 26:2J-2), section 1 of P. L. 1940,
93 c. 74 (C. 17:48A-1), section 1 of P. L. 1960, c. 1 (C. 17:48B-1),
94 section 2 of P. L. 1968, c. 305 (C. 17:48C-2), P. L. 1970, c. 215
95 (C. 17:29D-1 et seq.) and P. L. 1983, c. 65 (C. 17:29A-33 et al.),
96 ***respectively.*** "Insurance institution" shall not include agents
97 or insurance-support organizations.

98 m. "Insurance-support organization" means:

99 (1) Any person who regularly engages, in whole or in part, in
100 the practice of assembling or collecting information about natural
101 persons for the primary purpose of providing the information to
102 an insurance institution or agent for insurance transactions, in-
103 cluding:

104 (a) The furnishing of consumer reports or investigative
105 consumer reports to an insurance institution or agent for use
106 in connection with an insurance transaction, or

107 (b) The collection of personal information from insurance
108 institutions, agents or other insurance-support organizations
109 for the purpose of detecting or preventing fraud, material
110 misrepresentation or material nondisclosure in connection with
111 insurance underwriting or insurance claim activity.

112 (2) Notwithstanding paragraph (1) of this subsection, the
113 following persons shall not be considered "insurance-support
114 organizations" for the purposes of this act: agents, government
115 institutions, insurance institutions, medical-care institutions,
116 medical professionals and rating organizations as defined in section
117 1 of P. L. 1944, c. 27 (C. 17:29A-1).

118 n. "Insurance transaction" means any transaction involving
119 insurance primarily for personal, family or household needs rather
120 than business or professional needs which entails:

121 (1) The determination of an individual's eligibility for an in-
122 surance coverage, benefit or payment, or

123 (2) The servicing of an insurance application, policy, contract
124 or certificate.

125 o. "Investigative consumer report" means a consumer report
126 or portion thereof in which information about a natural person's
127 character, general reputation, personal characteristics or mode
128 of living is obtained through personal interviews with the person's
129 neighbors, friends, associates, acquaintances or others who may
130 have knowledge concerning those items of information.

131 p. "Medical-care institution" means a facility or institution
132 that is licensed to provide health care services to natural persons,
133 including but not limited to, hospitals, skilled nursing facilities,
134 nursing facilities, home-health agencies, medical clinics, rehabilita-
135 tion agencies, public health agencies or health-maintenance organi-
136 zations.

137 q. "Medical professional" means any person providing health
138 care services to natural persons, including but not limited to, a
139 physician, podiatrist, dentist, nurse, optometrist, chiropractor,
140 physical therapist, occupational therapist, pharmacist, psycholo-
141 gist, dietitian, psychiatric social worker or speech therapist.

142 r. "Medical-record information" means personal information
143 which:

144 (1) Relates to an individual's physical or mental condition,
145 medical history or medical treatment, and

146 (2) Is obtained from a medical professional or medical-care insti-

147 tution, from the individual, or from the individual's spouse, parent
148 or legal guardian.

149 s. "Person" means any natural person, corporation, association,
150 partnership or other legal entity.

151 t. "Personal information" means any individually identifiable
152 information gathered in connection with an insurance transaction
153 from which judgments can be made about an individual's character,
154 habits, avocations, finances, occupation, general reputation, credit,
155 health or any other personal characteristics. "Personal informa-
156 tion" includes an individual's name and address and medical-record
157 information but does not include privileged information.

158 u. "Policyholder" means any person who:

159 (1) In the case of individual property or casualty insurance, is
160 a present named insured;

161 (2) In the case of individual life, health or disability insurance,
162 is a present policyowner, or

163 (3) In the case of group insurance which is individually under-
164 written, is a present group certificateholder.

165 v. "Pretext interview" means an interview whereby a person,
166 in an attempt to obtain information about a natural person, per-
167 forms one or more of the following acts:

168 (1) Pretends to be someone he is not,

169 (2) Pretends to represent a person he is not in fact representing,

170 (3) Misrepresents the true purpose of the interview, or

171 (4) Refuses to identify himself upon request.

172 w. "Privileged information" means any individually identifiable
173 information that:

174 (1) Relates to a claim for insurance benefits or a civil or criminal
175 proceeding involving an individual, and

176 (2) Is collected in connection with or in reasonable anticipation
177 of a claim for insurance benefits or civil or criminal proceeding
178 involving an individual; except that information otherwise meeting
179 the requirements of this subsection shall nevertheless be considered
180 personal information under this act if it is disclosed in violation of
181 section 13 of this act.

182 x. "Residual market mechanism" means any insurance pooling
183 mechanism, joint underwriting association, or reinsurance facility
184 created pursuant to law or regulation which provides insurance
185 coverage for any risk that is not insurable in the voluntary market.

186 y. "Termination of insurance coverage" or "termination of an
187 insurance policy" means either a cancellation or nonrenewal of an
188 insurance policy, in whole or in part, for any reason other than the
189 failure to pay a premium as required by the policy.

190 z. "Unauthorized insurer" means an insurance institution that
191 has not been granted a certificate of authority by the commissioner
192 to transact the business of insurance in this State.

1 3. Pretext interviews. No insurance institution, agent or in-
2 surance-support organization shall use or authorize the use of
3 pretext interviews to obtain information in connection with an
4 insurance transaction; except that a pretext interview may be
5 undertaken to obtain information from a person or institution that
6 does not have a generally or statutorily recognized privileged re-
7 lationship with the person about whom the information relates for
8 the purpose of investigating a claim where, based upon specific
9 information available for review by the commissioner, there is a
10 reasonable basis for suspecting criminal activity, fraud, material
11 misrepresentation or material nondisclosure in connection with the
12 claim.

1 4. Notice of insurance information practices. a. An insurance
2 institution or agent shall provide a notice of information practices
3 to all applicants or policyholders in connection with insurance
4 transactions as follows:

5 (1) In the case of an application for insurance,

6 (a) At the time of the delivery of the insurance policy or
7 certificate when personal information is collected only from
8 the applicant or from public records; or

9 (b) At the time the collection of personal information is
10 initiated when personal information is collected from a source
11 other than the applicant or public records;

12 (2) In the case of a policy renewal, the policy renewal date,
13 except that no notice shall be required in connection with a policy
14 renewal if:

15 (a) Personal information is collected only from the policy-
16 holder or from public records, or

17 (b) A notice meeting the requirements of this section has
18 been given within the previous 24 months; or

19 (3) In the case of a policy reinstatement or change in insurance
20 benefits, at the time a request for a policy reinstatement or change
21 in insurance benefits is received by the insurance institution, except
22 that no notice shall be required if personal information is collected
23 only from the policyholder or from public records.

24 b. The notice shall be in writing and shall state:

25 (1) Whether personal information may be collected from persons
26 other than the individual or individuals proposed for coverage;

27 (2) The types of personal information that may be collected and
28 the types of sources and investigative techniques that may be used

29 to collect that information;

30 (3) The types of disclosures identified in subsections b., c., d.,
31 e., f., i., k., l. and n. of section 13 of this act and the circumstances
32 under which the disclosures may be made without prior authoriza-
33 tion; provided, however, only those circumstances need be described
34 which occur with such frequency as to indicate a general business
35 practice;

36 (4) A description of the rights established under sections 8 and 9
37 of this act and the manner in which these rights may be exercised;
38 and

39 (5) That information obtained from a report prepared by an
40 insurance-support organization may be retained by the insurance-
41 support organization and disclosed to other persons.

42 c. In lieu of the notice prescribed in subsection b., the insurance
43 institution or agent may provide an abbreviated notice informing
44 the applicant or policyholder that:

45 (1) Personal information may be collected from persons other
46 than the individual or individuals proposed for coverage,

47 (2) The information as well as other personal or privileged
48 information subsequently collected by the insurance institution or
49 agent may in certain circumstances be disclosed to third parties
50 without authorization,

51 (3) A right of access and correction exists with respect to all
52 personal information collected, and

53 (4) The notice prescribed in subsection b. of this section shall
54 be furnished to the applicant or policyholder upon request.

55 d. The obligations imposed by this section upon an insurance
56 institution or agent may be satisfied by another insurance institu-
57 tion or agent authorized to act on its behalf.

1 5. Marketing and research surveys. An insurance institution or
2 agent shall clearly specify those questions designed to obtain in-
3 formation solely for marketing or research purposes from an indi-
4 vidual in connection with an insurance transaction.

1 6. Content of disclosure authorization forms. Notwithstanding
2 any other provision of law in this State, no insurance institution,
3 agent or insurance-support organization shall utilize as its disclo-
4 sure authorization form in connection with insurance transactions
5 a form or statement which authorizes the disclosure of personal
6 or privileged information about an individual to the insurance
7 institution, agent or insurance-support organization unless the form
8 or statement:

9 a. Is written in plain language;

10 b. Is dated;

11 c. Specifies the types of persons authorized to disclose informa-
12 tion about the individual;

13 d. Specifies the nature of the information authorized to be
14 disclosed;

15 e. Names the insurance institution or agent and identifies by
16 generic reference representatives of the insurance institution to
17 whom the individual is authorizing information to be disclosed;

18 f. Specifies the purposes for which the information is collected;

19 g. Specifies the length of time the authorization shall remain
20 valid, which shall be no longer than:

21 (1) In the case of authorizations signed for the purpose of col-
22 lecting information in connection with an application for an in-
23 surance policy, a policy reinstatement or a request for change in
24 policy benefits,

25 (a) 30 months from the date the authorization is signed
26 if the application or request involves life, health or disability
27 insurance, or

28 (b) One year from the date the authorization is signed if
29 the application or request involves property or casualty in-
30 surance;

31 (2) In the case of authorizations signed for the purpose of col-
32 lecting information in connection with a claim for benefits under
33 an insurance policy,

34 (a) The term of coverage of the policy if the claim is for
35 a health insurance benefit, or

36 (b) The duration of the claim if the claim is not for a health
37 insurance benefit; and

38 h. Advises the individual or a person authorized to act on behalf
39 of the individual that the individual or the individual's authorized
40 representative is entitled to receive a copy of the authorization
41 form.

1 7. Investigative consumer reports. a. No insurance institution,
2 agent or insurance-support organization may prepare or request an
3 investigative consumer report about an individual in connection
4 with an insurance transaction involving an application for insur-
5 ance, a policy renewal, a policy reinstatement or a change in insur-
6 ance benefits unless the insurance institution or agent informs the
7 individual:

8 (1) That he may request to be interviewed in connection with
9 the preparation of the investigative consumer report, and

10 (2) That upon a request pursuant to section 8, he is entitled to
11 receive a copy of the investigative consumer report.

12 b. If any investigative consumer report is to be prepared by an

13 insurance institution or agent, the insurance institution or agent
14 shall institute reasonable procedures to conduct a personal inter-
15 view requested by an individual.

16 c. If any investigative consumer report is to be prepared by an
17 insurance-support organization, the insurance institution or agent
18 desiring the report shall inform the insurance-support organization
19 whether a personal interview has been requested by the individual.
20 The insurance-support organization shall institute reasonable pro-
21 cedures to conduct the interviews, if requested.

1 8. Access to recorded personal information. a. If any individual,
2 after proper identification, submits a written request to an insur-
3 ance institution, agent or insurance-support organization for access
4 to recorded personal information about the individual which is
5 reasonably described by the individual and reasonably locatable
6 and retrievable by the insurance institution, agent or insurance-
7 support organization, the insurance institution, agent or insurance-
8 support organization shall within 30 business days from the date
9 the request is received:

10 (1) Inform the individual of the nature and substance of the
11 recorded personal information in writing**[, by telephone or by
12 other oral communication, whichever the insurance institution,
13 agent or insurance-support organization prefers]**;

14 (2) Permit the individual to see and copy, in person, the re-
15 corded personal information pertaining to him or to obtain a copy
16 of the recorded personal information by mail, whichever the indi-
17 vidual prefers, unless the recorded personal information is in
18 coded form, in which case an accurate translation in plain language
19 shall be provided in writing;

20 (3) Disclose to the individual the identity, if recorded, of those
21 persons to whom the insurance institution, agent or insurance-
22 support organization has disclosed the personal information within
23 two years prior to the request, and if the identity is not recorded,
24 the names of those insurance institutions, agents, insurance-support
25 organizations or other persons to whom such information is norm-
26 ally disclosed; and

27 (4) Provide the individual with a summary of the proceedings
28 by which he may request correction, amendment or deletion of
29 recorded personal information.

30 b. Any personal information provided pursuant to subsection a.
31 above shall identify the source of the information if the source is
32 an institutional source.

33 c. Medical record information supplied by a medical-care insti-
34 tution or medical professional and requested under subsection a.,

35 together with the identity of the medical professional or medical
36 care institution which provided the information, shall be supplied
37 either directly to the individual or to a medical professional desig-
38 nated by the individual and licensed to provide medical care with
39 respect to the condition to which the information relates, which-
40 ever the insurance institution, agent or insurance-support organiza-
41 tion prefers. If it elects to disclose the information to a medical
42 professional designated by the individual, the insurance institution,
43 agent or insurance-support organization shall notify the individual,
44 at the time of the disclosure, that it has provided the information
45 to the medical professional.

46 d. Except for personal information provided under section 10,
47 an insurance institution, agent or insurance-support organization
48 may charge a reasonable fee to cover the costs incurred in provid-
49 ing a copy of recorded personal information to individuals.

50 e. The obligations imposed by this section upon an insurance
51 institution or agent may be satisfied by another insurance institu-
52 tion or agent authorized to act on its behalf. With respect to the
53 copying and disclosure of recorded personal information pursuant
54 to a request under subsection a., an insurance institution, agent or
55 insurance-support organization may make arrangements with an
56 insurance-support organization or a consumer reporting agency to
57 copy and disclose recorded personal information on its behalf.

58 f. The rights granted to individuals in this section shall extend
59 to all natural persons to the extent information about them is col-
60 lected and maintained by an insurance institution, agent or
61 insurance-support organization in connection with an insurance
62 transaction. The rights granted to all natural persons by this
63 section shall not extend to information about them that relates to
64 and is collected in connection with or in reasonable anticipation of
65 a claim or civil or criminal proceeding involving them.

66 g. For the purposes of this section, the term "insurance-support
67 organization" does not include a consumer reporting agency ***[ex-**
68 **cept to the extent that this section imposes more stringent**
69 **requirements on a consumer reporting agency than other State or**
70 **federal law]***

1 9. Correction, amendment or deletion of recorded personal
2 information. a. Within 30 business days from the date of receipt
3 of a written request from an individual to correct, amend or delete
4 any recorded personal information about the individual within its
5 possession, an insurance institution, agent or insurance-support
6 organization shall either:

7 (1) Correct, amend or delete the portion of the recorded personal
8 information in dispute; or

9 (2) Notify the individual of:

10 (a) Its refusal to make the correction, amendment or
11 deletion,

12 (b) The reasons for the refusal, and

13 (c) The individual's right to file a statement as provided
14 in subsection c.

15 b. If the insurance institution, agent, or insurance-support organi-
16 zation corrects, amends or deletes recorded personal information
17 in accordance with paragraph (1) of subsection a. above, the in-
18 surance institution, agent or insurance-support organization shall
19 so notify the individual in writing and furnish the correction,
20 amendment or fact of deletion to:

21 (1) Any person specifically designated by the individual who
22 may have, within the preceding two years, received the recorded
23 personal information;

24 (2) Any insurance-support organization whose primary source
25 of personal information is insurance institutions if the insurance-
26 support organization has systematically received the recorded
27 personal information from the insurance institution within the
28 preceding seven years; except that the correction, amendment or
29 fact of deletion need not be furnished if the insurance-support
30 organization no longer maintains recorded personal information
31 about the individual; and

32 (3) Any insurance-support organization that furnished the per-
33 sonal information that has been corrected, amended or deleted.

34 c. Whenever an individual disagrees with an insurance institu-
35 tion's, agent's or insurance-support organization's refusal to cor-
36 rect, amend or delete recorded personal information, the individual
37 shall be permitted to file with the insurance institution, agent or
38 insurance-support organization:

39 (1) A concise statement setting forth what the individual thinks
40 is the correct, relevant or fair information, and

41 (2) A concise statement of the reasons why the individual dis-
42 agrees with the insurance institution's, agent's or insurance-sup-
43 port organization's refusal to correct, amend or delete recorded
44 personal information.

45 d. In the event an individual files either statement as described
46 in subsection c. above, the insurance institution, agent or support
47 organization shall:

48 (1) File the statement with the disputed personal information
49 and provide a means by which anyone reviewing the disputed per-
50 sonal information will be made aware of the individual's statement
51 and have access to it, and

52 (2) In any subsequent disclosure by the insurance institution,
53 agent or support organization of the recorded personal informa-
54 tion that is the subject of disagreement, clearly identify the matter
55 or matters in dispute and provide the individual's statement along
56 with the recorded personal information being disclosed, and

57 (3) Furnish the statement to the persons and in the manner
58 specified in subsection b. above.

59 e. The rights granted to individuals in this section shall extend
60 to all natural persons to the extent information about them is
61 collected and maintained by an insurance institution, agent or
62 insurance-support organization in connection with an insurance
63 transaction. The rights granted to all natural persons by this
64 section shall not extend to information about them that relates to
65 and is collected in connection with or in reasonable anticipation of
66 a claim or civil or criminal proceeding involving them.

67 f. For the purposes of this section, the term "insurance-support
68 organization" does not include a consumer reporting agency ***[ex-**
69 **cept to the extent that this section imposes more stringent**
70 **requirements on a consumer reporting agency than other State or**
71 **federal law]**.*.

1 10. Reasons for adverse underwriting decisions. a. In the event
2 of an adverse underwriting decision the insurance institution or
3 agent responsible for the decision shall:

4 (1) Either provide the applicant, policyholder or individual pro-
5 posed for coverage with the specific reason or reasons for the
6 adverse underwriting decision in writing or advise the person that
7 upon written request he may receive the specific reason or reasons
8 in writing, and

9 (2) Provide the applicant, policyholder or individual proposed
10 for coverage with a summary of the rights established under sub-
11 section b. of this section and sections 8 and 9 of this act.

12 b. Upon receipt of a written request within 90 business days
13 from the date of the mailing of notice or other communication of
14 an adverse underwriting decision to an applicant, policyholder or
15 individual proposed for coverage, the insurance institution or agent
16 shall furnish to the person within 21 business days from the date
17 of receipt of the written request:

18 (1) The specific reason or reasons for the adverse underwriting
19 decision, in writing, if that information was not initially furnished
20 in writing pursuant to paragraph (1) of subsection a.;

21 (2) The specific items of personal and privileged information
22 that support those reasons, except that:

23 (a) The insurance institution or agent shall not be required
 24 to furnish specific items of privileged information if it has a
 25 reasonable suspicion, based upon specific information avail-
 26 able for review by the commissioner, that the applicant, policy-
 27 holder or individual proposed for coverage has engaged in
 28 criminal activity, fraud, material misrepresentation or material
 29 nondisclosure in connection with insurance transactions or
 30 claims, and

31 (b) Specific items of medical-record information supplied
 32 by a medical-care institution or medical professional shall be
 33 disclosed either directly to the individual about whom the
 34 information relates or to a medical professional designated
 35 by the individual and licensed to provide medical care with
 36 respect to the condition to which the information relates,
 37 whichever the insurance institution or agent prefers, and

38 (3) The names and addresses of the institutional sources that
 39 supplied the specific items of information pursuant to paragraph
 40 (2) of subsection b., except that the identity of any medical pro-
 41 fessional or medical-care institution shall be disclosed either di-
 42 rectly to the individual or to the designated medical professional,
 43 whichever the insurance institution or agent prefers.

44 c. The obligations imposed by this section upon an insurance
 45 institution or agent may be satisfied by another insurance insti-
 46 tution or agent authorized to act on its behalf.

47 d. When an adverse underwriting decision results solely from an
 48 oral request or inquiry, the explanation of reasons and summary
 49 of rights required by subsection a. may be given orally.

1 11. Information concerning previous adverse underwriting
 2 decisions. No insurance institution, agent or insurance-support
 3 organization may seek information in connection with an insurance
 4 transaction concerning:

5 a. Any previous adverse underwriting decision experienced by
 6 an individual, or

7 b. Any previous insurance coverage obtained by an individual
 8 through a residual market mechanism,

9 unless the inquiry also requests the reasons for any previous ad-
 10 verse underwriting decision or the reasons why insurance coverage
 11 was previously obtained through a residual market mechanism.

1 12. Previous adverse underwriting decisions. No insurance insti-
 2 tution or agent may base an adverse underwriting decision in whole
 3 or in part:

4 a. On the fact of a previous adverse underwriting decision or
 5 on the fact that an individual previously obtained insurance cover-
 6 age through a residual market mechanism; except that an insurance
 7 institution or agent may base an adverse underwriting decision on
 8 further information obtained from an insurance institution or agent
 9 responsible for a previous adverse underwriting decision;

10 b. On personal information received from an insurance-support
 11 organization whose primary source of information is insurance
 12 institutions: except that an insurance institution or agent may
 13 base an adverse underwriting decision on further personal informa-
 14 tion obtained as the result of information received from the in-
 15 surance-support organization.

1 13. Disclosure limitations and conditions. An insurance institu-
 2 tion, agent or insurance-support organization shall not disclose
 3 any personal or privileged information about an individual collected
 4 or received in connection with an insurance transaction unless the
 5 disclosure is:

6 a. With the written authorization of the individual, provided:

7 (1) If the authorization is submitted by another insurance
 8 institution, agent or insurance-support organization, the authoriza-
 9 tion meets the requirements of section 6 of this act, or

10 (2) If the authorization is submitted by a person other than an
 11 insurance institution, agent or insurance-support organization, the
 12 authorization is:

13 (a) Dated,

14 (b) Signed by the individual, and

15 (c) Obtained one year or less prior to the date a disclosure
 16 is sought pursuant to this subsection;

17 b. To a person other than an insurance institution, agent or
 18 insurance-support organization, provided the disclosure is reason-
 19 ably necessary:

20 (1) To enable the person to perform a business, professional or
 21 insurance function for the disclosing insurance institution, agent
 22 or insurance-support organization, and the person agrees not to
 23 disclose the information further without the individual's written
 24 authorization unless the further disclosure:

25 (a) Would otherwise be permitted by this section if made by
 26 an insurance institution, agent or insurance-support organiza-
 27 tion, or

28 (b) Is reasonably necessary for the person to perform its
 29 function for the disclosing insurance institution, agent or
 30 insurance-support organization; or

31 (2) To enable the person to provide information to the disclosing
32 insurance institution, agent or insurance-support organization for
33 the purpose of:

34 (a) Determining an individual's eligibility for an insurance
35 benefit or payment, or

36 (b) Detecting or preventing criminal activity, fraud, mate-
37 rial misrepresentation or material nondisclosure in connection
38 with an insurance transaction;

39 c. To an insurance institution, agent, insurance-support organiza-
40 tion or self-insurer, if the information disclosed is limited to that
41 which is reasonably necessary:

42 (1) To detect or prevent criminal activity; fraud, material mis-
43 representation or material nondisclosure in connection with in-
44 surance transactions, or

45 (2) For either the disclosing or receiving insurance institution,
46 agent or insurance-support organization to perform its functions
47 in connection with an insurance transaction involving the in-
48 dividual;

49 d. To a medical-care institution or medical professional for the
50 purpose of:

51 (1) Verifying insurance coverage or benefits;

52 (2) Informing an individual of a medical problem of which the
53 individual may not be aware; or

54 (3) Conducting an operations or services audit, provided only
55 that information is disclosed as is reasonably necessary to accom-
56 plish the foregoing purposes; or

57 e. To an insurance regulatory authority; or

58 f. To a law enforcement or other governmental authority:

59 (1) To protect the interests of the insurance institution, agent
60 or insurance-support organization in preventing or prosecuting
61 the perpetration of fraud upon it, or

62 (2) If the insurance institution, agent or insurance-support
63 organization reasonably believes that illegal activities have been
64 conducted by the individual;

65 g. Otherwise permitted or required by law;

66 h. In response to a facially valid administrative or judicial order,
67 including a search warrant or subpoena;

68 i. Made for the purpose of conducting actuarial or research
69 studies, provided:

70 (1) No individual may be identified in any actuarial or research
71 report,

72 (2) Materials allowing the individual to be identified are re-
73 turned or destroyed as soon as they are no longer needed, and

74 (3) The actuarial or research organization agrees not to disclose
75 the information unless the disclosure would otherwise be permitted
76 by this section if made by an insurance institution, agent or
77 insurance-support organization;

78 j. To a party or a representative of a party to a proposed or
79 consummated sale, transfer, merger or consolidation of all or part
80 of the business of the insurance institution, agent or insurance-
81 support organization, except that:

82 (1) Prior to the consummation of the sale, transfer, merger or
83 consolidation only such information is disclosed as is reasonably
84 necessary to enable the recipient to make business decisions about
85 the purchase, transfer, merger or consolidation, and

86 (2) The recipient agrees not to disclose the information unless
87 the disclosure would otherwise be permitted by this section if
88 made by an insurance institution, agent or insurance-support
89 organization;

90 k. To a person whose only use of such information will be in
91 connection with the marketing of a product or service, if:

92 (1) No medical-record information, privileged information, or
93 personal information relating to an individual's character, personal
94 habits, mode of living or general reputation is disclosed, and no
95 classification derived from that information is disclosed,

96 (2) The individual has been given an opportunity to indicate
97 that he does not want personal information disclosed for marketing
98 purposes and has given no indication that he does not want the
99 information disclosed, and

100 (3) The person receiving the information agrees not to use it
101 except in connection with the marketing of a product or service,

102 l. To an affiliate whose only use of the information will be in
103 connection with an audit of the insurance institution or agent or
104 the marketing of an insurance product or service, if the affiliate
105 agrees not to disclose the information for any other purpose or to
106 unaffiliated persons;

107 m. By a consumer reporting agency, if the disclosure is to a
108 person other than an insurance institution or agent;

109 n. To a group policyholder for the purpose of reporting claims
110 experience or conducting an audit of the insurance institution's or
111 agent's operations or services, if the information disclosed is
112 reasonably necessary for the recipient to conduct the review or
113 audit;

114 o. To a professional peer review organization for the purpose of

115 reviewing the service or conduct of a medical-care institution or
116 medical professional;

117 p. To a governmental authority for the purpose of determining
118 the individual's eligibility for health benefits for which the govern-
119 mental authority may be liable;

120 q. To a certificateholder or policyholder for the purpose of
121 providing information regarding the status of an insurance trans-
122 action; or

123 r. To a lienholder, mortgagee, assignee, lessor or other person
124 shown on the records of an insurance institution or agent as having
125 a legal or beneficial interest in a policy of insurance, provided:

126 (1) No medical-record information is disclosed unless the dis-
127 closure would otherwise be permitted by this section of this act; and

128 (2) The information disclosed is limited to that reasonably
129 necessary to permit the person to protect its interests in the policy.

1 14. Power of commissioner. a. The commissioner shall have
2 power to examine and investigate into the affairs of every insurance
3 institution or agent doing business in this State to determine
4 whether the insurance institution or agent has been or is engaged
5 in any conduct in violation of this act.

6 b. The commissioner shall have the power to examine and
7 investigate into the affairs of every insurance-support organiza-
8 tion acting on behalf of an insurance institution or agent which
9 either transacts business in this State or transacts business out-
10 side this State that has an effect on a person residing in this State
11 in order to determine whether the insurance-support organization
12 has been or is engaged in any conduct in violation of this act.

1 15. Hearings, witnesses, appearances, production of books and
2 service of process. a. Whenever the commissioner has reason to
3 believe that an insurance institution, agent or insurance-support
4 organization has been or is engaged in conduct in this State which
5 violates this act, or if the commissioner believes that an insurance-
6 support organization has been or is engaged in conduct outside
7 this State which has an effect on a person residing in this State
8 and which violates this act, the commissioner shall issue and serve
9 upon the insurance institution, agent or insurance-support organi-
10 zation a statement of charges and notice of hearing to be held at a
11 time and place fixed in the notice. The date for the hearing shall be
12 not less than 30 days after the date of service.

13 b. At the time and place fixed for the hearing the insurance
14 institution, agent or insurance-support organization charged shall
15 have an opportunity to answer the charges against it and present
16 evidence on its behalf. Upon good cause shown, the commissioner

17 shall, permit any adversely affected person to intervene, appear
18 and be heard at the hearing by counsel or in person.

19 c. At any hearing conducted pursuant to this section the com-
20 missioner may administer oaths, examine and cross-examine
21 witnesses and receive oral and documentary evidence. The com-
22 missioner shall have the power to subpoena witnesses, compel
23 their attendance and require the production of books, papers,
24 records, correspondence and other documents which are relevant
25 to the hearing. A stenographic record of the hearing shall be
26 made upon the request of any party or at the discretion of the
27 commissioner. If no stenographic record is made and if judicial
28 review is sought, the commissioner shall prepare a statement of
29 the evidence for use on review. Hearings conducted under this
30 section shall be governed by the same rules of evidence and pro-
31 cedure applicable to administrative proceedings conducted pur-
32 suant to the "Administrative Procedure Act," P. L. 1968, c. 410
33 (C. 52:14B-1 et seq.).

34 d. Statements of charges, notices, orders and other processes
35 of the commissioner under this act may be served by anyone duly
36 authorized to act on behalf of the commissioner. Service of process
37 may be completed in the manner provided by law for service of
38 process in civil actions or by registered mail. A copy of the state-
39 ment of charges, notice, order or other process shall be provided
40 to the person or persons whose rights under this act have been
41 allegedly violated. A verified return setting forth the manner of
42 service, or return postcard receipt in the case of registered mail,
43 shall be sufficient proof of service.

1 16. Service of process—insurance-support organizations. For the
2 purpose of this act, an insurance-support organization transacting
3 business outside this State which has an effect on a person residing
4 in this State shall be deemed to have appointed the commissioner
5 to accept service of process on its behalf, if the commissioner
6 causes a copy of such service to be mailed forthwith by registered
7 mail to the insurance-support organization at its last known prin-
8 cipal place of business. The return postcard receipt for the mailing
9 shall be sufficient proof that the same was properly mailed by the
10 commissioner.

1 17. Cease and desist orders and reports. a. If, after a hearing
2 pursuant to section 15, the commissioner determines that the insur-
3 ance institution, agent or insurance-support organization charged
4 has engaged in conduct or practices in violation of this act, the
5 commissioner shall reduce his findings to writing and shall issue
6 and cause to be served upon the insurance institution, agent or

7 insurance-support organization a copy of the findings and an order
8 requiring the insurance institution, agent or insurance-support
9 organization to cease and desist from the conduct or practices
10 constituting a violation of this act.

11 b. If, after a hearing pursuant to section 15, the commissioner
12 determines that the insurance institution, agent or insurance-
13 support organization charged has not engaged in conduct or prac-
14 tices in violation of this act, the commissioner shall prepare a
15 written report which sets forth findings of fact and conclusions of
16 law. The report shall be served upon the insurance institution,
17 agent or insurance-support organization charged and upon the
18 persons, if any, whose rights under this act were allegedly violated.

19 c. Until the expiration of the time allowed under section 19 of
20 this act for filing a petition for review or until the petition is
21 actually filed, whichever occurs first, the commissioner may modify
22 or set aside any order or report issued under this section. After the
23 expiration of the time allowed under section 19 of this act for
24 filing a petition for review, if no petition has been duly filed, the
25 commissioner may, after notice and opportunity for hearing, alter,
26 modify or set aside, in whole or in part, any order or report issued
27 under this section whenever conditions of fact or law warrant such
28 action or if the public interest so requires.

1 18. Penalties. a. In any case where a hearing pursuant to section
2 15 results in the finding of a knowing violation of this act, the
3 commissioner may, in addition to the issuance of a cease and desist
4 order as prescribed in section 17, order payment of a monetary
5 penalty of not more than \$500.00 for each violation but not to exceed
6 \$10,000.00 in the aggregate for multiple violations.

7 b. Any person who violates a cease and desist order of the com-
8 missioner under section 17 of this act may, after notice and hearing
8A and upon order of the commissioner, be subject to one or more of
8B the following penalties, at the discretion of the commissioner:

9 (1) A monetary fine of not more than \$10,000.00 for each viola-
10 tion, or

11 (2) A monetary fine of not more than \$50,000.00 if the commis-
12 sioner finds that violations have occurred with such frequency as
13 to constitute a general business practice, or

14 (3) Suspension or revocation of any insurance institution's or
15 agent's license.

1 19. Judicial review of orders and reports. a. Any person subject
2 to an order of the commissioner under section 17 or section 18 or
3 any person whose rights under this act were allegedly violated may
4 obtain a review of any order or report of the commissioner by filing

5 in the Superior Court, Appellate Division, within 45 days from the
6 date of the service of the order or report, a written petition
7 requesting that the order or report of the commissioner be set aside.
8 A copy of the petition shall be simultaneously served upon the
9 commissioner, who shall forthwith certify and file in the court a
10 transcript of the entire record of the proceeding giving rise to the
11 order or report which is the subject of the petition. Upon the filing
12 of the petition and the transcript, the Superior Court, Appellate
13 Division, shall have jurisdiction to make and enter a decree modify-
14 ing, affirming or reversing any order or report of the commissioner,
15 in whole or in part. The findings of the commissioner as to the
16 facts supporting any order or report, if supported by clear and
17 convincing evidence, shall be conclusive.

18 b. To the extent an order or report of the commissioner is
19 affirmed, the court shall issue its own order commanding obedience
20 to the terms of the order or report of the commissioner. If any
21 party affected by an order or report of the commissioner shall
22 apply to the court for leave to produce additional evidence and
23 shall show to the satisfaction of the court that the additional
24 evidence is material and that there are reasonable grounds for the
25 failure to produce this evidence in prior proceedings, the court
26 may order the additional evidence to be taken before the commis-
27 sioner in a manner and upon those terms and conditions as the
28 court may deem proper. The commissioner may modify his findings
29 of fact or make new findings by reason of the additional evidence
30 so taken and shall file modified or new findings along with any
31 recommendation, if any, for the modification or revocation of a
32 previous order or report. If supported by clear and convincing
33 evidence, the modified or new findings shall be conclusive as to the
34 matters contained herein.

35 c. An order or report issued by the commissioner under section 17
36 or 18 shall become final:

37 (1) Upon the expiration of the time allowed for the filing of a
38 a petition for review, if no such petition has been duly filed; except
39 that the commissioner may modify or set aside an order or report
40 to the extent provided in subsection c. of section 17; or

41 (2) Upon a final decision of the Superior Court, Appellate Divi-
42 sion, if the court directs that the order or report of the commis-
43 sioner be affirmed or the petition for review is dismissed.

44 d. No order or report of the commissioner under this act or order
45 of a court to enforce the same shall in any way relieve or absolve
46 any person affected by the order or report from any liability under
47 any law of this State.

1 20. Individual remedies. a. If any insurance institution, agent or
2 insurance-support organization fails to comply with section 8, 9 or
3 10 of this act with respect to the rights granted under those sections,
4 any person whose rights are violated may apply to the Superior
5 Court of this State, or any other court of competent jurisdiction,
6 for appropriate equitable relief.

7 b. An insurance institution, agent or insurance-support orga-
8 nization which discloses information in violation of section 13 of
9 this act shall be liable for damages sustained by the individual about
10 whom the information relates; except that no individual shall be
11 entitled to a monetary award which exceeds the actual damages
12 sustained by the individual as a result of a violation of section 13
13 of this act.

14 c. In any action brought pursuant to this section, the court may
15 award the cost of the action and reasonable attorney's fees to the
16 prevailing party.

17 d. An action under this section shall be brought within two years
18 from the date the alleged violation is or should have been dis-
19 covered.

20 e. Except as specifically provided in this section, there shall be
21 no remedy or recovery available to individuals, in law or in equity,
22 for occurrences constituting a violation of any provision of this act.

1 21. Immunity. No cause of action in the nature of defamation,
2 invasion of privacy or negligence shall arise against any person
3 for disclosing personal or privileged information in accordance
4 with this act, nor shall such a cause of action arise against any
5 person for furnishing personal or privileged information to an
6 insurance institution, agent or insurance-support organization;
7 except this section shall provide no immunity for disclosing or
8 furnishing false information with malice or willful intent to injure
9 any person.

1 22. Obtaining information under false pretenses. Any person who
2 knowingly and willfully obtains information about an individual
3 from an insurance institution, agent or insurance-support orga-
4 nization under false pretenses is guilty of a crime of the fourth
5 degree.

1 23. Effective date. a. This act shall take effect 180 days after
2 enactment.

3 b. The rights granted under sections 8, 9 and 13 of this act shall
4 take effect on the effective date of this act regardless of the date
5 of the collection or receipt of the information which is the subject
6 of those sections.

SENATE, No. 1013

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1984 SESSION

By Senator FELDMAN

AN ACT establishing standards for the collection, use, and disclosure of information gathered in connection with insurance transactions.

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

1 1. a. The obligations imposed by this act shall apply to those
2 insurance institutions, agents or insurance-support organizations
3 which, on or after the effective date of this act:

4 (1) In the case of life, health or disability insurance:

5 (a) Collect, receive, or maintain information in connection
6 with insurance transactions which pertains to natural persons
7 who are residents of this State, or

8 (b) Engage in insurance transactions with applicants, in-
9 dividuals or policyholders who are residents of this State, and

10 (2) In the case of property or casualty insurance:

11 (a) Collect, receive or maintain information in connection
12 with insurance transactions involving policies, contracts or
13 certificates of insurance delivered, issued for delivery or re-
14 newed in this State, or

15 (b) Engage in insurance transactions involving policies,
16 contracts or certificates of insurance delivered, issued for
17 delivery or renewed in this State.

18 b. The rights granted by this act shall extend to:

19 (1) In the case of life, health or disability insurance, the follow-
20 ing persons who are residents of this State:

21 (a) Natural persons who are the subject of information
22 collected, received or maintained in connection with insurance
23 transactions, and

24 (b) Applicants, individuals or policyholders who engage in
25 or seek to engage in insurance transactions, and

26 (2) In the case of property or casualty insurance, the following
27 persons:

28 (a) Natural persons who are the subject of information
29 collected, received or maintained in connection with insurance
30 transactions involving policies, contracts or certificates of
31 insurance delivered, issued for delivery or renewed in this
32 State, and

33 (b) Applicants, individuals or policyholders who engage
34 in or seek to engage in insurance transactions involving
35 policies, contracts or certificates of insurance delivered, issued
36 for delivery or renewed in this State.

37 c. For purposes of this section, a person shall be considered
38 a resident of this State if the person's last known mailing address,
39 as shown in the records of the insurance institution, agent or
40 insurance-support organization, is located in this State.

41 d. Notwithstanding subsections a. and b. above, this act shall
42 not apply to information collected from the public records of a
43 governmental authority and maintained by an insurance institution
44 or its representatives for the purpose of insuring the title to real
45 property located in this State.

1 2. Definitions.

2 As used in this act:

3 a. "Adverse underwriting decision" means:

4 (1) Any of the following actions with respect to insurance
5 transactions involving insurance coverage which is individually
6 underwritten for an individual:

7 (a) A declination of insurance coverage,

8 (b) A termination of insurance coverage,

9 (c) Failure of an agent to apply for insurance coverage
10 with a specific insurance institution which the agent represents
11 and which is requested by an applicant,

12 (d) In the case of a property or casualty insurance coverage:

13 (i) Placement by an insurance institution or agent of a
14 risk with a residual market mechanism or an unauthorized
15 insurer, or

16 (ii) The charging of a higher rate on the basis of infor-
17 mation which differs from that which the applicant or policy-
18 holder furnished,

19 (e) In the case of a life, health or disability insurance
20 coverage, an offer to insure at a higher rate than the insurance

21 institution's table of premium rates applicable to the age and
22 class of risk of each person to be covered under that coverage
23 and to the type and amount of insurance provided.

24 (2) Notwithstanding paragraph (1) above, the following actions,
25 if permitted by law, shall not be considered adverse underwriting
26 decisions but the insurance institution or agent responsible for
27 their occurrence shall nevertheless provide the applicant or policy-
28 holder with the specific reason or reasons for their occurrence:

29 (a) The termination of an individual policy form on a
30 class or Statewide basis,

31 (b) A declination of insurance coverage solely because such
32 coverage is not available on a class or Statewide basis, or

33 (c) The rescission of a policy.

34 b. "Affiliate" or "affiliated" means a person that directly, or
35 indirectly through one or more intermediaries, controls, is con-
36 trolled by or is under common control with another person.

37 c. "Agent" means any person defined in chapter 22 of Title 17
38 of the Revised Statutes, chapter 22 of Title 17B of the New Jersey
39 Statutes and in R. S. 17:35-23.

40 d. "Applicant" means a person who seeks to contract for
41 insurance coverage other than a person seeking group insurance
42 that is not individually underwritten.

43 e. "Commissioner" means the Commissioner of Insurance.

44 f. "Consumer report" means any written, oral or other com-
45 munication of information bearing on a natural person's credit
46 worthiness, credit standing, credit capacity, character, general
47 reputation, personal characteristics or mode of living which is
48 used or expected to be used in connection with an insurance
49 transaction.

50 g. "Consumer reporting agency" means any person who:

51 (1) Regularly engages, in whole or in part, in the practice of
52 assembling or preparing consumer reports, for a monetary fee,
53 and

54 (2) Obtains information primarily from sources other than
55 insurance institutions, and

56 (3) Furnishes consumer reports to other persons.

57 h. "Control," including the terms "controlled by" or "under
58 common control with," means the possession, direct or indirect
59 of the power to direct or cause the direction of the management
60 and policies of a person, whether through the ownership of voting
61 securities, by contract other than a commercial contract of goods
62 or nonmanagement services, or otherwise, unless the power is the

63 result of an official position with or corporate office held by the
64 person.

65 i. "Declination of insurance coverage" means a denial, in whole
66 or in part, by an insurance institution or agent of requested in-
67 surance coverage.

68 j. "Individual" means any natural person who:

69 (1) In the case of property or casualty insurance, is a past,
70 present or proposed named insured or certificateholder;

71 (2) In the case of life, health or disability insurance, is a past,
72 present or proposed principal insured or certificateholder;

73 (3) Is a past, present or proposed policyowner;

74 (4) Is a past or present applicant; or

75 (5) Is a past or present claimant, or

76 (6) Derived, derives or is proposed to derive insurance coverage
77 under an insurance policy or certificate subject to this act.

78 k. "Institutional source" means any person or governmental
79 entity that provides information about an individual to an agent,
80 insurance institution or insurance support organization, other than:

81 (1) An agent,

82 (2) The individual who is the subject of the information, or

83 (3) A natural person acting in a personal capacity rather than in
84 a business or professional capacity.

85 l. "Insurance institution" means any corporation, association,
86 partnership, reciprocal exchange, interinsurer, Lloyd's insurer,
87 fraternal benefit society or other person engaged in the business
88 of insurance; including health maintenance organizations, medical
89 service corporations, hospital service corporations, dental service
90 corporations, automobile insurance plan and the New Jersey
91 Automobile Full Insurance Underwriting Association as defined
92 in section 2 of P. L. 1973, c. 337 (C. 26:2J-2), section 1 of P. L. 1940,
93 c. 74 (C. 17:48A-1), section 1 of P. L. 1960, c. 1 (C. 17:48B-1),
94 section 2 of P. L. 1968, c. 305 (C. 17:48C-2), P. L. 1970, c. 215
95 (C. 17:29D-1 et seq.) and P. L. 1983, c. 65 (C. 17:29A-33 et al.),
96 "Insurance institution" shall not include agents or insurance-
97 support organizations.

98 m. "Insurance-support organization" means:

99 (1) Any person who regularly engages, in whole or in part, in
100 the practice of assembling or collecting information about natural
101 persons for the primary purpose of providing the information to
102 an insurance institution or agent for insurance transactions, in-
103 cluding:

104 (a) The furnishing of consumer reports or investigative

105 consumer reports to an insurance institution or agent for use
106 in connection with an insurance transaction, or

107 (b) The collection of personal information from insurance
108 institutions, agents or other insurance-support organizations
109 for the purpose of detecting or preventing fraud, material
110 misrepresentation or material nondisclosure in connection with
111 insurance underwriting or insurance claim activity.

112 (2) Notwithstanding paragraph (1) of this subsection, the
113 following persons shall not be considered "insurance-support
114 organizations" for the purposes of this act: agents, government
115 institutions, insurance institutions, medical-care institutions,
116 medical professionals and rating organizations as defined in section
117 1 of P. L. 1944, c. 27 (C. 17:29A-1).

118 n. "Insurance transaction" means any transaction involving
119 insurance primarily for personal, family or household needs rather
120 than business or professional needs which entails:

121 (1) The determination of an individual's eligibility for an in-
122 surance coverage, benefit or payment, or

123 (2) The servicing of an insurance application, policy, contract
124 or certificate.

125 o. "Investigative consumer report" means a consumer report
126 or portion thereof in which information about a natural person's
127 character, general reputation, personal characteristics or mode
128 of living is obtained through personal interviews with the person's
129 neighbors, friends, associates, acquaintances or others who may
130 have knowledge concerning those items of information.

131 p. "Medical-care institution" means a facility or institution
132 that is licensed to provide health care services to natural persons,
133 including but not limited to, hospitals, skilled nursing facilities,
134 nursing facilities, home-health agencies, medical clinics, rehabilita-
135 tion agencies, public health agencies or health-maintenance organi-
136 zations.

137 q. "Medical professional" means any person providing health
138 care services to natural persons, including but not limited to, a
139 physician, podiatrist, dentist, nurse, optometrist, chiropractor,
140 physical therapist, occupational therapist, pharmacist, psycholo-
141 gist, dietitian, psychiatric social worker or speech therapist.

142 r. "Medical-record information" means personal information
143 which:

144 (1) Relates to an individual's physical or mental condition,
145 medical history or medical treatment, and

146 (2) Is obtained from a medical professional or medical-care insti-

147 tution, from the individual, or from the individual's spouse, parent
148 or legal guardian.

149 s. "Person" means any natural person, corporation, association,
150 partnership or other legal entity.

151 t. "Personal information" means any individually identifiable
152 information gathered in connection with an insurance transaction
153 from which judgments can be made about an individual's character,
154 habits, avocations, finances, occupation, general reputation, credit,
155 health or any other personal characteristics. "Personal informa-
156 tion" includes an individual's name and address and medical-record
157 information but does not include privileged information.

158 u. "Policyholder" means any person who:

159 (1) In the case of individual property or casualty insurance, is
160 a present named insured;

161 (2) In the case of individual life, health or disability insurance,
162 is a present policyowner, or

163 (3) In the case of group insurance which is individually under-
164 written, is a present group certificateholder.

165 v. "Pretext interview" means an interview whereby a person,
166 in an attempt to obtain information about a natural person, per-
167 forms one or more of the following acts:

168 (1) Pretends to be someone he is not,

169 (2) Pretends to represent a person he is not in fact representing,

170 (3) Misrepresents the true purpose of the interview, or

171 (4) Refuses to identify himself upon request.

172 w. "Privileged information" means any individually identifiable
173 information that:

174 (1) Relates to a claim for insurance benefits or a civil or criminal
175 proceeding involving an individual, and

176 (2) Is collected in connection with or in reasonable anticipation
177 of a claim for insurance benefits or civil or criminal proceeding
178 involving an individual; except that information otherwise meeting
179 the requirements of this subsection shall nevertheless be considered
180 personal information under this act if it is disclosed in violation of
181 section 13 of this act.

182 x. "Residual market mechanism" means any insurance pooling
183 mechanism, joint underwriting association, or reinsurance facility
184 created pursuant to law or regulation which provides insurance
185 coverage for any risk that is not insurable in the voluntary market.

186 y. "Termination of insurance coverage" or "termination of an
187 insurance policy" means either a cancellation or nonrenewal of an
188 insurance policy, in whole or in part, for any reason other than the
189 failure to pay a premium as required by the policy.

190 z. "Unauthorized insurer" means an insurance institution that
191 has not been granted a certificate of authority by the commissioner
192 to transact the business of insurance in this State.

1 3. Pretext interviews. No insurance institution, agent or in-
2 surance-support organization shall use or authorize the use of
3 pretext interviews to obtain information in connection with an
4 insurance transaction; except that a pretext interview may be
5 undertaken to obtain information from a person or institution that
6 does not have a generally or statutorily recognized privileged re-
7 lationship with the person about whom the information relates for
8 the purpose of investigating a claim where, based upon specific
9 information available for review by the commissioner, there is a
10 reasonable basis for suspecting criminal activity, fraud, material
11 misrepresentation or material nondisclosure in connection with the
12 claim.

1 4. Notice of insurance information practices. a. An insurance
2 institution or agent shall provide a notice of information practices
3 to all applicants or policyholders in connection with insurance
4 transactions as follows:

5 (1) In the case of an application for insurance,

6 (a) At the time of the delivery of the insurance policy or
7 certificate when personal information is collected only from
8 the applicant or from public records; or

9 (b) At the time the collection of personal information is
10 initiated when personal information is collected from a source
11 other than the applicant or public records;

12 (2) In the case of a policy renewal, the policy renewal date,
13 except that no notice shall be required in connection with a policy
14 renewal if:

15 (a) Personal information is collected only from the policy-
16 holder or from public records, or

17 (b) A notice meeting the requirements of this section has
18 been given within the previous 24 months; or

19 (3) In the case of a policy reinstatement or change in insurance
20 benefits, at the time a request for a policy reinstatement or change
21 in insurance benefits is received by the insurance institution, except
22 that no notice shall be required if personal information is collected
23 only from the policyholder or from public records.

24 b. The notice shall be in writing and shall state:

25 (1) Whether personal information may be collected from persons
26 other than the individual or individuals proposed for coverage;

27 (2) The types of personal information that may be collected and
28 the types of sources and investigative techniques that may be used
29 to collect that information;

30 (3) The types of disclosures identified in subsections b., c., d.,
31 e., f., i., k., l. and n. of section 13 of this act and the circumstances
32 under which the disclosures may be made without prior authoriza-
33 tion; provided, however, only those circumstances need be described
34 which occur with such frequency as to indicate a general business
35 practice;

36 (4) A description of the rights established under sections 8 and 9
37 of this act and the manner in which these rights may be exercised;
38 and

39 (5) That information obtained from a report prepared by an
40 insurance-support organization may be retained by the insurance-
41 support organization and disclosed to other persons.

42 c. In lieu of the notice prescribed in subsection b., the insurance
43 institution or agent may provide an abbreviated notice informing
44 the applicant or policyholder that:

45 (1) Personal information may be collected from persons other
46 than the individual or individuals proposed for coverage,

47 (2) The information as well as other personal or privileged
48 information subsequently collected by the insurance institution or
49 agent may in certain circumstances be disclosed to third parties
50 without authorization,

51 (3) A right of access and correction exists with respect to all
52 personal information collected, and

53 (4) The notice prescribed in subsection b. of this section shall
54 be furnished to the applicant or policyholder upon request.

55 d. The obligations imposed by this section upon an insurance
56 institution or agent may be satisfied by another insurance institu-
57 tion or agent authorized to act on its behalf.

1 5. Marketing and research surveys. An insurance institution or
2 agent shall clearly specify those questions designed to obtain in-
3 formation solely for marketing or research purposes from an indi-
4 vidual in connection with an insurance transaction.

1 6. Content of disclosure authorization forms. Notwithstanding
2 any other provision of law in this State, no insurance institution,
3 agent or insurance-support organization shall utilize as its disclo-
4 sure authorization form in connection with insurance transactions
5 a form or statement which authorizes the disclosure of personal
6 or privileged information about an individual to the insurance
7 institution, agent or insurance-support organization unless the form
8 or statement:

9 a. Is written in plain language;

10 b. Is dated;

11 c. Specifies the types of persons authorized to disclose informa-
12 tion about the individual;

13 d. Specifies the nature of the information authorized to be
14 disclosed;

15 e. Names the insurance institution or agent and identifies by
16 generic reference representatives of the insurance institution to
17 whom the individual is authorizing information to be disclosed;

18 f. Specifies the purposes for which the information is collected;

19 g. Specifies the length of time the authorization shall remain
20 valid, which shall be no longer than:

21 (1) In the case of authorizations signed for the purpose of col-
22 lecting information in connection with an application for an in-
23 surance policy, a policy reinstatement or a request for change in
24 policy benefits,

25 (a) 30 months from the date the authorization is signed
26 if the application or request involves life, health or disability
27 insurance, or

28 (b) One year from the date the authorization is signed if
29 the application or request involves property or casualty in-
30 surance;

31 (2) In the case of authorizations signed for the purpose of col-
32 lecting information in connection with a claim for benefits under
33 an insurance policy,

34 (a) The term of coverage of the policy if the claim is for
35 a health insurance benefit, or

36 (b) The duration of the claim if the claim is not for a health
37 insurance benefit; and

38 h. Advises the individual or a person authorized to act on behalf
39 of the individual that the individual or the individual's authorized
40 representative is entitled to receive a copy of the authorization
41 form.

1 7. Investigative consumer reports. a. No insurance institution,
2 agent or insurance-support organization may prepare or request an
3 investigative consumer report about an individual in connection
4 with an insurance transaction involving an application for insur-
5 ance, a policy renewal, a policy reinstatement or a change in insur-
6 ance benefits unless the insurance institution or agent informs the
7 individual:

8 (1) That he may request to be interviewed in connection with
9 the preparation of the investigative consumer report, and

10 (2) That upon a request pursuant to section 8, he is entitled to
11 receive a copy of the investigative consumer report.

12 b. If any investigative consumer report is to be prepared by an

13 insurance institution or agent, the insurance institution or agent
14 shall institute reasonable procedures to conduct a personal inter-
15 view requested by an individual.

16 c. If any investigative consumer report is to be prepared by an
17 insurance-support organization, the insurance institution or agent
18 desiring the report shall inform the insurance-support organization
19 whether a personal interview has been requested by the individual.
20 The insurance-support organization shall institute reasonable pro-
21 cedures to conduct the interviews, if requested.

1 8. Access to recorded personal information. a. If any individual,
2 after proper identification, submits a written request to an insur-
3 ance institution, agent or insurance-support organization for access
4 to recorded personal information about the individual which is
5 reasonably described by the individual and reasonably locatable
6 and retrievable by the insurance institution, agent or insurance-
7 support organization, the insurance institution, agent or insurance-
8 support organization shall within 30 business days from the date
9 the request is received:

10 (1) Inform the individual of the nature and substance of the
11 recorded personal information in writing, by telephone or by other
12 oral communication, whichever the insurance institution, agent or
13 insurance-support organization prefers;

14 (2) Permit the individual to see and copy, in person, the re-
15 corded personal information pertaining to him or to obtain a copy
16 of the recorded personal information by mail, whichever the indi-
17 vidual prefers, unless the recorded personal information is in
18 coded form, in which case an accurate translation in plain language
19 shall be provided in writing;

20 (3) Disclose to the individual the identity, if recorded, of those
21 persons to whom the insurance institution, agent or insurance-
22 support organization has disclosed the personal information within
23 two years prior to the request, and if the identity is not recorded,
24 the names of those insurance institutions, agents, insurance-support
25 organizations or other persons to whom such information is norm-
26 ally disclosed; and

27 (4) Provide the individual with a summary of the proceedings
28 by which he may request correction, amendment or deletion of
29 recorded personal information.

30 b. Any personal information provided pursuant to subsection a.
31 above shall identify the source of the information if the source is
32 an institutional source.

33 c. Medical record information supplied by a medical-care insti-
34 tution or medical professional and requested under subsection a.,

35 together with the identity of the medical professional or medical
36 care institution which provided the information, shall be supplied
37 either directly to the individual or to a medical professional desig-
38 nated by the individual and licensed to provide medical care with
39 respect to the condition to which the information relates, which-
40 ever the insurance institution, agent or insurance-support organiza-
41 tion prefers. If it elects to disclose the information to a medical
42 professional designated by the individual, the insurance institution,
43 agent or insurance-support organization shall notify the individual,
44 at the time of the disclosure, that it has provided the information
45 to the medical professional.

46 d. Except for personal information provided under section 10,
47 an insurance institution, agent or insurance-support organization
48 may charge a reasonable fee to cover the costs incurred in provid-
49 ing a copy of recorded personal information to individuals.

50 e. The obligations imposed by this section upon an insurance
51 institution or agent may be satisfied by another insurance institu-
52 tion or agent authorized to act on its behalf. With respect to the
53 copying and disclosure of recorded personal information pursuant
54 to a request under subsection a., an insurance institution, agent or
55 insurance-support organization may make arrangements with an
56 insurance-support organization or a consumer reporting agency to
57 copy and disclose recorded personal information on its behalf.

58 f. The rights granted to individuals in this section shall extend
59 to all natural persons to the extent information about them is col-
60 lected and maintained by an insurance institution, agent or
61 insurance-support organization in connection with an insurance
62 transaction. The rights granted to all natural persons by this
63 section shall not extend to information about them that relates to
64 and is collected in connection with or in reasonable anticipation of
65 a claim or civil or criminal proceeding involving them.

66 g. For the purposes of this section, the term "insurance-support
67 organization" does not include a consumer reporting agency except
68 to the extent that this section imposes more stringent requirements
69 on a consumer reporting agency than other State or federal law.

1 9. Correction, amendment or deletion of recorded personal
2 information. a. Within 30 business days from the date of receipt
3 of a written request from an individual to correct, amend or delete
4 any recorded personal information about the individual within its
5 possession, an insurance institution, agent or insurance-support
6 organization shall either:

7 (1) Correct, amend or delete the portion of the recorded personal
8 information in dispute; or

- 9 (2) Notify the individual of:
- 10 (a) Its refusal to make the correction, amendment or
11 deletion,
- 12 (b) The reasons for the refusal, and
- 13 (c) The individual's right to file a statement as provided
14 in subsection c.
- 15 b. If the insurance institution, agent, or insurance-support organi-
16 zation corrects, amends or deletes recorded personal information
17 in accordance with paragraph (1) of subsection a. above, the in-
18 surance institution, agent or insurance-support organization shall
19 so notify the individual in writing and furnish the correction,
20 amendment or fact of deletion to:
- 21 (1) Any person specifically designated by the individual who
22 may have, within the preceding two years, received the recorded
23 personal information;
- 24 (2) Any insurance-support organization whose primary source
25 of personal information is insurance institutions if the insurance-
26 support organization has systematically received the recorded
27 personal information from the insurance institution within the
28 preceding seven years; except that the correction, amendment or
29 fact of deletion need not be furnished if the insurance-support
30 organization no longer maintains recorded personal information
31 about the individual; and
- 32 (3) Any insurance-support organization that furnished the per-
33 sonal information that has been corrected, amended or deleted.
- 34 c. Whenever an individual disagrees with an insurance institu-
35 tion's, agent's or insurance-support organization's refusal to cor-
36 rect, amend or delete recorded personal information, the individual
37 shall be permitted to file with the insurance institution, agent or
38 insurance-support organization:
- 39 (1) A concise statement setting forth what the individual thinks
40 is the correct, relevant or fair information, and
- 41 (2) A concise statement of the reasons why the individual dis-
42 agrees with the insurance institution's, agent's or insurance-sup-
43 port organization's refusal to correct, amend or delete recorded
44 personal information.
- 45 d. In the event an individual files either statement as described
46 in subsection c. above, the insurance institution, agent or support
47 organization shall:
- 48 (1) File the statement with the disputed personal information
49 and provide a means by which anyone reviewing the disputed per-
50 sonal information will be made aware of the individual's statement
51 and have access to it, and

52 (2) In any subsequent disclosure by the insurance institution,
53 agent or support organization of the recorded personal informa-
54 tion that is the subject of disagreement, clearly identify the matter
55 or matters in dispute and provide the individual's statement along
56 with the recorded personal information being disclosed, and

57 (3) Furnish the statement to the persons and in the manner
58 specified in subsection b. above.

59 e. The rights granted to individuals in this section shall extend
60 to all natural persons to the extent information about them is
61 collected and maintained by an insurance institution, agent or
62 insurance-support organization in connection with an insurance
63 transaction. The rights granted to all natural persons by this
64 section shall not extend to information about them that relates to
65 and is collected in connection with or in reasonable anticipation of
66 a claim or civil or criminal proceeding involving them.

67 f. For the purposes of this section, the term "insurance-support
68 organization" does not include a consumer reporting agency except
69 to the extent that this section imposes more stringent requirements
70 on a consumer reporting agency than other State or federal law.

1 10. Reasons for adverse underwriting decisions. a. In the event
2 of an adverse underwriting decision the insurance institution or
3 agent responsible for the decision shall:

4 (1) Either provide the applicant, policyholder or individual pro-
5 posed for coverage with the specific reason or reasons for the
6 adverse underwriting decision in writing or advise the person that
7 upon written request he may receive the specific reason or reasons
8 in writing, and

9 (2) Provide the applicant, policyholder or individual proposed
10 for coverage with a summary of the rights established under sub-
11 section b. of this section and sections 8 and 9 of this act.

12 b. Upon receipt of a written request within 90 business days
13 from the date of the mailing of notice or other communication of
14 an adverse underwriting decision to an applicant, policyholder or
15 individual proposed for coverage, the insurance institution or agent
16 shall furnish to the person within 21 business days from the date
17 of receipt of the written request:

18 (1) The specific reason or reasons for the adverse underwriting
19 decision, in writing, if that information was not initially furnished
20 in writing pursuant to paragraph (1) of subsection a.;

21 (2) The specific items of personal and privileged information
22 that support those reasons, except that:

23 (a) The insurance institution or agent shall not be required
24 to furnish specific items of privileged information if it has a
25 reasonable suspicion, based upon specific information avail-
26 able for review by the commissioner, that the applicant, policy-
27 holder or individual proposed for coverage has engaged in
28 criminal activity, fraud, material misrepresentation or material
29 nondisclosure in connection with insurance transactions or
30 claims, and

31 (b) Specific items of medical-record information supplied
32 by a medical-care institution or medical professional shall be
33 disclosed either directly to the individual about whom the
34 information relates or to a medical professional designated
35 by the individual and licensed to provide medical care with
36 respect to the condition to which the information relates,
37 whichever the insurance institution or agent prefers, and

38 (3) The names and addresses of the institutional sources that
39 supplied the specific items of information pursuant to paragraph
40 (2) of subsection b., except that the identity of any medical pro-
41 fessional or medical-care institution shall be disclosed either di-
42 rectly to the individual or to the designated medical professional,
43 whichever the insurance institution or agent prefers.

44 c. The obligations imposed by this section upon an insurance
45 institution or agent may be satisfied by another insurance insti-
46 tution or agent authorized to act on its behalf.

47 d. When an adverse underwriting decision results solely from an
48 oral request or inquiry, the explanation of reasons and summary
49 of rights required by subsection a. may be given orally.

1 11. Information concerning previous adverse underwriting
2 decisions. No insurance institution, agent or insurance-support
3 organization may seek information in connection with an insurance
4 transaction concerning:

5 a. Any previous adverse underwriting decision experienced by
6 an individual, or

7 b. Any previous insurance coverage obtained by an individual
8 through a residual market mechanism,
9 unless the inquiry also requests the reasons for any previous ad-
10 verse underwriting decision or the reasons why insurance coverage
11 was previously obtained through a residual market mechanism.

1 12. Previous adverse underwriting decisions. No insurance insti-
2 tution or agent may base an adverse underwriting decision in whole
3 or in part:

4 a. On the fact of a previous adverse underwriting decision or
5 on the fact that an individual previously obtained insurance cover-
6 age through a residual market mechanism; except that an insurance
7 institution or agent may base an adverse underwriting decision on
8 further information obtained from an insurance institution or agent
9 responsible for a previous adverse underwriting decision;

10 b. On personal information received from an insurance-support
11 organization whose primary source of information is insurance
12 institutions: except that an insurance institution or agent may
13 base an adverse underwriting decision on further personal informa-
14 tion obtained as the result of information received from the in-
15 surance-support organization.

1 13. Disclosure limitations and conditions. An insurance institu-
2 tion, agent or insurance-support organization shall not disclose
3 any personal or privileged information about an individual collected
4 or received in connection with an insurance transaction unless the
5 disclosure is:

6 a. With the written authorization of the individual, provided:

7 (1) If the authorization is submitted by another insurance
8 institution, agent or insurance-support organization, the authoriza-
9 tion meets the requirements of section 6 of this act, or

10 (2) If the authorization is submitted by a person other than an
11 insurance institution, agent or insurance-support organization, the
12 authorization is:

13 (a) Dated,

14 (b) Signed by the individual, and

15 (c) Obtained one year or less prior to the date a disclosure
16 is sought pursuant to this subsection;

17 b. To a person other than an insurance institution, agent or
18 insurance-support organization, provided the disclosure is reason-
19 ably necessary:

20 (1) To enable the person to perform a business, professional or
21 insurance function for the disclosing insurance institution, agent
22 or insurance-support organization, and the person agrees not to
23 disclose the information further without the individual's written
24 authorization unless the further disclosure:

25 (a) Would otherwise be permitted by this section if made by
26 an insurance institution, agent or insurance-support organiza-
27 tion, or

28 (b) Is reasonably necessary for the person to perform its
29 function for the disclosing insurance institution, agent or
30 insurance-support organization; or

31 (2) To enable the person to provide information to the disclosing
32 insurance institution, agent or insurance-support organization for
33 the purpose of:

34 (a) Determining an individual's eligibility for an insurance
35 benefit or payment, or

36 (b) Detecting or preventing criminal activity, fraud, mate-
37 rial misrepresentation or material nondisclosure in connection
38 with an insurance transaction;

39 c. To an insurance institution, agent, insurance-support organiza-
40 tion or self-insurer, if the information disclosed is limited to that
41 which is reasonably necessary:

42 (1) To detect or prevent criminal activity, fraud, material mis-
43 representation or material nondisclosure in connection with in-
44 surance transactions, or

45 (2) For either the disclosing or receiving insurance institution,
46 agent or insurance-support organization to perform its functions
47 in connection with an insurance transaction involving the in-
48 dividual;

49 d. To a medical-care institution or medical professional for the
50 purpose of:

51 (1) Verifying insurance coverage or benefits;

52 (2) Informing an individual of a medical problem of which the
53 individual may not be aware; or

54 (3) Conducting an operations or services audit, provided only
55 that information is disclosed as is reasonably necessary to accom-
56 plish the foregoing purposes; or

57 e. To an insurance regulatory authority; or

58 f. To a law enforcement or other governmental authority:

59 (1) To protect the interests of the insurance institution, agent
60 or insurance-support organization in preventing or prosecuting
61 the perpetration of fraud upon it, or

62 (2) If the insurance institution, agent or insurance-support
63 organization reasonably believes that illegal activities have been
64 conducted by the individual;

65 g. Otherwise permitted or required by law;

66 h. In response to a facially valid administrative or judicial order,
67 including a search warrant or subpoena;

68 i. Made for the purpose of conducting actuarial or research
69 studies, provided:

70 (1) No individual may be identified in any actuarial or research
71 report,

72 (2) Materials allowing the individual to be identified are re-
73 turned or destroyed as soon as they are no longer needed, and

74 (3) The actuarial or research organization agrees not to disclose
75 the information unless the disclosure would otherwise be permitted
76 by this section if made by an insurance institution, agent or
77 insurance-support organization;

78 j. To a party or a representative of a party to a proposed or
79 consummated sale, transfer, merger or consolidation of all or part
80 of the business of the insurance institution, agent or insurance-
81 support organization, except that:

82 (1) Prior to the consummation of the sale, transfer, merger or
83 consolidation only such information is disclosed as is reasonably
84 necessary to enable the recipient to make business decisions about
85 the purchase, transfer, merger or consolidation, and

86 (2) The recipient agrees not to disclose the information unless
87 the disclosure would otherwise be permitted by this section if
88 made by an insurance institution, agent or insurance-support
89 organization;

90 k. To a person whose only use of such information will be in
91 connection with the marketing of a product or service, if:

92 (1) No medical-record information, privileged information, or
93 personal information relating to an individual's character, personal
94 habits, mode of living or general reputation is disclosed, and no
95 classification derived from that information is disclosed,

96 (2) The individual has been given an opportunity to indicate
97 that he does not want personal information disclosed for marketing
98 purposes and has given no indication that he does not want the
99 information disclosed, and

100 (3) The person receiving the information agrees not to use it
101 except in connection with the marketing of a product or service,

102 l. To an affiliate whose only use of the information will be in
103 connection with an audit of the insurance institution or agent or
104 the marketing of an insurance product or service, if the affiliate
105 agrees not to disclose the information for any other purpose or to
106 unaffiliated persons;

107 m. By a consumer reporting agency, if the disclosure is to a
108 person other than an insurance institution or agent;

109 n. To a group policyholder for the purpose of reporting claims
110 experience or conducting an audit of the insurance institution's or
111 agent's operations or services, if the information disclosed is
112 reasonably necessary for the recipient to conduct the review or
113 audit;

114 o. To a professional peer review organization for the purpose of

115 reviewing the service or conduct of a medical-care institution or
116 medical professional;

117 p. To a governmental authority for the purpose of determining
118 the individual's eligibility for health benefits for which the govern-
119 mental authority may be liable;

120 q. To a certificateholder or policyholder for the purpose of
121 providing information regarding the status of an insurance trans-
122 action; or

123 r. To a lienholder, mortgagee, assignee, lessor or other person
124 shown on the records of an insurance institution or agent as having
125 a legal or beneficial interest in a policy of insurance, provided:

126 (1) No medical-record information is disclosed unless the dis-
127 closure would otherwise be permitted by this section of this act; and

128 (2) The information disclosed is limited to that reasonably
129 necessary to permit the person to protect its interests in the policy.

1 14. Power of commissioner. a. The commissioner shall have
2 power to examine and investigate into the affairs of every insurance
3 institution or agent doing business in this State to determine
4 whether the insurance institution or agent has been or is engaged
5 in any conduct in violation of this act.

6 b. The commissioner shall have the power to examine and
7 investigate into the affairs of every insurance-support organiza-
8 tion acting on behalf of an insurance institution or agent which
9 either transacts business in this State or transacts business out-
10 side this State that has an effect on a person residing in this State
11 in order to determine whether the insurance-support organization
12 has been or is engaged in any conduct in violation of this act.

1 15. Hearings, witnesses, appearances, production of books and
2 service of process. a. Whenever the commissioner has reason to
3 believe that an insurance institution, agent or insurance-support
4 organization has been or is engaged in conduct in this State which
5 violates this act, or if the commissioner believes that an insurance-
6 support organization has been or is engaged in conduct outside
7 this State which has an effect on a person residing in this State
8 and which violates this act, the commissioner shall issue and serve
9 upon the insurance institution, agent or insurance-support organi-
10 zation a statement of charges and notice of hearing to be held at a
11 time and place fixed in the notice. The date for the hearing shall be
12 not less than 30 days after the date of service.

13 b. At the time and place fixed for the hearing the insurance
14 institution, agent or insurance-support organization charged shall
15 have an opportunity to answer the charges against it and present
16 evidence on its behalf. Upon good cause shown, the commissioner

17 shall, permit any adversely affected person to intervene, appear
18 and be heard at the hearing by counsel or in person.

19 c. At any hearing conducted pursuant to this section the com-
20 missioner may administer oaths, examine and cross-examine
21 witnesses and receive oral and documentary evidence. The com-
22 missioner shall have the power to subpoena witnesses, compel
23 their attendance and require the production of books, papers,
24 records, correspondence and other documents which are relevant
25 to the hearing. A stenographic record of the hearing shall be
26 made upon the request of any party or at the discretion of the
27 commissioner. If no stenographic record is made and if judicial
28 review is sought, the commissioner shall prepare a statement of
29 the evidence for use on review. Hearings conducted under this
30 section shall be governed by the same rules of evidence and pro-
31 cedure applicable to administrative proceedings conducted pur-
32 suant to the "Administrative Procedure Act," P. L. 1968, c. 410
33 (C. 52:14B-1 et seq.).

34 d. Statements of charges, notices, orders and other processes
35 of the commissioner under this act may be served by anyone duly
36 authorized to act on behalf of the commissioner. Service of process
37 may be completed in the manner provided by law for service of
38 process in civil actions or by registered mail. A copy of the state-
39 ment of charges, notice, order or other process shall be provided
40 to the person or persons whose rights under this act have been
41 allegedly violated. A verified return setting forth the manner of
42 service, or return postcard receipt in the case of registered mail,
43 shall be sufficient proof of service.

1 16. Service of process—insurance-support organizations. For the
2 purpose of this act, an insurance-support organization transacting
3 business outside this State which has an effect on a person residing
4 in this State shall be deemed to have appointed the commissioner
5 to accept service of process on its behalf, if the commissioner
6 causes a copy of such service to be mailed forthwith by registered
7 mail to the insurance-support organization at its last known prin-
8 cipal place of business. The return postcard receipt for the mailing
9 shall be sufficient proof that the same was properly mailed by the
10 commissioner.

1 17. Cease and desist orders and reports. a. If, after a hearing
2 pursuant to section 15, the commissioner determines that the insur-
3 ance institution, agent or insurance-support organization charged
4 has engaged in conduct or practices in violation of this act, the
5 commissioner shall reduce his findings to writing and shall issue
6 and cause to be served upon the insurance institution, agent or

7 insurance-support organization a copy of the findings and an order
8 requiring the insurance institution, agent or insurance-support
9 organization to cease and desist from the conduct or practices
10 constituting a violation of this act.

11 b. If, after a hearing pursuant to section 15, the commissioner
12 determines that the insurance institution, agent or insurance-
13 support organization charged has not engaged in conduct or prac-
14 tices in violation of this act, the commissioner shall prepare a
15 written report which sets forth findings of fact and conclusions of
16 law. The report shall be served upon the insurance institution,
17 agent or insurance-support organization charged and upon the
18 persons, if any, whose rights under this act were allegedly violated.

19 c. Until the expiration of the time allowed under section 19 of
20 this act for filing a petition for review or until the petition is
21 actually filed, whichever occurs first, the commissioner may modify
22 or set aside any order or report issued under this section. After the
23 expiration of the time allowed under section 19 of this act for
24 filing a petition for review, if no petition has been duly filed, the
25 commissioner may, after notice and opportunity for hearing, alter,
26 modify or set aside, in whole or in part, any order or report issued
27 under this section whenever conditions of fact or law warrant such
28 action or if the public interest so requires.

1 18. Penalties. a. In any case where a hearing pursuant to section
2 15 results in the finding of a knowing violation of this act, the
3 commissioner may, in addition to the issuance of a cease and desist
4 order as prescribed in section 17, order payment of a monetary
5 penalty of not more than \$500.00 for each violation but not to exceed
6 \$10,000.00 in the aggregate for multiple violations.

7 b. Any person who violates a cease and desist order of the com-
8 missioner under section 17 of this act may, after notice and hearing
7 and upon order of the commissioner, be subject to one or more of
8 the following penalties, at the discretion of the commissioner:

9 (1) A monetary fine of not more than \$10,000.00 for each viola-
10 tion, or

11 (2) A monetary fine of not more than \$50,000.00 if the commis-
12 sioner finds that violations have occurred with such frequency as
13 to constitute a general business practice, or

14 (3) Suspension or revocation of any insurance institution's or
15 agent's license.

1 19. Judicial review of orders and reports. a. Any person subject
2 to an order of the commissioner under section 17 or section 18 or
3 any person whose rights under this act were allegedly violated may
4 obtain a review of any order or report of the commissioner by filing

5 in the Superior Court, Appellate Division, within 45 days from the
6 date of the service of the order or report, a written petition
7 requesting that the order or report of the commissioner be set aside.
8 A copy of the petition shall be simultaneously served upon the
9 commissioner, who shall forthwith certify and file in the court a
10 transcript of the entire record of the proceeding giving rise to the
11 order or report which is the subject of the petition. Upon the filing
12 of the petition and the transcript, the Superior Court, Appellate
13 Division, shall have jurisdiction to make and enter a decree modify-
14 ing, affirming or reversing any order or report of the commissioner,
15 in whole or in part. The findings of the commissioner as to the
16 facts supporting any order or report, if supported by clear and
17 convincing evidence, shall be conclusive.

18 b. To the extent an order or report of the commissioner is
19 affirmed, the court shall issue its own order commanding obedience
20 to the terms of the order or report of the commissioner. If any
21 party affected by an order or report of the commissioner shall
22 apply to the court for leave to produce additional evidence and
23 shall show to the satisfaction of the court that the additional
24 evidence is material and that there are reasonable grounds for the
25 failure to produce this evidence in prior proceedings, the court
26 may order the additional evidence to be taken before the commis-
27 sioner in a manner and upon those terms and conditions as the
28 court may deem proper. The commissioner may modify his findings
29 of fact or make new findings by reason of the additional evidence
30 so taken and shall file modified or new findings along with any
31 recommendation, if any, for the modification or revocation of a
32 previous order or report. If supported by clear and convincing
33 evidence, the modified or new findings shall be conclusive as to the
34 matters contained herein.

35 c. An order or report issued by the commissioner under section 17
36 or 18 shall become final:

37 (1) Upon the expiration of the time allowed for the filing of a
38 a petition for review, if no such petition has been duly filed; except
39 that the commissioner may modify or set aside an order or report
40 to the extent provided in subsection e. of section 17; or

41 (2) Upon a final decision of the Superior Court, Appellate Divi-
42 sion, if the court directs that the order or report of the commis-
43 sioner be affirmed or the petition for review is dismissed.

44 d. No order or report of the commissioner under this act or order
45 of a court to enforce the same shall in any way relieve or absolve
46 any person affected by the order or report from any liability under
47 any law of this State.

1 20. Individual remedies. a. If any insurance institution, agent or
2 insurance-support organization fails to comply with section 8, 9 or
3 10 of this act with respect to the rights granted under those sections,
4 any person whose rights are violated may apply to the Superior
5 Court of this State, or any other court of competent jurisdiction,
6 for appropriate equitable relief.

7 b. An insurance institution, agent or insurance-support orga-
8 nization which discloses information in violation of section 13 of
9 this act shall be liable for damages sustained by the individual about
10 whom the information relates; except that no individual shall be
11 entitled to a monetary award which exceeds the actual damages
12 sustained by the individual as a result of a violation of section 13
13 of this act.

14 c. In any action brought pursuant to this section, the court may
15 award the cost of the action and reasonable attorney's fees to the
16 prevailing party.

17 d. An action under this section shall be brought within two years
18 from the date the alleged violation is or should have been dis-
19 covered.

20 e. Except as specifically provided in this section, there shall be
21 no remedy or recovery available to individuals, in law or in equity,
22 for occurrences constituting a violation of any provision of this act.

1 21. Immunity. No cause of action in the nature of defamation,
2 invasion of privacy or negligence shall arise against any person
3 for disclosing personal or privileged information in accordance
4 with this act, nor shall such a cause of action arise against any
5 person for furnishing personal or privileged information to an
6 insurance institution, agent or insurance-support organization;
7 except this section shall provide no immunity for disclosing or
8 furnishing false information with malice or willful intent to injure
9 any person.

1 22. Obtaining information under false pretenses. Any person who
2 knowingly and willfully obtains information about an individual
3 from an insurance institution, agent or insurance-support orga-
4 nization under false pretenses is guilty of a crime of the fourth
5 degree.

1 23. Effective date. a. This act shall take effect 180 days after
2 enactment.

3 b. The rights granted under sections 8, 9 and 13 of this act shall
4 take effect on the effective date of this act regardless of the date
5 of the collection or receipt of the information which is the subject
6 of those sections.

STATEMENT

The purpose of this bill is to establish standards for the collection, use and disclosure of information gathered in connection with insurance transactions by insurance institutions, agents or insurance-support organizations; to maintain a balance between the need for information by those conducting the business of insurance and the public's need for fairness in insurance information practices, including the need to minimize intrusiveness; to establish a regulatory mechanism to enable natural persons to ascertain what information is being or has been collected about them in connection with insurance transactions and to have access to such information for the purpose of verifying or disputing its accuracy; to limit the disclosure of information collected in connection with insurance transactions; and to enable insurance applicants and policyholders to obtain the reasons for any adverse underwriting decision.

SENATE LABOR, INDUSTRY AND PROFESSIONS
COMMITTEE

STATEMENT TO
SENATE, No. 1013
with Senate committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 27, 1984

This bill provides privacy protection standards to insurance transactions involving coverages for personal, family and household needs.

Section 1 of the bill provides that the obligations imposed by the bill apply to those insurance institutions, agents or insurance-support organizations which on or after the effective date of this bill either collect, receive or maintain information in connection with insurance transactions which pertains to natural persons, or engage in insurance transactions with applicants, individuals or policyholders. The rights granted by this bill extend to natural persons who are the subject of information collected, received or maintained in connection with insurance transactions and applicants, individuals or policyholders who engage in or seek to engage in insurance transactions. The bill does not apply to information collected from the public records of a governmental authority and maintained by an insurance institution or its representatives for the purpose of insuring the title to real property located in this State.

The bill in section 3 prohibits pretext interviews to obtain information about an individual except when used for the purpose of investigating claims where there is a reasonable basis for suspecting fraud, material misrepresentation, or material nondisclosure. A pretext interview is an interview in which the inquirer pretends to be someone he is not; pretends to represent someone he does not in fact represent; or misrepresents the true purpose of the interview.

In section 4 the bill requires insurance institutions and agents to provide timely notification of their information practices to all applicants and policyholders. It provides for a detailed notice and an abbreviated notice. The detailed notice must state (a) whether personal information may be collected from third persons other than the individual or individuals proposed for coverage; (b) the type of personal information that may be collected and the types of sources and techniques that may be used; (c) specific types of disclosures (section 13) and circumstances under which such disclosures may be made without prior

authorization; (d) a description of the rights of access, correction, and amendment established under sections 8 and 9 of this bill and the manner in which such rights may be exercised; and (e) that information in any report prepared by an insurance-support organization may be retained by that organization and disclosed to other persons. The abbreviated notice must state that (a) personal information may be collected from others; (b) such information as well as subsequently collected information may be disclosed to third parties without authorization; (c) a right of access and correction exists with respect to personal information; and (d) the detailed notice is available upon request.

Section 5 of the bill requires that an insurance institution or agent must specify clearly to an individual those questions designed to obtain information solely for marketing or research purposes and, therefore, unrelated to the individual's eligibility for an insurance benefit or service.

Section 6 concerns authorizations for the release of information from those with whom an individual has a confidential relationship. The bill provides that an insurance institution's, agent's or insurance-support organization's disclosure authorization form must: (a) be written in plain language; (b) dated; (c) specify the types of persons authorized to disclose information about the individual; (d) specify the nature of the information authorized to be disclosed; (e) name the insurance institution or agent and identify by generic reference their representatives to whom the individual is authorizing the information to be disclosed; and (f) specify the purposes for which the information is collected. This section requires that disclosure authorization forms specify the length of time they are to remain valid. In the case of authorizations signed for the purpose of collecting information in connection with an application, a policy reinstatement, or a request for a change in policy benefits, an authorization can be valid no longer than 30 months for life, health or disability insurance or one year for property and casualty insurance. In the case of authorizations signed for the purpose of collecting information in connection with claims, the authorization can be valid no longer than the term of coverage of the policy for a health insurance claim or the duration of the claim for all other types of claim.

The bill in section 7 requires that no insurance institution, agent or insurance-support organization acting on behalf of an insurance institution or agent, may prepare or obtain an investigative consumer report about an individual in connection with an application for insurance, a policy renewal, a policy reinstatement or a change in insurance benefits unless the insurance institution or agent informs the individual: (a)

that he may request to be interviewed in connection with the preparation of the report, and (b) that upon request, pursuant to section 8, he is entitled to receive a copy of the report.

Some of the information collected, retained and exchanged by the insurance industry may be erroneous or out-of-date and may present an inaccurate picture of an individual's health, life style or financial condition. Section 8 of the bill provides that, to gain access to recorded personal information, an individual, after proper identification, must make a written request to the insurance institution, agent or insurance-support organization. The information requested must be reasonably described by the individual and reasonably locatable and retrievable by the insurance institution, agent or insurance-support organization. Within 30 business days from the date the request is received, the individual must be informed of the nature and substance of the recorded personal information either in writing, by telephone or other oral communication, whichever the insurance institution, agent or insurance-support organization prefers. The individual is also permitted to see his file and to obtain a copy in person or by mail, whichever he prefers. If the information is in coded form, an accurate translation in plain language must be provided in writing. So that the individual will be aware of who has received information in the file, the insurance institution, agent or insurance-support organization must also disclose the identity of those persons, if recorded, to whom the personal information has been disclosed within two years prior to the request; or, if not recorded, the identity of those insurance institutions, agents, insurance-support organizations, or other persons to whom such information is normally disclosed. The insurance institution, agent or insurance-support organization is also required to provide the individual with a summary of the procedures by which he may request correction, amendment or deletion of recorded personal information. Any personal information provided pursuant to an individual's request shall identify the source of the information if such source is an institutional source. Medical-record information which is requested and was originally supplied to the insurance institution, agent or insurance-support organization by a medical professional or medical-care institution, together with the identity of such source, may be supplied either directly to the individual or to a medical professional designated by the individual and licensed to provide medical care with respect to the condition to which the information relates, whichever the insurance institution, agent or insurance-support organization prefers. The insurance institutions, agents or insurance-support organizations may charge a fee to cover only the copying costs involved, except no fee is permitted for those inquiries involving an adverse underwriting decision.

Section 9 establishes a right of the individual to seek correction of any erroneous information in the record. Within 30 business days from the date that an insurance institution, agent or insurance-support organization receives a written request from an individual to correct, amend or delete any recorded personal information pertaining to him within its possession, the insurance institution, agent or insurance-support organization must either (a) correct, amend or delete such portion of the recorded personal information; or (b) notify the individual of its refusal to make the correction, amendment or deletion; give the reasons for the refusal; and notify the individual that he has a right to have a supplementary statement inserted in the record. If the insurance institution, agent or insurance-support organization corrects, amends or deletes recorded information, the insurance institution, agent or insurance-support organization must notify the individual in writing and furnish the correction, amendment or fact of deletion to: (a) any person specifically designated by the individual who may have, within the past two years, received the incorrect or incomplete information; (b) any insurance-support organization whose primary source of information on individuals is insurance institutions where the insurance-support organization has systematically received such information from the insurance institution within the previous seven years; or (c) any insurance-support organization that furnished the information that is corrected, amended or deleted. If an individual disagrees with an insurance institution's, agent's or insurance-support organization's refusal to correct, amend or delete recorded personal information, the individual is allowed to file with the insurance institution, agent or insurance-support organization a concise statement setting forth what the individual thinks is the correct, relevant or fair information and the reasons why he disagrees with the insurance institution's, agent's or insurance-support organization's refusal to correct, amend or delete recorded personal information. The individual's supplementary statement must be placed in or with the individual's record, and the insurance institution, agent or insurance-support organization must see to it that anyone reviewing the disputed information is made aware of the statement and has access to it. In any subsequent disclosure, the insurance institution, agent or insurance-support organization must clearly identify the matters in dispute and provide the individual's statement along with the recorded information being disclosed. The individual's statement must also be propagated in the same way that corrections, amendments and deletions are.

Section 10 of the bill provides that in the event of an adverse underwriting decision, the insurance institution or agent must either provide the applicant, policyholder or individual proposed for coverage with the

specific reasons for a decision in writing or advise him that upon written request he may receive the specific reasons in writing. Upon receipt of a written request made within a certain time limit, the insurance institution or agent must furnish to the insured, in writing, within 21 business days: (a) the specific reasons for the adverse underwriting decision, if such information was not initially furnished in writing; (b) the specific items of personal and privileged information that support those reasons; except that (1) the insurance institution or agent is not required to furnish specific items of privileged information when the applicant, policyholder or individual proposed for coverage is suspected of criminal activity, fraud, material misrepresentation or material non-disclosure, and (2) the specific items of medical-record information may be disclosed either directly to the individual to whom the information relates or to a licensed medical professional designated by the individual, whichever the insurance institution or agent prefers; and (c) the names and addresses of the institutional sources that supplied the specific items of information, except that the identity of any medical professional or medical-care institution may be disclosed either directly to the individual or to the designated medical professional, whichever the insurance institution or agent prefers. Also, when an adverse underwriting decision results solely from an oral request or inquiry, the explanation of reasons and summary of rights may be given orally.

Section 11 provides that no insurance institution, agent or insurance-support organization may seek information in connection with an insurance transaction concerning: (a) any previous adverse underwriting decision experienced by an individual, or (b) any previous insurance coverage obtained by an individual through a residual market mechanism, unless the inquiry also requests the reasons for any previous adverse underwriting decision or the reasons why insurance coverage was previously obtained through a residual market mechanism.

Section 12 states that no insurance institution or agent may base an adverse underwriting decision on the fact of a previous adverse underwriting decision or on the fact that an individual previously obtained insurance coverage through a residual market mechanism. An adverse underwriting decision, however, may be based on further information obtained from an insurance institution or agent responsible for a previous adverse underwriting decision. The section prohibits an insurance institution or agent from basing an adverse underwriting decision on personal information received from an insurance-support organization whose primary source of information is insurance institutions. An insurance institution or agent, however, may base an adverse underwriting decision on further personal information obtained as the result of information received from an insurance-support organization.

Section 13 provides that, with certain exceptions no individually identifiable information may be disclosed by an insurance institution, agent or insurance-support organization without the authorization of the individual. To disclose personal or privileged information an individual's authorization submitted to an insurance institution, agent or insurance-support organization by a similar organization must conform to the requirements of section 6 of this bill. An individual's authorization submitted by a person other than an insurance organization, agent or insurance-support organization must only be written, dated and signed by the individual and the date on the authorization must not predate the requested disclosure by more than one year. This section also provides for those circumstances under which personal and privileged information may be disclosed without prior authorization. These exceptions fall into three categories: (a) disclosures the insurance institution, agent or insurance-support organization must make in order to perform business functions inherent in the insurance relationship or to protect itself when the individual is suspected of criminal activity, fraud, material misrepresentation or material nondisclosure in regard to insurance transactions or claims; (b) disclosures to protect the individual; and (c) disclosures to government authorities. The individual under the bill is notified of the circumstances under which personal and privileged information may be routinely disclosed without prior authorization (section 4) and, with respect to personal information, can find out whether any disclosures have, in fact, been made under section 8 of this bill.

Enforcement of the provisions of the bill is provided in sections 14 through 23 of the bill. The commissioner is given investigative and enforcement powers under the bill's provisions. He may order, after a hearing, an insurance institution, agent or insurance-support organization to cease and desist for violations of the provisions of the bill. He may impose a penalty of not more than \$500.00 for each knowing violation of the bill but not to exceed \$10,000.00 in the aggregate for multiple violations and he may impose for a violation of a cease and desist order a fine of not more than \$10,000.00 for each violation, or a fine of not more than \$50,000.00 if the violations occurred with such frequency to constitute a general business practice, or suspend or revoke the insurance organization's or agent's license. In addition, section 20 permits an aggrieved person to seek equitable relief if any insurance institution, agent or insurance-support organization fails to comply with section 8, 9, or 10 of the bill. Also, the bill provides that a person may recover in an action at law actual damages sustained as a result of information disclosed by an insurance institution, agent or insurance-support organization in violation of section 13. Section 21 provides that no cause

of action in the nature of defamation, invasion of privacy or negligence shall arise against any person for disclosing personal or privileged information in accordance with this bill, nor shall such a cause of action arise against any person for furnishing personal or privileged information to an insurance institution, agent or insurance-support organization. However, the section does not provide immunity for disclosing or furnishing false information with malice or willful intent to injure any person. Lastly, section 22 states that it is a crime of the fourth degree for any person to knowingly and willfully obtain information about an individual from an insurance institution, agent or insurance-support organization under false pretenses.

[OFFICIAL COPY REPRINT]
SENATE, No. 1013

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1984 SESSION

By Senator FELDMAN

AN ACT establishing standards for the collection, use, and disclosure of information gathered in connection with insurance transactions.

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

1 1. a. The obligations imposed by this act shall apply to those
2 insurance institutions, agents or insurance-support organizations
3 which, on or after the effective date of this act:

4 (1) In the case of life, health or disability insurance:

5 (a) Collect, receive, or maintain information in connection
6 with insurance transactions which pertains to natural persons
7 who are residents of this State, or

8 (b) Engage in insurance transactions with applicants, in-
9 dividuals or policyholders who are residents of this State, and

10 (2) In the case of property or casualty insurance:

11 (a) Collect, receive or maintain information in connection
12 with insurance transactions involving policies, contracts or
13 certificates of insurance delivered, issued for delivery or re-
14 newed in this State, or

15 (b) Engage in insurance transactions involving policies,
16 contracts or certificates of insurance delivered, issued for
17 delivery or renewed in this State.

18 b. The rights granted by this act shall extend to:

19 (1) In the case of life, health or disability insurance, the follow-
20 ing persons who are residents of this State:

21 (a) Natural persons who are the subject of information
22 collected, received or maintained in connection with insurance
23 transactions, and

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

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

*—Senate committee amendments adopted February 27, 1984.

24 (b) Applicants, individuals or policyholders who engage in
25 or seek to engage in insurance transactions, and

26 (2) In the case of property or casualty insurance, the following
27 persons:

28 (a) Natural persons who are the subject of information
29 collected, received or maintained in connection with insurance
30 transactions involving policies, contracts or certificates of
31 insurance delivered, issued for delivery or renewed in this
32 State, and

33 (b) Applicants, individuals or policyholders who engage
34 in or seek to engage in insurance transactions involving
35 policies, contracts or certificates of insurance delivered, issued
36 for delivery or renewed in this State.

37 c. For purposes of this section, a person shall be considered
38 a resident of this State if the person's last known mailing address,
39 as shown in the records of the insurance institution, agent or
40 insurance-support organization, is located in this State.

41 d. Notwithstanding subsections a. and b. above, this act shall
42 not apply to information collected from the public records of a
43 governmental authority and maintained by an insurance institution
44 or its representatives for the purpose of insuring the title to real
45 property located in this State.

1 2. Definitions.

2 As used in this act:

3 a. "Adverse underwriting decision" means:

4 (1) Any of the following actions with respect to insurance
5 transactions involving insurance coverage which is individually
6 underwritten for an individual:

7 (a) A declination of insurance coverage,

8 (b) A termination of insurance coverage,

9 (c) Failure of an agent to apply for insurance coverage
10 with a specific insurance institution which the agent represents
11 and which is requested by an applicant,

12 (d) In the case of a property or casualty insurance coverage:

13 (i) Placement by an insurance institution or agent of a
14 risk with a residual market mechanism or an unauthorized
15 insurer, or

16 (ii) The charging of a higher rate on the basis of infor-
17 mation which differs from that which the applicant or policy-
18 holder furnished,

19 (e) In the case of a life, health or disability insurance
20 coverage, an offer to insure at a higher rate than the insurance

21 institution's table of premium rates applicable to the age and
22 class of risk of each person to be covered under that coverage
23 and to the type and amount of insurance provided.

24 (2) Notwithstanding paragraph (1) above, the following actions,
25 if permitted by law, shall not be considered adverse underwriting
26 decisions but the insurance institution or agent responsible for
27 their occurrence shall nevertheless provide the applicant or policy-
28 holder with the specific reason or reasons for their occurrence:

29 (a) The termination of an individual policy form on a
30 class or Statewide basis,

31 (b) A declination of insurance coverage solely because such
32 coverage is not available on a class or Statewide basis, or

33 (c) The rescission of a policy.

34 b. "Affiliate" or "affiliated" means a person that directly, or
35 indirectly through one or more intermediaries, controls, is con-
36 trolled by or is under common control with another person.

37 c. "Agent" means any person defined in chapter 22 of Title 17
38 of the Revised Statutes, chapter 22 of Title 17B of the New Jersey
39 Statutes and in R. S. 17:35-23.

40 d. "Applicant" means a person who seeks to contract for
41 insurance coverage other than a person seeking group insurance
42 that is not individually underwritten.

43 e. "Commissioner" means the Commissioner of Insurance.

44 f. "Consumer report" means any written, oral or other com-
45 munication of information bearing on a natural person's credit
46 worthiness, credit standing, credit capacity, character, general
47 reputation, personal characteristics or mode of living which is
48 used or expected to be used in connection with an insurance
49 transaction.

50 g. "Consumer reporting agency" means any person who:

51 (1) Regularly engages, in whole or in part, in the practice of
52 assembling or preparing consumer reports, for a monetary fee,
53 and

54 (2) Obtains information primarily from sources other than
55 insurance institutions, and

56 (3) Furnishes consumer reports to other persons.

57 h. "Control," including the terms "controlled by" or "under
58 common control with," means the possession, direct or indirect
59 of the power to direct or cause the direction of the management
60 and policies of a person, whether through the ownership of voting
61 securities, by contract other than a commercial contract of goods
62 or nonmanagement services, or otherwise, unless the power is the

63 result of an official position with or corporate office held by the
64 person.

65 i. "Declination of insurance coverage" means a denial, in whole
66 or in part, by an insurance institution or agent of requested in-
67 surance coverage.

68 j. "Individual" means any natural person who:

69 (1) In the case of property or casualty insurance, is a past,
70 present or proposed named insured or certificateholder;

71 (2) In the case of life, health or disability insurance, is a past,
72 present or proposed principal insured or certificateholder;

73 (3) Is a past, present or proposed policyowner;

74 (4) Is a past or present applicant; or

75 (5) Is a past or present claimant, or

76 (6) Derived, derives or is proposed to derive insurance coverage
77 under an insurance policy or certificate subject to this act.

78 k. "Institutional source" means any person or governmental
79 entity that provides information about an individual to an agent,
80 insurance institution or insurance support organization, other than:

81 (1) An agent,

82 (2) The individual who is the subject of the information, or

83 (3) A natural person acting in a personal capacity rather than in
84 a business or professional capacity.

85 l. "Insurance institution" means any corporation, association,
86 partnership, reciprocal exchange, interinsurer, Lloyd's insurer,
87 fraternal benefit society or other person engaged in the business
88 of insurance; including health maintenance organizations, medical
89 service corporations, hospital service corporations, dental service
90 corporations, automobile insurance plan and the New Jersey
91 Automobile Full Insurance Underwriting Association as defined
92 in section 2 of P. L. 1973, c. 337 (C. 26:2J-2), section 1 of P. L. 1940,
93 c. 74 (C. 17:48A-1), section 1 of P. L. 1960, c. 1 (C. 17:48B-1),
94 section 2 of P. L. 1968, c. 305 (C. 17:48C-2), P. L. 1970, c. 215
95 (C. 17:29D-1 et seq.) and P. L. 1983, c. 65 (C. 17:29A-33 et al.),
96 "Insurance institution" shall not include agents or insurance-
97 support organizations.

98 m. "Insurance-support organization" means:

99 (1) Any person who regularly engages, in whole or in part, in
100 the practice of assembling or collecting information about natural
101 persons for the primary purpose of providing the information to
102 an insurance institution or agent for insurance transactions, in-
103 cluding:

104 (a) The furnishing of consumer reports or investigative
105 consumer reports to an insurance institution or agent for use
106 in connection with an insurance transaction, or

107 (b) The collection of personal information from insurance
108 institutions, agents or other insurance-support organizations
109 for the purpose of detecting or preventing fraud, material
110 misrepresentation or material nondisclosure in connection with
111 insurance underwriting or insurance claim activity.

112 (2) Notwithstanding paragraph (1) of this subsection, the
113 following persons shall not be considered "insurance-support
114 organizations" for the purposes of this act: agents, government
115 institutions, insurance institutions, medical-care institutions,
116 medical professionals and rating organizations as defined in section
117 1 of P. L. 1944, c. 27 (C. 17:29A-1).

118 n. "Insurance transaction" means any transaction involving
119 insurance primarily for personal, family or household needs rather
120 than business or professional needs which entails:

121 (1) The determination of an individual's eligibility for an in-
122 surance coverage, benefit or payment, or

123 (2) The servicing of an insurance application, policy, contract
124 or certificate.

125 o. "Investigative consumer report" means a consumer report
126 or portion thereof in which information about a natural person's
127 character, general reputation, personal characteristics or mode
128 of living is obtained through personal interviews with the person's
129 neighbors, friends, associates, acquaintances or others who may
130 have knowledge concerning those items of information.

131 p. "Medical-care institution" means a facility or institution
132 that is licensed to provide health care services to natural persons,
133 including but not limited to, hospitals, skilled nursing facilities,
134 nursing facilities, home-health agencies, medical clinics, rehabilita-
135 tion agencies, public health agencies or health-maintenance organi-
136 zations.

137 q. "Medical professional" means any person providing health
138 care services to natural persons, including but not limited to, a
139 physician, podiatrist, dentist, nurse, optometrist, chiropractor,
140 physical therapist, occupational therapist, pharmacist, psycholo-
141 gist, dietitian, psychiatric social worker or speech therapist.

142 r. "Medical-record information" means personal information
143 which:

144 (1) Relates to an individual's physical or mental condition,
145 medical history or medical treatment, and

146 (2) Is obtained from a medical professional or medical-care insti-

147 tution, from the individual, or from the individual's spouse, parent
148 or legal guardian.

149 s. "Person" means any natural person, corporation, association,
150 partnership or other legal entity.

151 t. "Personal information" means any individually identifiable
152 information gathered in connection with an insurance transaction
153 from which judgments can be made about an individual's character,
154 habits, avocations, finances, occupation, general reputation, credit,
155 health or any other personal characteristics. "Personal informa-
156 tion" includes an individual's name and address and medical-record
157 information but does not include privileged information.

158 u. "Policyholder" means any person who:

159 (1) In the case of individual property or casualty insurance, is
160 a present named insured;

161 (2) In the case of individual life, health or disability insurance,
162 is a present policyowner, or

163 (3) In the case of group insurance which is individually under-
164 written, is a present group certificateholder.

165 v. "Pretext interview" means an interview whereby a person,
166 in an attempt to obtain information about a natural person, per-
167 forms one or more of the following acts:

168 (1) Pretends to be someone he is not,

169 (2) Pretends to represent a person he is not in fact representing,

170 (3) Misrepresents the true purpose of the interview, or

171 (4) Refuses to identify himself upon request.

172 w. "Privileged information" means any individually identifiable
173 information that:

174 (1) Relates to a claim for insurance benefits or a civil or criminal
175 proceeding involving an individual, and

176 (2) Is collected in connection with or in reasonable anticipation
177 of a claim for insurance benefits or civil or criminal proceeding
178 involving an individual; except that information otherwise meeting
179 the requirements of this subsection shall nevertheless be considered
180 personal information under this act if it is disclosed in violation of
181 section 13 of this act.

182 x. "Residual market mechanism" means any insurance pooling
183 mechanism, joint underwriting association, or reinsurance facility
184 created pursuant to law or regulation which provides insurance
185 coverage for any risk that is not insurable in the voluntary market.

186 y. "Termination of insurance coverage" or "termination of an
187 insurance policy" means either a cancellation or nonrenewal of an
188 insurance policy, in whole or in part, for any reason other than the
189 failure to pay a premium as required by the policy.

190 z. "Unauthorized insurer" means an insurance institution that
191 has not been granted a certificate of authority by the commissioner
192 to transact the business of insurance in this State.

1 3. Pretext interviews. No insurance institution, agent or in-
2 surance-support organization shall use or authorize the use of
3 pretext interviews to obtain information in connection with an
4 insurance transaction; except that a pretext interview may be
5 undertaken to obtain information from a person or institution that
6 does not have a generally or statutorily recognized privileged re-
7 lationship with the person about whom the information relates for
8 the purpose of investigating a claim where, based upon specific
9 information available for review by the commissioner, there is a
10 reasonable basis for suspecting criminal activity, fraud, material
11 misrepresentation or material nondisclosure in connection with the
12 claim.

1 4. Notice of insurance information practices. a. An insurance
2 institution or agent shall provide a notice of information practices
3 to all applicants or policyholders in connection with insurance
4 transactions as follows:

5 (1) In the case of an application for insurance,

6 (a) At the time of the delivery of the insurance policy or
7 certificate when personal information is collected only from
8 the applicant or from public records; or

9 (b) At the time the collection of personal information is
10 initiated when personal information is collected from a source
11 other than the applicant or public records;

12 (2) In the case of a policy renewal, the policy renewal date,
13 except that no notice shall be required in connection with a policy
14 renewal if:

15 (a) Personal information is collected only from the policy-
16 holder or from public records, or

17 (b) A notice meeting the requirements of this section has
18 been given within the previous 24 months; or

19 (3) In the case of a policy reinstatement or change in insurance
20 benefits, at the time a request for a policy reinstatement or change
21 in insurance benefits is received by the insurance institution, except
22 that no notice shall be required if personal information is collected
23 only from the policyholder or from public records.

24 b. The notice shall be in writing and shall state:

25 (1) Whether personal information may be collected from persons
26 other than the individual or individuals proposed for coverage;

27 (2) The types of personal information that may be collected and
28 the types of sources and investigative techniques that may be used
29 to collect that information;

30 (3) The types of disclosures identified in subsections b., c., d.,
31 e., f., i., k, l. and n. of section 13 of this act and the circumstances
32 under which the disclosures may be made without prior authoriza-
33 tion; provided, however, only those circumstances need be described
34 which occur with such frequency as to indicate a general business
35 practice;

36 (4) A description of the rights established under sections 8 and 9
37 of this act and the manner in which these rights may be exercised;
38 and

39 (5) That information obtained from a report prepared by an
40 insurance-support organization may be retained by the insurance-
41 support organization and disclosed to other persons.

42 c. In lieu of the notice prescribed in subsection b., the insurance
43 institution or agent may provide an abbreviated notice informing
44 the applicant or policyholder that:

45 (1) Personal information may be collected from persons other
46 than the individual or individuals proposed for coverage,

47 (2) The information as well as other personal or privileged
48 information subsequently collected by the insurance institution or
49 agent may in certain circumstances be disclosed to third parties
50 without authorization,

51 (3) A right of access and correction exists with respect to all
52 personal information collected, and

53 (4) The notice prescribed in subsection b. of this section shall
54 be furnished to the applicant or policyholder upon request.

55 d. The obligations imposed by this section upon an insurance
56 institution or agent may be satisfied by another insurance institu-
57 tion or agent authorized to act on its behalf.

1 5. Marketing and research surveys. An insurance institution or
2 agent shall clearly specify those questions designed to obtain in-
3 formation solely for marketing or research purposes from an indi-
4 vidual in connection with an insurance transaction.

1 6. Content of disclosure authorization forms. Notwithstanding
2 any other provision of law in this State, no insurance institution,
3 agent or insurance-support organization shall utilize as its dislo-
4 sure authorization form in connection with insurance transactions
5 a form or statement which authorizes the disclosure of personal
6 or privileged information about an individual to the insurance
7 institution, agent or insurance-support organization unless the form
8 or statement:

9 a. Is written in plain language;

10 b. Is dated;

11 c. Specifies the types of persons authorized to disclose informa-
12 tion about the individual;

13 d. Specifies the nature of the information authorized to be
14 disclosed;

15 e. Names the insurance institution or agent and identifies by
16 generic reference representatives of the insurance institution to
17 whom the individual is authorizing information to be disclosed;

18 f. Specifies the purposes for which the information is collected;

19 g. Specifies the length of time the authorization shall remain
20 valid, which shall be no longer than:

21 (1) In the case of authorizations signed for the purpose of col-
22 lecting information in connection with an application for an in-
23 surance policy, a policy reinstatement or a request for change in
24 policy benefits,

25 (a) 30 months from the date the authorization is signed
26 if the application or request involves life, health or disability
27 insurance, or

28 (b) One year from the date the authorization is signed if
29 the application or request involves property or casualty in-
30 surance;

31 (2) In the case of authorizations signed for the purpose of col-
32 lecting information in connection with a claim for benefits under
33 an insurance policy,

34 (a) The term of coverage of the policy if the claim is for
35 a health insurance benefit, or

36 (b) The duration of the claim if the claim is not for a health
37 insurance benefit; and

38 h. Advises the individual or a person authorized to act on behalf
39 of the individual that the individual or the individual's authorized
40 representative is entitled to receive a copy of the authorization
41 form.

1 7. Investigative consumer reports. a. No insurance institution,
2 agent or insurance-support organization may prepare or request an
3 investigative consumer report about an individual in connection
4 with an insurance transaction involving an application for insur-
5 ance, a policy renewal, a policy reinstatement or a change in insur-
6 ance benefits unless the insurance institution or agent informs the
7 individual:

8 (1) That he may request to be interviewed in connection with
9 the preparation of the investigative consumer report, and

10 (2) That upon a request pursuant to section 8, he is entitled to
11 receive a copy of the investigative consumer report.

12 b. If any investigative consumer report is to be prepared by an

13 insurance institution or agent, the insurance institution or agent
14 shall institute reasonable procedures to conduct a personal inter-
15 view requested by an individual.

16 c. If any investigative consumer report is to be prepared by an
17 insurance-support organization, the insurance institution or agent
18 desiring the report shall inform the insurance-support organization
19 whether a personal interview has been requested by the individual.
20 The insurance-support organization shall institute reasonable pro-
21 cedures to conduct the interviews, if requested.

1 8. Access to recorded personal information. a. If any individual,
2 after proper identification, submits a written request to an insur-
3 ance institution, agent or insurance-support organization for access
4 to recorded personal information about the individual which is
5 reasonably described by the individual and reasonably locatable
6 and retrievable by the insurance institution, agent or insurance-
7 support organization, the insurance institution, agent or insurance-
8 support organization shall within 30 business days from the date
9 the request is received:

10 (1) Inform the individual of the nature and substance of the
11 recorded personal information in writing, by telephone or by other
12 oral communication, whichever the insurance institution, agent or
13 insurance-support organization prefers;

14 (2) Permit the individual to see and copy, in person, the re-
15 corded personal information pertaining to him or to obtain a copy
16 of the recorded personal information by mail, whichever the indi-
17 vidual prefers, unless the recorded personal information is in
18 coded form, in which case an accurate translation in plain language
19 shall be provided in writing;

20 (3) Disclose to the individual the identity, if recorded, of those
21 persons to whom the insurance institution, agent or insurance-
22 support organization has disclosed the personal information within
23 two years prior to the request, and if the identity is not recorded,
24 the names of those insurance institutions, agents, insurance-support
25 organizations or other persons to whom such information is norm-
26 ally disclosed; and

27 (4) Provide the individual with a summary of the proceedings
28 by which he may request correction, amendment or deletion of
29 recorded personal information.

30 b. Any personal information provided pursuant to subsection a.
31 above shall identify the source of the information if the source is
32 an institutional source.

33 c. Medical record information supplied by a medical-care insti-
34 tution or medical professional and requested under subsection a.,

35 together with the identity of the medical professional or medical
36 care institution which provided the information, shall be supplied
37 either directly to the individual or to a medical professional desig-
38 nated by the individual and licensed to provide medical care with
39 respect to the condition to which the information relates, which-
40 ever the insurance institution, agent or insurance-support organiza-
41 tion prefers. If it elects to disclose the information to a medical
42 professional designated by the individual, the insurance institution,
43 agent or insurance-support organization shall notify the individual,
44 at the time of the disclosure, that it has provided the information
45 to the medical professional.

46 d. Except for personal information provided under section 10,
47 an insurance institution, agent or insurance-support organization
48 may charge a reasonable fee to cover the costs incurred in provid-
49 ing a copy of recorded personal information to individuals.

50 e. The obligations imposed by this section upon an insurance
51 institution or agent may be satisfied by another insurance institu-
52 tion or agent authorized to act on its behalf. With respect to the
53 copying and disclosure of recorded personal information pursuant
54 to a request under subsection a., an insurance institution, agent or
55 insurance-support organization may make arrangements with an
56 insurance-support organization or a consumer reporting agency to
57 copy and disclose recorded personal information on its behalf.

58 f. The rights granted to individuals in this section shall extend
59 to all natural persons to the extent information about them is col-
60 lected and maintained by an insurance institution, agent or
61 insurance-support organization in connection with an insurance
62 transaction. The rights granted to all natural persons by this
63 section shall not extend to information about them that relates to
64 and is collected in connection with or in reasonable anticipation of
65 a claim or civil or criminal proceeding involving them.

66 g. For the purposes of this section, the term "insurance-support
67 organization" does not include a consumer reporting agency ***[ex-**
68 **cept to the extent that this section imposes more stringent**
69 **requirements on a consumer reporting agency than other State or**
70 **federal law]**.*

1 9. Correction, amendment or deletion of recorded personal
2 information. a. Within 30 business days from the date of receipt
3 of a written request from an individual to correct, amend or delete
4 any recorded personal information about the individual within its
5 possession, an insurance institution, agent or insurance-support
6 organization shall either:

7 (1) Correct, amend or delete the portion of the recorded personal
8 information in dispute; or

9 (2) Notify the individual of:

10 (a) Its refusal to make the correction, amendment or
11 deletion,

12 (b) The reasons for the refusal, and

13 (c) The individual's right to file a statement as provided
14 in subsection c.

15 b. If the insurance institution, agent, or insurance-support organi-
16 zation corrects, amends or deletes recorded personal information
17 in accordance with paragraph (1) of subsection a. above, the in-
18 surance institution, agent or insurance-support organization shall
19 so notify the individual in writing and furnish the correction,
20 amendment or fact of deletion to:

21 (1) Any person specifically designated by the individual who
22 may have, within the preceding two years, received the recorded
23 personal information;

24 (2) Any insurance-support organization whose primary source
25 of personal information is insurance institutions if the insurance-
26 support organization has systematically received the recorded
27 personal information from the insurance institution within the
28 preceding seven years; except that the correction, amendment or
29 fact of deletion need not be furnished if the insurance-support
30 organization no longer maintains recorded personal information
31 about the individual; and

32 (3) Any insurance-support organization that furnished the per-
33 sonal information that has been corrected, amended or deleted.

34 c. Whenever an individual disagrees with an insurance institu-
35 tion's, agent's or insurance-support organization's refusal to cor-
36 rect, amend or delete recorded personal information, the individual
37 shall be permitted to file with the insurance institution, agent or
38 insurance-support organization:

39 (1) A concise statement setting forth what the individual thinks
40 is the correct, relevant or fair information, and

41 (2) A concise statement of the reasons why the individual dis-
42 agrees with the insurance institution's, agent's or insurance-sup-
43 port organization's refusal to correct, amend or delete recorded
44 personal information.

45 d. In the event an individual files either statement as described
46 in subsection c. above, the insurance institution, agent or support
47 organization shall:

48 (1) File the statement with the disputed personal information
49 and provide a means by which anyone reviewing the disputed per-
50 sonal information will be made aware of the individual's statement
51 and have access to it, and

52 (2) In any subsequent disclosure by the insurance institution,
53 agent or support organization of the recorded personal informa-
54 tion that is the subject of disagreement, clearly identify the matter
55 or matters in dispute and provide the individual's statement along
56 with the recorded personal information being disclosed, and

57 (3) Furnish the statement to the persons and in the manner
58 specified in subsection b. above.

59 e. The rights granted to individuals in this section shall extend
60 to all natural persons to the extent information about them is
61 collected and maintained by an insurance institution, agent or
62 insurance-support organization in connection with an insurance
63 transaction. The rights granted to all natural persons by this
64 section shall not extend to information about them that relates to
65 and is collected in connection with or in reasonable anticipation of
66 a claim or civil or criminal proceeding involving them.

67 f. For the purposes of this section, the term "insurance-support
68 organization" does not include a consumer reporting agency *
69 except to the extent that this section imposes more stringent
70 requirements on a consumer reporting agency than other State or
71 federal law]*.

1 10. Reasons for adverse underwriting decisions. a. In the event
2 of an adverse underwriting decision the insurance institution or
3 agent responsible for the decision shall:

4 (1) Either provide the applicant, policyholder or individual pro-
5 posed for coverage with the specific reason or reasons for the
6 adverse underwriting decision in writing or advise the person that
7 upon written request he may receive the specific reason or reasons
8 in writing, and

9 (2) Provide the applicant, policyholder or individual proposed
10 for coverage with a summary of the rights established under sub-
11 section b. of this section and sections 8 and 9 of this act.

12 b. Upon receipt of a written request within 90 business days
13 from the date of the mailing of notice or other communication of
14 an adverse underwriting decision to an applicant, policyholder or
15 individual proposed for coverage, the insurance institution or agent
16 shall furnish to the person within 21 business days from the date
17 of receipt of the written request:

18 (1) The specific reason or reasons for the adverse underwriting
19 decision, in writing, if that information was not initially furnished
20 in writing pursuant to paragraph (1) of subsection a.;

21 (2) The specific items of personal and privileged information
22 that support those reasons, except that:

23 (a) The insurance institution or agent shall not be required
24 to furnish specific items of privileged information if it has a
25 reasonable suspicion, based upon specific information avail-
26 able for review by the commissioner, that the applicant, policy-
27 holder or individual proposed for coverage has engaged in
28 criminal activity, fraud, material misrepresentation or material
29 nondisclosure in connection with insurance transactions or
30 claims, and

31 (b) Specific items of medical-record information supplied
32 by a medical-care institution or medical professional shall be
33 disclosed either directly to the individual about whom the
34 information relates or to a medical professional designated
35 by the individual and licensed to provide medical care with
36 respect to the condition to which the information relates,
37 whichever the insurance institution or agent prefers, and

38 (3) The names and addresses of the institutional sources that
39 supplied the specific items of information pursuant to paragraph
40 (2) of subsection b., except that the identity of any medical pro-
41 fessional or medical-care institution shall be disclosed either di-
42 rectly to the individual or to the designated medical professional,
43 whichever the insurance institution or agent prefers.

44 c. The obligations imposed by this section upon an insurance
45 institution or agent may be satisfied by another insurance insti-
46 tution or agent authorized to act on its behalf.

47 d. When an adverse underwriting decision results solely from an
48 oral request or inquiry, the explanation of reasons and summary
49 of rights required by subsection a. may be given orally.

1 11. Information concerning previous adverse underwriting
2 decisions. No insurance institution, agent or insurance-support
3 organization may seek information in connection with an insurance
4 transaction concerning:

5 a. Any previous adverse underwriting decision experienced by
6 an individual, or

7 b. Any previous insurance coverage obtained by an individual
8 through a residual market mechanism,
9 unless the inquiry also requests the reasons for any previous ad-
10 verse underwriting decision or the reasons why insurance coverage
11 was previously obtained through a residual market mechanism.

1 12. Previous adverse underwriting decisions. No insurance insti-
2 tution or agent may base an adverse underwriting decision in whole
3 or in part:

4 a. On the fact of a previous adverse underwriting decision or
5 on the fact that an individual previously obtained insurance cover-
6 age through a residual market mechanism; except that an insurance
7 institution or agent may base an adverse underwriting decision on
8 further information obtained from an insurance institution or agent
9 responsible for a previous adverse underwriting decision;

10 b. On personal information received from an insurance-support
11 organization whose primary source of information is insurance
12 institutions: except that an insurance institution or agent may
13 base an adverse underwriting decision on further personal informa-
14 tion obtained as the result of information received from the in-
15 surance-support organization.

1 13. Disclosure limitations and conditions. An insurance institu-
2 tion, agent or insurance-support organization shall not disclose
3 any personal or privileged information about an individual collected
4 or received in connection with an insurance transaction unless the
5 disclosure is:

6 a. With the written authorization of the individual, provided:

7 (1) If the authorization is submitted by another insurance
8 institution, agent or insurance-support organization, the authoriza-
9 tion meets the requirements of section 6 of this act, or

10 (2) If the authorization is submitted by a person other than an
11 insurance institution, agent or insurance-support organization, the
12 authorization is:

13 (a) Dated,

14 (b) Signed by the individual, and

15 (c) Obtained one year or less prior to the date a disclosure
16 is sought pursuant to this subsection;

17 b. To a person other than an insurance institution, agent or
18 insurance-support organization, provided the disclosure is reason-
19 ably necessary:

20 (1) To enable the person to perform a business, professional or
21 insurance function for the disclosing insurance institution, agent
22 or insurance-support organization, and the person agrees not to
23 disclose the information further without the individual's written
24 authorization unless the further disclosure:

25 (a) Would otherwise be permitted by this section if made by
26 an insurance institution, agent or insurance-support organiza-
27 tion, or

28 (b) Is reasonably necessary for the person to perform its
29 function for the disclosing insurance institution, agent or
30 insurance-support organization; or

31 (2) To enable the person to provide information to the disclosing
32 insurance institution, agent or insurance-support organization for
33 the purpose of:

34 (a) Determining an individual's eligibility for an insurance
35 benefit or payment, or

36 (b) Detecting or preventing criminal activity, fraud, mate-
37 rial misrepresentation or material nondisclosure in connection
38 with an insurance transaction;

39 c. To an insurance institution, agent, insurance-support organiza-
40 tion or self-insurer, if the information disclosed is limited to that
41 which is reasonably necessary:

42 (1) To detect or prevent criminal activity, fraud, material mis-
43 representation or material nondisclosure in connection with in-
44 surance transactions, or

45 (2) For either the disclosing or receiving insurance institution,
46 agent or insurance-support organization to perform its functions
47 in connection with an insurance transaction involving the in-
48 dividual;

49 d. To a medical-care institution or medical professional for the
50 purpose of:

51 (1) Verifying insurance coverage or benefits;

52 (2) Informing an individual of a medical problem of which the
53 individual may not be aware; or

54 (3) Conducting an operations or services audit, provided only
55 that information is disclosed as is reasonably necessary to accom-
56 plish the foregoing purposes; or

57 e. To an insurance regulatory authority; or

58 f. To a law enforcement or other governmental authority:

59 (1) To protect the interests of the insurance institution, agent
60 or insurance-support organization in preventing or prosecuting
61 the perpetration of fraud upon it, or

62 (2) If the insurance institution, agent or insurance-support
63 organization reasonably believes that illegal activities have been
64 conducted by the individual;

65 g. Otherwise permitted or required by law;

66 h. In response to a facially valid administrative or judicial order,
67 including a search warrant or subpoena;

68 i. Made for the purpose of conducting actuarial or research
69 studies, provided:

70 (1) No individual may be identified in any actuarial or research
71 report,

72 (2) Materials allowing the individual to be identified are re-
73 turned or destroyed as soon as they are no longer needed, and

74 (3) The actuarial or research organization agrees not to disclose
75 the information unless the disclosure would otherwise be permitted
76 by this section if made by an insurance institution, agent or
77 insurance-support organization;

78 j. To a party or a representative of a party to a proposed or
79 consummated sale, transfer, merger or consolidation of all or part
80 of the business of the insurance institution, agent or insurance-
81 support organization, except that:

82 (1) Prior to the consummation of the sale, transfer, merger or
83 consolidation only such information is disclosed as is reasonably
84 necessary to enable the recipient to make business decisions about
85 the purchase, transfer, merger or consolidation, and

86 (2) The recipient agrees not to disclose the information unless
87 the disclosure would otherwise be permitted by this section if
88 made by an insurance institution, agent or insurance-support
89 organization;

90 k. To a person whose only use of such information will be in
91 connection with the marketing of a product or service, if:

92 (1) No medical-record information, privileged information, or
93 personal information relating to an individual's character, personal
94 habits, mode of living or general reputation is disclosed, and no
95 classification derived from that information is disclosed,

96 (2) The individual has been given an opportunity to indicate
97 that he does not want personal information disclosed for marketing
98 purposes and has given no indication that he does not want the
99 information disclosed, and

100 (3) The person receiving the information agrees not to use it
101 except in connection with the marketing of a product or service,

102 l. To an affiliate whose only use of the information will be in
103 connection with an audit of the insurance institution or agent or
104 the marketing of an insurance product or service, if the affiliate
105 agrees not to disclose the information for any other purpose or to
106 unaffiliated persons;

107 m. By a consumer reporting agency, if the disclosure is to a
108 person other than an insurance institution or agent;

109 n. To a group policyholder for the purpose of reporting claims
110 experience or conducting an audit of the insurance institution's or
111 agent's operations or services, if the information disclosed is
112 reasonably necessary for the recipient to conduct the review or
113 audit;

114 o. To a professional peer review organization for the purpose of

115 reviewing the service or conduct of a medical-care institution or
116 medical professional;

117 p. To a governmental authority for the purpose of determining
118 the individual's eligibility for health benefits for which the govern-
119 mental authority may be liable;

120 q. To a certificateholder or policyholder for the purpose of
121 providing information regarding the status of an insurance trans-
122 action; or

123 r. To a lienholder, mortgagee, assignee, lessor or other person
124 shown on the records of an insurance institution or agent as having
125 a legal or beneficial interest in a policy of insurance, provided:

126 (1) No medical-record information is disclosed unless the dis-
127 closure would otherwise be permitted by this section of this act; and

128 (2) The information disclosed is limited to that reasonably
129 necessary to permit the person to protect its interests in the policy.

1 14. Power of commissioner. a. The commissioner shall have
2 power to examine and investigate into the affairs of every insurance
3 institution or agent doing business in this State to determine
4 whether the insurance institution or agent has been or is engaged
5 in any conduct in violation of this act.

6 b. The commissioner shall have the power to examine and
7 investigate into the affairs of every insurance-support organiza-
8 tion acting on behalf of an insurance institution or agent which
9 either transacts business in this State or transacts business out-
10 side this State that has an effect on a person residing in this State
11 in order to determine whether the insurance-support organization
12 has been or is engaged in any conduct in violation of this act.

1 15. Hearings, witnesses, appearances, production of books and
2 service of process. a. Whenever the commissioner has reason to
3 believe that an insurance institution, agent or insurance-support
4 organization has been or is engaged in conduct in this State which
5 violates this act, or if the commissioner believes that an insurance-
6 support organization has been or is engaged in conduct outside
7 this State which has an effect on a person residing in this State
8 and which violates this act, the commissioner shall issue and serve
9 upon the insurance institution, agent or insurance-support organi-
10 zation a statement of charges and notice of hearing to be held at a
11 time and place fixed in the notice. The date for the hearing shall be
12 not less than 30 days after the date of service.

13 b. At the time and place fixed for the hearing the insurance
14 institution, agent or insurance-support organization charged shall
15 have an opportunity to answer the charges against it and present
16 evidence on its behalf. Upon good cause shown, the commissioner

17 shall, permit any adversely affected person to intervene, appear
18 and be heard at the hearing by counsel or in person.

19 c. At any hearing conducted pursuant to this section the com-
20 missioner may administer oaths, examine and cross-examine
21 witnesses and receive oral and documentary evidence. The com-
22 missioner shall have the power to subpoena witnesses, compel
23 their attendance and require the production of books, papers,
24 records, correspondence and other documents which are relevant
25 to the hearing. A stenographic record of the hearing shall be
26 made upon the request of any party or at the discretion of the
27 commissioner. If no stenographic record is made and if judicial
28 review is sought, the commissioner shall prepare a statement of
29 the evidence for use on review. Hearings conducted under this
30 section shall be governed by the same rules of evidence and pro-
31 cedure applicable to administrative proceedings conducted pur-
32 suant to the "Administrative Procedure Act," P. L. 1968, c. 410
33 (C. 52:14B-1 et seq.).

34 d. Statements of charges, notices, orders and other processes
35 of the commissioner under this act may be served by anyone duly
36 authorized to act on behalf of the commissioner. Service of process
37 may be completed in the manner provided by law for service of
38 process in civil actions or by registered mail. A copy of the state-
39 ment of charges, notice, order or other process shall be provided
40 to the person or persons whose rights under this act have been
41 allegedly violated. A verified return setting forth the manner of
42 service, or return postcard receipt in the case of registered mail,
43 shall be sufficient proof of service.

1 16. Service of process—insurance-support organizations. For the
2 purpose of this act, an insurance-support organization transacting
3 business outside this State which has an effect on a person residing
4 in this State shall be deemed to have appointed the commissioner
5 to accept service of process on its behalf, if the commissioner
6 causes a copy of such service to be mailed forthwith by registered
7 mail to the insurance-support organization at its last known prin-
8 cipal place of business. The return postcard receipt for the mailing
9 shall be sufficient proof that the same was properly mailed by the
10 commissioner.

1 17. Cease and desist orders and reports. a. If, after a hearing
2 pursuant to section 15, the commissioner determines that the insur-
3 ance institution, agent or insurance-support organization charged
4 has engaged in conduct or practices in violation of this act, the
5 commissioner shall reduce his findings to writing and shall issue
6 and cause to be served upon the insurance institution, agent or

7 insurance-support organization a copy of the findings and an order
8 requiring the insurance institution, agent or insurance-support
9 organization to cease and desist from the conduct or practices
10 constituting a violation of this act.

11 b. If, after a hearing pursuant to section 15, the commissioner
12 determines that the insurance institution, agent or insurance-
13 support organization charged has not engaged in conduct or prac-
14 tices in violation of this act, the commissioner shall prepare a
15 written report which sets forth findings of fact and conclusions of
16 law. The report shall be served upon the insurance institution,
17 agent or insurance-support organization charged and upon the
18 persons, if any, whose rights under this act were allegedly violated.

19 c. Until the expiration of the time allowed under section 19 of
20 this act for filing a petition for review or until the petition is
21 actually filed, whichever occurs first, the commissioner may modify
22 or set aside any order or report issued under this section. After the
23 expiration of the time allowed under section 19 of this act for
24 filing a petition for review, if no petition has been duly filed, the
25 commissioner may, after notice and opportunity for hearing, alter,
26 modify or set aside, in whole or in part, any order or report issued
27 under this section whenever conditions of fact or law warrant such
28 action or if the public interest so requires.

1 18. Penalties. a. In any case where a hearing pursuant to section
2 15 results in the finding of a knowing violation of this act, the
3 commissioner may, in addition to the issuance of a cease and desist
4 order as prescribed in section 17, order payment of a monetary
5 penalty of not more than \$500.00 for each violation but not to exceed
6 \$10,000.00 in the aggregate for multiple violations.

7 b. Any person who violates a cease and desist order of the com-
8 missioner under section 17 of this act may, after notice and hearing
8A and upon order of the commissioner, be subject to one or more of
8B the following penalties, at the discretion of the commissioner:

9 (1) A monetary fine of not more than \$10,000.00 for each viola-
10 tion, or

11 (2) A monetary fine of not more than \$50,000.00 if the commis-
12 sioner finds that violations have occurred with such frequency as
13 to constitute a general business practice, or

14 (3) Suspension or revocation of any insurance institution's or
15 agent's license.

1 19. Judicial review of orders and reports. a. Any person subject
2 to an order of the commissioner under section 17 or section 18 or
3 any person whose rights under this act were allegedly violated may
4 obtain a review of any order or report of the commissioner by filing

5 in the Superior Court, Appellate Division, within 45 days from the
6 date of the service of the order or report, a written petition
7 requesting that the order or report of the commissioner be set aside.
8 A copy of the petition shall be simultaneously served upon the
9 commissioner, who shall forthwith certify and file in the court a
10 transcript of the entire record of the proceeding giving rise to the
11 order or report which is the subject of the petition. Upon the filing
12 of the petition and the transcript, the Superior Court, Appellate
13 Division, shall have jurisdiction to make and enter a decree modify-
14 ing, affirming or reversing any order or report of the commissioner,
15 in whole or in part. The findings of the commissioner as to the
16 facts supporting any order or report, if supported by clear and
17 convincing evidence, shall be conclusive.

18 b. To the extent an order or report of the commissioner is
19 affirmed, the court shall issue its own order commanding obedience
20 to the terms of the order or report of the commissioner. If any
21 party affected by an order or report of the commissioner shall
22 apply to the court for leave to produce additional evidence and
23 shall show to the satisfaction of the court that the additional
24 evidence is material and that there are reasonable grounds for the
25 failure to produce this evidence in prior proceedings, the court
26 may order the additional evidence to be taken before the commis-
27 sioner in a manner and upon those terms and conditions as the
28 court may deem proper. The commissioner may modify his findings
29 of fact or make new findings by reason of the additional evidence
30 so taken and shall file modified or new findings along with any
31 recommendation, if any, for the modification or revocation of a
32 previous order or report. If supported by clear and convincing
33 evidence, the modified or new findings shall be conclusive as to the
34 matters contained herein.

35 c. An order or report issued by the commissioner under section 17
36 or 18 shall become final:

37 (1) Upon the expiration of the time allowed for the filing of a
38 a petition for review, if no such petition has been duly filed; except
39 that the commissioner may modify or set aside an order or report
40 to the extent provided in subsection c. of section 17; or

41 (2) Upon a final decision of the Superior Court, Appellate Divi-
42 sion, if the court directs that the order or report of the commis-
43 sioner be affirmed or the petition for review is dismissed.

44 d. No order or report of the commissioner under this act or order
45 of a court to enforce the same shall in any way relieve or absolve
46 any person affected by the order or report from any liability under
47 any law of this State.

1 20. Individual remedies. a. If any insurance institution, agent or
2 insurance-support organization fails to comply with section 8, 9 or
3 10 of this act with respect to the rights granted under those sections,
4 any person whose rights are violated may apply to the Superior
5 Court of this State, or any other court of competent jurisdiction,
6 for appropriate equitable relief.

7 b. An insurance institution, agent or insurance-support orga-
8 nization which discloses information in violation of section 13 of
9 this act shall be liable for damages sustained by the individual about
10 whom the information relates; except that no individual shall be
11 entitled to a monetary award which exceeds the actual damages
12 sustained by the individual as a result of a violation of section 13
13 of this act.

14 c. In any action brought pursuant to this section, the court may
15 award the cost of the action and reasonable attorney's fees to the
16 prevailing party.

17 d. An action under this section shall be brought within two years
18 from the date the alleged violation is or should have been dis-
19 covered.

20 e. Except as specifically provided in this section, there shall be
21 no remedy or recovery available to individuals, in law or in equity,
22 for occurrences constituting a violation of any provision of this act.

1 21. Immunity. No cause of action in the nature of defamation,
2 invasion of privacy or negligence shall arise against any person
3 for disclosing personal or privileged information in accordance
4 with this act, nor shall such a cause of action arise against any
5 person for furnishing personal or privileged information to an
6 insurance institution, agent or insurance-support organization;
7 except this section shall provide no immunity for disclosing or
8 furnishing false information with malice or willful intent to injure
9 any person.

1 22. Obtaining information under false pretenses. Any person who
2 knowingly and willfully obtains information about an individual
3 from an insurance institution, agent or insurance-support orga-
4 nization under false pretenses is guilty of a crime of the fourth
5 degree.

1 23. Effective date. a. This act shall take effect 180 days after
2 enactment.

3 b. The rights granted under sections 8, 9 and 13 of this act shall
4 take effect on the effective date of this act regardless of the date
5 of the collection or receipt of the information which is the subject
6 of those sections.

ASSEMBLY BANKING AND INSURANCE COMMITTEE

STATEMENT TO

SENATE, No. 1013

STATE OF NEW JERSEY

DATED: JANUARY 28, 1985

Senate Bill No. 1013 regulates the collection, use and disclosure of information gathered in connection with policies, contracts or certificates of insurance issued or delivered in this State for life, health or disability coverage, or property or casualty coverages, including access to information about themselves by persons affected by insurance information. The provisions of the bill apply to insurance institutions, agents, or insurance-support organizations, as defined in section 2 of the bill and to persons requesting personal or privileged information in connection with an insurance transaction involving personal, family or household coverages.

According to the sponsor's statement, the objective of the bill is to balance the need for information by those conducting the business of insurance with the public's need for "fairness in insurance information practices, including the protection of personal privacy and providing mechanisms by which natural persons and residents of this State may ascertain and dispute the accuracy of information gathered about them, and may obtain the reasons for any adverse underwriting decisions." The bill is based on the National Association of Insurance Commissioners' Insurance Information and Privacy Protection Model Act.

Section 3 limits the use of pretext interviews, as defined in section 2, to the gathering of information from statutorily nonprivileged sources, if a reasonable basis exists for suspecting criminal activity, fraud, material misrepresentation or material nondisclosure in connection with a claim.

Section 4 requires an insurance institution or agent to provide all applicants or policyholders with a written notice of information practices to be given to applicants or policyholders. This section specifies when the notice must be given and prescribes the contents of the notice, which shall include a description of the rights of the individual under this bill.

Section 5 requires information collected for marketing or research purposes to be so identified.

Section 6 specifies the contents of disclosure authorization forms used to authorize the disclosure of personal or privileged information about an individual to an insurance institution, agent or insurance-support organization. The contents shall specify who may disclose the information, the nature of the information, the purpose of the request, to whom disclosure is to be made, and the term of the authorization which is statutorily prescribed in this section.

Section 7 prohibits requests for, or the preparation of investigative consumer reports unless the individual is (a) advised of his right and afforded the opportunity to be interviewed, in accordance with reasonable procedures, in connection therewith, and (b) advised of the right to request a copy of the report.

Section 8 requires an insurance institution, agent or insurance-support organization within 30 days of receipt of an appropriate request, to provide authorized individuals with access to recorded personal information about themselves if reasonably described by the individual and reasonably retrievable. The individual may see and copy the recorded personal information, or obtain a copy by mail, and shall be advised of the name of the persons to whom the information was provided within the preceding two years, if recorded, or the party to which the information is customarily provided. The recorded personal information shall also identify the source of the information, if it is an institutional source. The individual shall be advised of the procedure for requesting corrections or deletions of recorded personal information. Except in the case of information relating to adverse underwriting decisions, a reasonable fee may be charged for the costs of providing such information.

The right to review personal information about oneself relating to an insurance transaction also applies to the review of medical record information by authorized medical professions. This right does not, however, extend to information collected in connection with, or in reasonable anticipation of a claim or a civil or criminal proceeding.

Section 9 sets forth the procedures by which an individual may request corrections or deletions of recorded personal information in dispute, and stipulates the responsibilities of the insurance institution, agent or support organization receiving such request. If the institution, agent or support organization refuses to make the requested change, the individual shall be advised of the reasons therefor, and of his right to file a statement of what the individual believes to be the correct information, and the statement shall be part of the individual's personal file. If a change in the recorded information is agreed to, the corrections or deletions shall be furnished to any designated party having received the information within the preceding two years, and to any

insurance-support organization having systematically filed the personal information.

The rights granted by section 9 also do not extend to information collected in connection with, or in reasonable anticipation of a claim or civil or criminal proceeding.

Section 10 requires persons to be notified in writing, within a prescribed period of time, of the reasons for an adverse underwriting decision, and the institutional sources of such information, or of the right of access to such information pursuant to sections 8 and 9 of the bill. Oral responses to oral requests are authorized. The notification provisions do not apply to relevant information if reasonable suspicion exists that the applicant, policyholder or individual has engaged in criminal or fraudulent activity, or material misrepresentation or non-disclosure.

Section 11 requires that requests by an insurance institution, agent or support organization for privileged information relating to adverse underwriting decision experiences, shall also include a request for the reasons therefor.

Section 12 prohibits the rendering of an adverse underwriting decision solely on the basis of a previous adverse decision, previous residual market assignment, or personal information provided by a support organization.

Section 13 prohibits the disclosure of personal or privileged information about an individual without the written authorization of that individual, and then only if the disclosure of information is reasonably necessary to the "person" to perform a business, professional or insurance function for the disclosing institutions, agent or support organization and the person agrees not to make further disclosures, except as authorized by this section. This section establishes different requirement tests for disclosures to parties such as insurance institutions, agents or insurance support organizations, medical care institutions or medical care professions, insurance regulatory or other governmental bodies, and research, consumer reporting or actuarial organizations, a group policyholder, and other interested parties.

Section 14 authorizes the commissioner to examine and investigate the affairs of every insurance institution, agent or insurance-support organization to determine any violations of the provisions of this act.

Section 15 authorizes and prescribes the procedures for hearings that may be held by the commissioner when reasonable suspicion exists of a violation of the provisions of this act. Section 16 deals with the service of process on out-of-state insurance-support organizations. Section 17 authorizes the commissioner to issue orders to cease and desist from conduct in violation of the provisions of this bill.

Section 18 authorizes the imposition of monetary penalties for violations of the provisions of the bill, including a cease and desist order of the commissioner.

Section 19 governs the judicial review of an appeal from an order or report of the commissioner.

Section 20 sets out the statutory remedies available to an individual injured by violations of the provisions of this bill, which shall be the exclusive remedies available therefor.

Section 21 grants immunity from an action for defamation to persons providing personal or privileged information in accordance with the provisions of this act, but immunity shall not extend to disclosures of false information furnished with malicious or willful intent.

Section 22 makes a crime of the fourth degree the obtaining under false pretenses of information in accordance with this act.

BILLS SIGNED

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JUNE 12, 1985

S-2623, sponsored by State Senator Christopher J. Jackman, D-Hudson, which appropriates \$100,000 to the New Jersey Statue of Liberty Centennial Commission.

S-1013, sponsored by State Senator Matthew Feldman, D-Bergen, which establishes standards for the collection, use and disclosure of information gathered in connection with insurance transactions.

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