

17:29A-35

LEGISLATIVE HISTORY CHECKLIST
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(Automobile insurance--various amendments)

NJSA: 17:29A-35 et al

LAWS OF: 1985 **CHAPTER:** 520

BILL NO: A3913

SPONSOR(S) Adubato and others

DATE INTRODUCED: June 24, 1985

COMMITTEE: **ASSEMBLY:** ---
SENATE: Labor, Industry and Professions

AMENDED DURING PASSAGE: Yes Amendments during passage denoted by asterisks

DATE OF PASSAGE: **ASSEMBLY:** June 27, 1985
SENATE: January 13, 1986

DATE OF APPROVAL: January 21, 1986

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: **ASSEMBLY:** No
SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

See newspaper clippings

"Governor signs legislation that will boost JUA revenue," 1-22-86,
Trenton Times, page A8.

See also newspaper clipping filed in NJ Reference Department, under "N.J.-
Insurance, Automobile".

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CHAPTER 520 LAWS OF N. J. 1985
APPROVED 1-21-86

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ASSEMBLY, No. 3913

STATE OF NEW JERSEY

INTRODUCED JUNE 24, 1985

By Assemblymen M. ADUBATO, LAROCCA, DEVERIN,
KOSCO and LOVEYS

AN ACT concerning automobile insurance and revising parts of
the statutory law.

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

1 1. Section 6 of P. L. 1983, c. 65 (C. 17:29A-35) is amended to
2 read as follows:

3 6. a. A merit rating accident surcharge system for private
4 passenger automobiles may be used both in the voluntary market
5 and by the New Jersey Automobile Full Insurance Underwriting
6 Association created pursuant to section 16 of P. L. 1983, c. 65
7 (C. 17:30E-4). No surcharges for damage to any property shall be
8 imposed on or after the operative date of this act, unless there is an
9 accident within a three year period immediately preceding the
10 effective date of coverage which results in **[payments]** *payment* by
11 the insurer of at least a \$300.00 property damage **[liability]** claim
12 *involving an at fault accident* or any payment by the insurer of a
13 bodily injury claim arising out of a collision of a private passenger
14 automobile with a pedestrian. All moneys collected under this sub-
15 section shall be retained by the insurer assessing the surcharge.
16 Accident surcharges shall be imposed for a three year period and
17 shall, for each filer, be uniform on a Statewide basis without regard
18 to classification or territory.

19 b. There is created a New Jersey Merit Rating Plan which shall
20 apply to all drivers and shall include, but not be limited to the
21 following provisions:

22 (1) (a) Plan surcharges shall be levied, beginning on or after
23 January 1, 1984, by the Division of Motor Vehicles on any driver

**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 September 9, 1985.**

24 who has accumulated, within the immediately preceding three year
25 period, beginning on or after **[January 1]** *February 10*, 1983, six
26 or more motor vehicle points as provided in Title 39 of the Revised
27 Statutes, exclusive of any points for convictions for which sur-
28 charges are levied under paragraph (2) of this subsection; except
29 that the allowance for a reduction of points in Title 39 of the
30 Revised Statutes shall not apply for the purpose of determining
31 surcharges under this paragraph. Surcharges shall be levied for
32 each year in which the driver possesses six or more points. Sur-
33 charges assessed pursuant to this paragraph shall be not less
34 than \$100.00 for six points, and not less than \$25.00 for each addi-
35 tional point. The commissioner may increase the amount of sur-
36 charges as he deems necessary to effectuate the purposes of subsec-
37 tion d. of this section and P. L. 1983, c. 65 (C. 17:29A-33 et al.), and
38 may, pursuant to regulation, permit the deferral of all or part of
39 any surcharges authorized by this subsection until the end of the
40 policy term of an automobile insurance policy with an effective date
41 prior to January 1, 1984, upon presentation of appropriate evidence
42 that an insured has already paid an equivalent surcharge arising
43 from the same motor vehicle **[violations]** *violation* or **[convictions]**
44 *conviction*.

45 (b) (Deleted by amendment, P. L. 1984, c. 1.)

46 (2) Plan surcharges shall be levied for convictions (a) under
47 R. S. 39:4-50 **[or section 2 of P. L. 1981, c. 512 (C. 39:4-50.4a), or**
48 **for offenses of a substantially similar nature committed in other**
49 **jurisdictions,]** for violations occurring on or after **[January 1]**
50 *February 10*, 1983, and (b) under section 2 of P. L. 1981, c. 512 (C.
51 39:4-50.4a), or for offenses committed in other jurisdictions of a
52 substantially similar nature to those under R. S. 39:4-50 or section
53 2 of P. L. 1981, c. 512 (C. 39:4-50.4a), for violations occurring on or
54 after January 26, 1984. Surcharges under this paragraph shall be
55 levied annually for a three year period, and shall be not less than
56 \$1,000.00 per year for each of the first two convictions, and not less
57 than \$1,500.00 per year for the third conviction occurring within a
58 three year period. If a driver is convicted under both R. S. 39:4-50
59 and section 2 of P. L. 1981, c. 512 (C. 39:4-50.4a) for offenses arising
60 out of the same incident, the driver shall be assessed only one sur-
61 charge for the two offenses. The commissioner may increase the
62 amount of surcharges as he deems necessary to effectuate the
63 purposes of subsection d. of this section and P. L. 1983, c. 65 (C.
64 17:29A-33 et al.), and may, pursuant to regulation, permit the
65 deferral of all or any part of these surcharges as provided in para-
66 graph (1) (a) of this subsection.

67 If, upon written notification from the Division of Motor Vehicles,
68 mailed to the last address of record with the division, a driver fails
69 to pay a surcharge levied under this subsection, the license of the
70 driver shall be suspended forthwith until the surcharge is paid to
71 the Division of Motor Vehicles; except that upon satisfactory show-
72 ing of indigency, the Division of Motor Vehicles may authorize
73 payment of the surcharge on an installment basis over a period not
74 to exceed ~~[six]~~ 10 months.

75 *For the purposes of this subparagraph, "indigency" shall be*
76 *defined in rules and regulations promulgated by the Director of the*
77 *Division of Motor Vehicles.*

78 All moneys collectible under this subsection shall be billed and
79 collected by the Division of Motor Vehicles. Of the moneys collected,
80 80% shall be remitted to the New Jersey Automobile Full Insurance
81 Underwriting Association, and 20% shall be retained, for adminis-
82 trative expenses, by the Division of Motor Vehicles and turned over
83 to the State Treasury for deposit in a special account to be used by
84 the Division of Motor Vehicles, as may be necessary, to modernize
85 its operations and improve its effectiveness and efficiency in order
86 to discharge its statutory obligations. Any moneys in the special
87 account at the end of a fiscal year shall be transferred to the
88 General Fund for use for general State purposes. Moneys shall be
89 appropriated annually to the special account.

90 (3) In addition to any other authority provided in P. L. 1983, c.
91 65 (C. 17:29A-33 et al.), the commissioner, after consultation with
92 the Director of the Division of Motor Vehicles, is specifically au-
93 thorized (a) to increase the dollar amount of the surcharges for
94 motor vehicle violations or convictions, (b) to impose, in accor-
95 dance with paragraph (1) (a) of this subsection, surcharges for
96 motor vehicle violations or convictions for which motor vehicle
97 points are not assessed under Title 39 of the Revised Statutes, or
98 (c) to reduce the number of points for which surcharges may be
99 assessed below the level provided in paragraph (1) (a) of this sub-
100 section, except that the dollar amount of all surcharges levied
101 under the New Jersey Merit Rating Plan shall be uniform on a
102 Statewide basis for each filer, without regard to classification or
103 territory. *Surcharges adopted by the commissioner on or after*
104 *January 1, 1984 for motor vehicle violations or convictions for*
105 *which motor vehicle points are not assessable under Title 39 of*
106 *the Revised Statutes shall not be retroactively applied but shall*
107 *take effect on the date of the New Jersey Register in which notice*
108 *of adoption appears or the effective date set forth in that notice,*
109 *whichever is later.*

110 c. No motor vehicle violation surcharges shall be levied on an
111 automobile insurance policy issued or renewed on or after January
112 1, 1984, except in accordance with the New Jersey Merit Rating
113 Plan, and all surcharges levied thereunder shall be assessed,
114 collected and distributed in accordance with subsection b. of this
115 section.

116 d. The dollar amount of all motor vehicle conviction surcharges
117 shall be at least equivalent to the differential between the rates
118 charged to insureds as promulgated by the rating bureau which
119 files rates for the greatest number of insurers in the voluntary
120 private passenger automobile insurance market in this State and
121 the Supplement I rates in use as of December 31, 1982 by the
122 automobile insurance plan established pursuant to P. L. 1970, c. 215
123 (C. 17:29D-1), and the amount collectible under the motor vehicle
124 conviction surcharge system in use by the automobile insurance
125 plan established pursuant to P. L. 1970, c. 215 (C. 17:29D-1 et seq.)
126 prior to the implementation of this act; except that in the first year
127 of operation of the New Jersey Automobile Full Insurance Under-
128 writing Association, the dollar amount of all motor vehicle sur-
129 charges shall be sufficient to eliminate the need for imposition of a
130 residual market equalization charge authorized under section 20 of
131 P. L. 1983, c. 65 (C. 17:30E-8).

132 e. The Commissioner of Insurance and the Director of the Divi-
133 sion of Motor Vehicles, as may be appropriate, shall adopt any
134 rules and regulations necessary or appropriate to effectuate the
135 purposes of this section.

1 2. (New section) The Division of Motor Vehicles in the Depart-
2 ment of Law and Public Safety shall, within 180 days of the effective
3 date of this amendatory and supplementary act, refund any sur-
4 charges collected by the division for a. violations and convictions
5 or the accumulation of motor vehicle points that occurred prior
6 to the dates set forth in section 6 of P. L. 1983, c. 65 (C. 17:29A-35),
7 and b. motor vehicle violations and convictions for which motor
8 vehicle points are not assessable under Title 39 of the Revised
9 Statutes that occurred prior to March 19, 1984. No interest shall
10 be payable on any monies refunded by the division within the 180
11 days. Interest charges shall be payable, at a rate of interest and
12 in a manner to be prescribed by the Commissioner of Insurance, on
13 surcharges refunded after 180 days.

1 3. Section 20 of P. L. 1983, c. 65 (C. 17:30E-8) is amended to
2 read as follows:

3 20. a. The association shall derive income from the following
4 sources for the payment of expenses, losses, and the provision of

5 adequate, actuarially sound reserves for unpaid losses and loss
6 adjustment expenses, including incurred but not reported losses, in
7 connection with association business: (1) net premiums earned; (2)
8 income generated from any association accident surcharge system
9 permitted or required by law; (3) that percentage of surcharges
10 collected by the Division of Motor Vehicles and deposited with the
11 association pursuant to subsection b. of section 6 of the "New
12 Jersey Automobile Insurance Reform Act of 1982" (P. L. 1983,
13 c. 65; C. 17:29A-35); (4) income collected by members of the asso-
14 ciation and by the association from the residual market equaliza-
15 tion charge or flat charges (also referred to as capitation fees or
16 policy constants, but not including premiums for uninsured
17 motorists or towing coverage, or flattened tax and expense fees im-
18 plemented pursuant to section 8 of P. L. 1983, c. 65 (C. 17:29A-37))
19 levied on a per car and per coverage basis; and (5) income
20 from investment of moneys collected pursuant to paragraphs
21 (1), (2), (3) and (4) of this subsection. Residual market equaliza-
22 tion charges collected on behalf of the association shall on a monthly
23 basis be certified to by the carrier and shall be transferred to the
24 association in accordance with the plan of operation. No producer
25 commissions or premium taxes shall be paid on, or company
26 expenses or servicing carrier compensation deducted from, the
27 residual market equalization charge. *No servicing carrier compen-*
28 *sation or commissions shall be paid by the association on violation*
29 *surcharges deposited by the Division of Motor Vehicles with the*
30 *association. All premiums received by servicing carriers on behalf*
31 *of the association, net of commissions paid, net of all premium*
32 *taxes, and servicing carrier compensation, shall on a monthly*
33 *basis be certified to by the carrier and shall be transferred to the*
34 *association in accordance with the plan of operation. Premiums*
35 *shall be transferred to the association net of commissions paid, all*
36 *premium taxes and, servicing carrier compensation, except as*
37 *otherwise required by law.*

38 All claims and claim expense payments paid on association busi-
39 ness shall be disbursed by the servicing carriers or the association
40 through drafts drawn on association funds in accordance with the
41 plan of operation. Servicing carriers, as agents of the association,
42 shall have no individual liability on claims or policies written by the
43 association.

44 b. At least annually, the board shall file its experience with the
45 commissioner, which experience shall include the projected income,
46 expenses, losses and reserve requirements of the association for the
47 ensuing year, any adjustment in previously established reserves for

48 unpaid losses and loss adjustment expenses necessary to make such
49 reserves adequate and actuarially sound, and the initial filing shall
50 include the experience of the automobile insurance plan established
51 pursuant to P. L. 1970, c. 215 (C. 17:29D-1). Except in the case
52 of the initial or other filing applicable to the first year of operation
53 of the association, the board shall include in its filing with the
54 commissioner, for his approval, a computation of the residual
55 market equalization charge per insured vehicle to be collected by
56 each member from its voluntary insureds, exclusive of principal
57 operators 65 years of age or older, and by each servicing carrier
58 from association insureds, exclusive of principal operators 65 years
59 of age or older, to offset the anticipated losses of the association.

60 At the end of the first 12 months of the operation of the associa-
61 tion and at least annually thereafter, the board shall also include
62 in its filing with the commissioner a review of the previous year's
63 experience, setting forth the income, losses, and reserve require-
64 ments, including any adjustment in previously established reserves
65 for unpaid losses and loss adjustment expenses necessary to make
66 such reserves adequate and actuarially sound, and expenses of
67 the association during the previous year. If a profit is found by
68 the commissioner to have been realized, such amount shall reduce
69 the residual market equalization charge levied on policyholders pur-
70 suant to subsection d. of this section. If a loss is found by the com-
71 missioner to have occurred, such amount shall increase the charge
72 levied on policyholders pursuant to subsection d. of this section.
73 The filing shall be accompanied by such statistics and other in-
74 formation as the commissioner may deem necessary. The commis-
75 sioner shall, within 60 days of such filing, approve or disapprove the
76 filing, *except that the commissioner may, for good cause, extend*
77 *by not more than 60 days the period for approving or disapproving*
78 *the filing.* Failure to act within **[60 days]** *the period allowed for*
79 *the commissioner's review of the filing* shall be deemed approval
80 of the filing except that the running of the **[60-day]** period
81 shall be tolled by a request for additional information by the com-
82 missioner or until the association notifies the commissioner that it
83 will not provide such additional information, together with the
84 reason for not supplying the information. Failure to comply with
85 a reasonable request for information may be a ground for disap-
86 proving all or part of the filing. If the commissioner disapproves
87 all or part of the filing, he shall state the reasons for such disap-
88 proval, and indicate such portion of the filing he approves. Such
89 disapproval shall be subject to review by the Appellate Division of
90 the Superior Court.

91 c. The residual market equalization charge last approved by the
92 commissioner shall continue to apply while the application for the
93 revised charge is being processed by the commissioner pursuant to
94 this section.

95 d. The residual market equalization charge per insured vehicle
96 shall be collected following the effective date of such approval by
97 the insurer from its policyholders, exclusive of principal operators
98 65 years of age or older, on a uniform net direct car year of liability
99 exposure basis and a net direct car year of physical damage ex-
100 posure basis. Any insurer or rating organization making a residual
101 market equalization charge pursuant to this subsection shall, 15
102 days prior to the date of the implementation of the proposed rate
103 adjustment, make an informational filing with the commissioner,
104 documenting compliance with the established method of distributing
105 such residual market equalization charge.

106 e. Any insurer licensed to transact automobile insurance after the
107 effective date of this act~~],~~ shall become a member of the associa-
108 tion upon receiving such license and the determination of any such
109 insurer's participation in the association shall be made as of the
110 date of such membership in the same manner as for all other
111 members of the association.

112 f. For purposes of this section and any other applicable provision
113 of law, the residual market equalization charge shall not be con-
114 sidered insurance premium unless otherwise specifically provided
115 therein.

1 4. Section 10 of P. L. 1983, c. 65 (C. 17:29A-39) is amended to
2 read as follows:

3 10. The commissioner shall promulgate rules and regulations
4 requiring insurers to offer~~]:~~ a. a range of deductibles up to at
5 least \$2,000.00 for private passenger automobile collision and
6 comprehensive coverages~~];~~ and b. coinsurance options applicable
7 separately to private passenger automobile collision and com-
8 prehensive coverages whereby the insured is responsible for paying
9 a percentage, in the amount of at least 10% but subject to c. limit
10 established by the commissioner by regulation, of a loss covered by
11 the policy in excess of an applicable deductible~~].~~

1 5. Section 17 of P. L. 1983, c. 362 (C. 39:6A-23) is amended to
2 read as follows:

3 Notice of available coverages and rate credits for deductible,
4 exclusion, setoff and tort limitation options.

5 a. No new automobile insurance policy shall be issued on or
6 after ~~[July 1, 1984,]~~ *the 180th day following the effective date of*
7 *this 1985 amendatory and supplementary act* unless the application

8 for the policy is accompanied by a written notice identifying and
 9 containing *buyer's guide and coverage selection form*. *The buyer's*
 10 *guide shall contain a brief description of all available policy cover-*
 11 *ages and benefit limits, and [identifying] shall identify which cover-*
 12 *ages are mandatory and which are optional under State law, as well*
 13 *as all deductible, exclusion, setoff and tort limitation options*
 14 *offered by the insurer. [The insurer shall identify the percentage*
 15 *of premium rate credit for each option or combination of options,*
 16 *as the case may be.]*

17 The [written notice] *buyer's guide* shall also contain a state-
 18 ment on the possible coordination of other health benefit coverages
 19 with the personal injury protection coverage options, the form and
 20 contents of which shall be prescribed by the Commissioner of
 21 Insurance.

22 *The coverage selection form shall identify the range of premium*
 23 *rate credit or dollar savings, or both, and shall provide any other*
 24 *information required by the commissioner by regulation.*

25 The applicant shall indicate the options elected on the [written
 26 notice] *coverage selection form* which shall be signed and returned
 27 to the insurer. [Each applicant shall also be provided with the
 28 buyer's guide containing a description of the policy coverages,
 29 benefit limits and coverage options offered by the insurer, and a
 30 statement on the possible coordination of personal injury protection
 31 coverage benefits with other health benefit coverages.]

32 b. [In the case of any automobile insurance policy in force on
 33 July 1, 1984, the named insured shall be provided not later than
 34 May 15, 1984 with a written notice and buyer's guide, as required
 35 under subsection a. of this section. Every policy subject to this
 36 subsection shall be endorsed and, if necessary, rerated in accor-
 37 dance with the instructions provided by the named insured, as
 38 indicated on the written notice, which instructions shall be executed
 39 and shall take effect on July 1, 1984.] (*Deleted by amendment, P. L.*
 40 *. . . . , c. . . .*)

41 c. Any notice of renewal of an automobile insurance policy with
 42 an effective date subsequent to July 1, 1984, shall be accompanied
 43 by a written notice of all policy coverage information required to
 44 be provided under subsection a. of this section.

45 The Commissioner of Insurance shall, within 45 days following
 46 the effective date of this act, promulgate standards for the written
 47 notice and buyer's guide required to be provided under this section.

48 d. *Written notices provided by any insurer writing at least 2%*
 49 *of the New Jersey private passenger automobile market, including*
 50 *the New Jersey Automobile Full Insurance Underwriting Associa-*

51 *tion established pursuant to section 16 of P. L. 1983, c. 65 (C.*
 52 *39:30E-4), shall also contain a statement advising that if the in-*
 53 *54 sured or applicant has any questions concerning his automobile*
 54 *insurance policy, including questions as to coverage or premiums,*
 55 *he may contact either his agent or broker, or the company directly,*
 56 *by using a toll free number which shall be set forth in the notice.*
 57 *Written notice shall be given to all insureds of any change in the*
 58 *toll free number.*

1 ***[6.** Section 1 of P. L. 1970, c. 217 (C. 17:22-6.14a) is amended to
 2 read as follows:

3 1. In the event that a policy is cancelled by the insurer, either at
 4 its own behest or at the behest of the agent or broker of record,
 5 the unearned premium, including the unearned commission shall
 6 be returned to the policyholder. **[**In the event that a policy of
 7 automobile insurance issued by the automobile insurance plan
 8 established pursuant to P. L. 1970, c. 215 (C. 17:29D-1) or any
 9 successor thereto, is cancelled by reason of nonpayment of premium
 10 to the insurer issuing the policy or nonpayment of an installment
 11 payment due pursuant to an insurance premium finance agreement,
 12 the broker of record for that policy may retain the full annual com-
 13 mission due thereon and, if a premium finance agreement is not
 14 involved, the effective date of cancellation of the policy shall be no
 15 earlier than 10 days prior to the last full day for which the premium
 16 paid by the insured, net of the broker's full annual commission,
 17 would pay for coverage on a pro rata basis in accordance with rules
 18 established by the commissioner.**]** Contracts between insurance
 19 companies and agents for the appointment of the agent as the
 20 representative of the company shall set forth the rate of commis-
 21 sion to be paid to the agent for each class of insurance within the
 22 scope of such appointment written on all risks or operations in this
 23 State except:

- 24 (a) Reinsurance.
- 25 (b) Life insurance.
- 26 (c) Annuities.
- 27 (d) Accident and health insurance.
- 28 (e) Title insurance.
- 29 (f) Mortgage guaranty insurance.
- 30 (g) Hospital service, medical service, or dental service corpora-
- 31 tions, investment companies, mutual benefit associations, or fra-
- 32 ternal beneficiary associations.

33 Said rates of commission shall continue in force and effect unless
 34 changed by mutual written consent or until termination of said
 35 contract as hereinafter provided. Failure to achieve such mutual**]***

36 *Consent shall require that the agent's contract be terminated as
37 hereinbelow provided. The rate of commissions being paid on each
38 class of insurance on the date of enactment hereof shall be deemed
39 to be pursuant to the existing contract between agent and company.

40 Termination of any such contract for any reason other than one
41 excluded herein shall become effective after not less than 90 days'
42 notice in writing given by the company to the agent and the Com-
43 missioner of Insurance. No new business nor increases in liability
44 on renewal or in force business shall be written by the agent for
45 the company after notice of termination without written approval
46 of the company. However, during the term of the agency contract,
47 including the said 90-day period, the company shall not refuse to
48 renew such business from the agent as would be in accordance with
49 said company's current underwriting standards. The company
50 shall during a period of nine months from the effective date of such
51 termination, provided the former agent has not been replaced as
52 the broker of record by the insured, and upon request in writing
53 of the terminated agent, renew all contracts of insurance for such
54 agent for said company as may be in accordance with said
55 company's then current underwriting standards and pay to the
56 terminated agent a commission in accordance with the previous
57 agency contract of the terminated agent. Said commission can
58 be paid only to the holder of a New Jersey broker's license. In
59 the event any risk shall not meet the then current underwriting
60 standards of said company, that company may decline its renewal,
61 provided that the company shall give the terminated agent and the
62 insured not less than 60 days' notice of its intention not to renew
63 said contract of insurance.

64 The agency termination provisions of this act shall not apply to
65 those contracts in which the agent is paid on a salary basis without
66 commission or where he agrees to represent exclusively one com-
67 pany or to the termination of an agent's contract for insolvency,
68 abandonment, gross and willful misconduct, or failure to pay over
69 to the company moneys due to the company after his receipt of a
70 written demand therefor, or after revocation of the agent's license
71 by the Commissioner of Insurance; and in any such case the com-
72 pany shall upon request of the insured, provided he meets the then
73 current underwriting standards of the company, renew any contract
74 of insurance formerly processed by the terminated agent through
75 an active agent, or directly pursuant to such rules and regulations
76 as may be promulgated by the Commissioner of Insurance.

77 The Commissioner of Insurance, on the written complaint of any
78 person stating that there has been a violation of this act, or when]*

79 ***]**he deems it necessary without a complaint, may inquire and other-
80 wise investigate to determine whether there has been any violation
81 of this act.

82 All existing contracts between agent and company in effect in
83 the State of New Jersey on the effective date of this act are subject
84 to all provisions of this act.

85 The Commissioner of Insurance may, if he determines that a
86 company is in unsatisfactory financial condition, exclude such com-
87 pany from the provisions of this act.

88 Whenever under this act it is required that the company shall
89 renew a contract of insurance, the renewal shall be for a time
90 period equal to one additional term of the term specified in the
91 original contract, but in no event to be less than one year.]*

1 ***[7.]*** *6.* Section 15 of P. L. 1983, c. 65 (C. 17:30E-3) is
2 amended to read as follows:

3 15. As used in sections 13 to 34 of this act:

4 a. "Association" means the New Jersey Automobile Full In-
5 surance Underwriting Association.

6 b. "Automobile" means a private passenger automobile of a
7 private passenger or station wagon type that is owned or hired, and
8 **[is neither]** *includes a private passenger automobile used in the*
9 *profession, partnership or individual proprietorship of the owner,*
10 *but excludes a private passenger automobile used as a public or*
11 *livery conveyance for passengers **[nor]** or rented to others with a*
12 *driver; a motor vehicle with a pickup body, a delivery sedan or a*
13 *panel truck or a camper type vehicle used for recreational purposes*
14 *owned by an individual or by husband and wife who are residents of*
15 *the same household, not customarily used in the occupation, pro-*
16 *fession or business of the insured other than farming or ranching;*
17 *and, solely for the purposes of this act, a motorcycle, as defined in*
18 *R. S. 39:1-1. An automobile owned by a farm family copartnership*
19 *or corporation which is principally garaged on a farm or ranch and*
20 *otherwise meets the definitions contained in this section, shall be*
21 *considered a private passenger automobile owned by two or more*
22 *relatives resident in the same household.*

23 c. "Automobile insurance" means direct insurance against injury
24 or damage, including the legal liability therefor, arising out of
25 the ownership, operation, maintenance or use of automobiles, in-
26 cluding but not limited to, personal injury protection insurance,
27 bodily injury liability insurance, property damage liability insur-
28 ance, physical damage insurance and uninsured and underinsured
29 motorist insurance.

30 d. "Board" or "board of directors" means the board of directors
31 of the association.

32 e. "Company" or "member" means an insurer member of the
33 association.

34 f. "Commissioner" means the Commissioner of Insurance.

35 g. "Director" means a member of the board of directors of the
36 New Jersey Automobile Full Insurance Underwriting Association.

37 h. "Net direct car years of liability exposure" means direct
38 bodily injury liability car years of exposure, after deducting re-
39 turns for cancellations, but without adding reinsurance assumed or
40 deducting reinsurance ceded, as determined by the board and
41 approved by the commissioner.

42 i. "Net direct car years of physical damage exposure" means
43 direct physical damage car years of exposure, after deducting
44 returns for cancellations, but without adding reinsurance assumed
45 or deducting reinsurance ceded, as determined by the board and
46 approved by the commissioner.

47 j. "Person" means every natural person.

48 k. "Plan of operation" means the plan of operation of the asso-
49 ciation created pursuant to section 18 of this act.

50 l. "Producer" means an agent or broker licensed to transact the
51 business of automobile insurance in this State.

52 m. "Qualified [Applicant] *applicant*" means [a person domiciled
53 in New Jersey, who is] *a person, partnership, profession or indi-*
54 *vidual proprietorship domiciled in New Jersey who or which is*
55 *an owner of an automobile registered, or to be registered within 60*
56 *days of application, and principally garaged in this State, except*
57 *that [nonresidents who are members] a member of the United*
58 *States military forces if otherwise eligible for insurance coverage*
59 *issued by the *[associations]* *association**, shall be eligible with
60 respect to [automobiles registered in other states if such military
61 nonresidents are stationed in this State and their vehicles are
62 garaged in this State] *an automobile if, at the time the application*
63 *is made *[and if they are otherwise eligible for insurance cover-*
64 *age issued by the association]*, he is either (1) a nonresident who*
65 *is stationed in this State, whose automobile is registered in another*
66 *state and garaged in this State; or (2) a resident who is stationed*
67 *in another state, whose automobile is registered in this State and*
68 *garaged in another state. No person, partnership, profession or*
69 *individual proprietorship shall, however, be deemed a qualified*
70 *applicant, if the principal operator of the automobile to be insured*
71 *does not hold a driver's license which is valid in this State; or if*
72 *a regular operator of the automobile other than the principal op-*

73 erator does not hold such a license; or if timely payment of pre-
 74 mium is not tendered; or if the principal operator of the automobile
 75 does not furnish the information necessary to effect insurance; or
 76 if such person, *partnership, profession or individual proprietor-*
 77 *ship* rents or leases automobiles to others or automobiles which
 78 are used for commercial purposes. "*Qualified applicant, in the*
 79 *case of a partnership, profession or individual proprietorship, shall*
 80 *be limited to a partnership, profession or individual proprietor-*
 81 *ship with its principal place of business in New Jersey, registering*
 82 *not more than four automobiles for use by that partnership, pro-*
 82A *fession or individual proprietorship.*

83 n. "Underinsured motorist coverage" means insurance for
 84 damages because of bodily injury and property damage caused by
 85 accident and arising out of the ownership, maintenance or use of an
 86 underinsured automobile. An automobile is underinsured when the
 87 sum of the limits of liability under all bodily injury and property
 88 damage liability bonds and insurance policies available to a person
 89 against whom recovery is sought for bodily injury or property
 90 damage is, at the time of the accident, less than the applicable
 91 limits of liability afforded under the automobile insurance policy
 92 held by the person seeking such recovery.

93 o. "Residual market equalization charge" means the amount
 94 which when added to all other sources of association income, will
 95 cause the association to operate on a no profit, no loss basis.

1 ***[8.]*** *7.* Section 14 of P. L. 1944, c. 27 (C. 17:29A-14) is
 2 amended to read as follows:

3 14. a. With regard to all property and casualty lines, a filer may,
 4 from time to time, alter, supplement, or amend its rates, rating-
 5 systems, or any part thereof, by filing with the commissioner copies
 6 of such alterations, supplements, or amendments together with a
 7 statement of the reason or reasons for such alteration, supplement,
 8 or amendment, in a manner and with such information as may be
 9 required by the commissioner. If such alteration, supplement, or
 10 amendment shall have the effect of increasing or decreasing rates,
 11 the commissioner shall determine whether the rates as altered
 12 thereby are reasonable, adequate, and not unfairly discriminatory.
 13 If the commissioner shall determine that the rates as so altered are
 14 not unreasonably high, or inadequate, or unfairly discriminatory,
 15 he shall make an order approving them. If he shall find that the
 16 rates as altered are unreasonable, inadequate, or unfairly discrim-
 17 inatory, he shall issue an order disapproving such alteration, sup-
 18 plement or amendment.

19 b. (Deleted by amendment, P. L. 1984, c. 1.)

20 c. If an insurer or rating organization files a proposed alteration,
21 supplement or amendment to its rating system, or any part thereof,
22 which would result in a change in rates, the commissioner may,
23 or upon the request of the filer or the Public Advocate, shall certify
24 the matter for a hearing. The hearing shall, at the commissioner's
25 discretion, be conducted by himself or by the Office of Administra-
26 tive Law, created by P. L. 1978, c. 67 (C. 52:14F-1 et seq.), as a
27 contested case. The following requirements shall apply to the
28 hearing:

29 (1) The hearing shall commence within 30 days of the date of
30 the request or decision that a hearing is to be held. The hearing
31 shall be held on consecutive working days, *except that the commis-*
32 *sioner may, for good cause, waive the consecutive working days*
33 *requirement.* If the hearing is conducted by an administrative law
34 judge, the administrative law judge shall submit his findings and
35 recommendations to the commissioner within 30 days of the close
36 of the hearing. *The commissioner may, for good cause, extend the*
37 *time within which the administrative law judge shall submit his*
38 *findings and recommendations by not more than 30 days.* A deci-
39 sion shall be rendered by the commissioner not later than 60 days,
40 *or, if he has granted a 30 day extension, not later than 90 days,*
41 from the close of the hearing. A filing shall be deemed to be ap-
42 proved unless rejected or modified by the commissioner within the
43 time period provided herein.

44 (2) The commissioner, or the Director of the Office of Admin-
45 istrative Law, as appropriate, shall notify all interested parties,
46 including the Public Advocate on behalf of insurance consumers,
47 of the date set for commencement of the hearing on the date of the
48 filing of the request for a hearing, or within 10 days of the decision
49 that a hearing is to be held.

50 (3) The insurer or rating organization making a filing on which
51 a hearing is held shall bear the costs of the hearing.

52 (4) The commissioner may promulgate rules and regulations
53 (a) to establish standards for the submission of proposed filings,
54 amendments, additions, deletions and alterations to the rating
55 system of filers, which may include forms to be submitted by each
56 filer; and (b) making such other provisions as he deems necessary
57 for effective implementation of this act~~],~~ except that all requests
58 for information shall be limited to the kinds of detail required by
59 the commissioner under section 5 of P. L. 1944, c. 27 (C. 17:29A-5)~~].~~

60 d. (Deleted by amendment, P. L. 1984, c. 1.)

61 e. In order to meet, as closely as possible, the deadlines in section
62 17 of P. L. 1983, c. 362 (C. 39:6A-23) for provision of notice of

63 available optional automobile insurance coverages pursuant to
 64 section 13 of P. L. 1983, c. 362 (C. 39:6A-4.3) and section 8 of P. L.
 65 1972, c. 70 (C. 39:6A-8), and to implement these coverages, the
 66 commissioner may require the use of rates, fixed by him in advance
 67 of any hearing, for deductible, exclusion, setoff and tort limitation
 68 options, on an interim basis, subject to a hearing and to a provision
 69 for subsequent adjustment of the rates, by means of a debit, credit
 70 or refund retroactive to the effective date of the interim rates. The
 71 public hearing on initial rates applicable to the coverages available
 72 under section 13 of P. L. 1983, c. 362 (C. 39:6A-4.3) and section 8
 73 of P. L. 1972, c. 70 (C. 39:6A-8) shall not be limited by the pro-
 74 visions of subsection c. of this section governing changes in pre-
 75 viously approved rates or rating systems.

1 ***[9.]*** *8.* (New section) No insurer*, *including the New*
 2 *Jersey Automobile Full Insurance Underwriting Association,** shall
 3 be required to issue or renew collision or comprehensive insurance
 4 coverages, or both, at standard market rates, for an automobile, as
 5 defined in section 2 of P. L. 1972, c. 70 (C. 39:6A-2), or as defined
 6 in section 15 of P. L. 1983, c. 65 (C. 17:30E-3) in the case of the
 7 New Jersey Automobile Full Insurance Underwriting Association,
 8 to any person identified as a dangerous driver or as having excessive
 9 claims in accordance with standards and guidelines to be adopted by
 10 the Commissioner of Insurance. Insurers writing in the voluntary
 11 market may, and the New Jersey Full Insurance Underwriting
 12 Association shall, issue collision or comprehensive insurance cover-
 13 age, or both, to a person whose coverage was not issued or not re-
 14 newed pursuant to this section on the basis of the person's experi-
 15 ence. With regard to the identification of dangerous drivers, the
 16 standards and guidelines adopted by the commissioner shall take
 17 into consideration the total driving record of the driver, as well as
 18 any serious driving offenses, as defined by the commissioner, com-
 19 mitted within a three year period, including motor vehicle viola-
 19A tions resulting in an at fault automobile accident.

20 The commissioner shall adopt rules and regulations necessary
 21 or appropriate to effectuate the purposes of this section.

1 ***[10.** Section 27 of P. L. 1983, c. 65 (C. 17:30E-15) is amended to
 2 read as follows:

3 27. A qualified applicant who is eligible for coverage through the
 4 association shall be offered and entitled to coverage up to at least
 5 the following limits: a. bodily injury liability: \$250,000.00 each
 6 person, \$500,000.00 each accident; b. property damage liability:
 7 \$100,000.00; c. bodily injury and property damage: \$500,000.00
 8 single limit each accident; d. comprehensive and collision coverage,
 9 *except in the case of a dangerous driver as provided in section*

10 9 of P. L., c. . . . (C.) (now pending before the
 11 Legislature as this bill); e. uninsured motorist and underinsured
 12 motorist coverage: \$250,000.00 each person and \$500,000.00 each
 13 accident for bodily injury; \$100,000.00 each accident for property
 14 damage or \$500,000.00 single limit, subject to an exclusion of the
 15 first \$250.00 of the damage to property for each accident, except
 16 that the limits for uninsured and underinsured motorist coverages
 17 on association coverage shall not exceed the insured's policy limits
 18 for bodily injury and property damage, respectively; f. personal
 19 injury protection coverage as required by law; g. additional per-
 20 sonal injury protection coverage required to be offered by law; and
 21 h. any other automobile insurance required to be offered by law
 22 and subject to the limits stated in the law. Motorcycles shall not be
 23 written for the coverages required or required to be offered pur-
 24 suant to P. L. 1972, c. 70 (C. 39:6A-1 et seq.).]*

1 ***[11.]*** *9.* Section 17 of P. L. 1983, c. 65 (C. 17:30E-5) is
 2 amended to read as follows:

3 17. a. Within 45 days after the effective date of this act, there
 4 shall be appointed a board of directors, and within 30 days after
 5 the appointment of the board, the commissioner shall call the first,
 6 or organizational, meeting of the association, which shall seat the
 7 board of directors. The board shall consist of 17 persons, 14 of
 8 whom shall be appointed by the Governor, one of whom shall be
 9 appointed by the Speaker of the General Assembly, and one by the
 10 President of the Senate; the Director of the Division of Motor
 11 Vehicles in the Department of Public Law and Safety shall be an
 12 ex officio member of the board. Of the board members appointed
 13 by the Governor, eight shall represent member companies, three
 14 shall represent producers, and three shall be public members. Mem-
 15 bers of the board shall be compensated from the moneys of the
 16 association for their services, pursuant to standards and procedures
 17 set forth in the plan of operation. In appointing the representatives
 18 of the member companies, the Governor shall select two persons
 19 from a list of not fewer than three persons nominated by the
 20 American Insurance Association, or its successor organization,
 21 from the officers or employees of insurers which are licensed to
 22 transact automobile insurance in this State and which are members
 23 or subscribers of that organization; two persons from a list of not
 24 fewer than three persons nominated by the Alliance of American
 25 Insurers, or its successor organization, from the officers or em-
 26 ployees of insurers which are licensed to transact automobile in-
 27 surance in this State and which are members or subscribers of that
 28 organization, two persons from a list of not less than three persons

29 nominated by the National Association of Independent Insurers,
30 or its successor organization, from the officers or employees of in-
31 surers which are licensed to transact automobile insurance in this
32 State and which are members or subscribers of that organization;
33 and two persons from the officers or employees of any insurers
34 which are licensed in this State and are not members or subscribers
35 of any of the above-mentioned organizations. All nominations made
36 by the associations shall include at least one representative of an
37 insurer which does not intend to be a servicing carrier. In appoint-
38 ing the producer representatives, the Governor shall select one
39 person from a list of not fewer than three nominated by the Pro-
40 fessional Insurance Agents Association or its successor organiza-
41 tion; one person from a list of not fewer than three nominated by
42 the Independent Insurance Agents Association or its successor
43 organization; and one person from a list of not fewer than three
44 nominated by the Insurance Brokers Association or its successor
45 organization. The Governor shall name two surrogates for each
46 director on the board from a list submitted to him by each ap-
47 pointee. The Governor shall, with the advice and consent of the
48 Senate, also appoint three public members to the board. The
49 Speaker of the General Assembly and the President of the Senate
50 shall each appoint a public member. The commissioner or his desig-
51 nated representative shall be entitled to attend and participate in
52 all meetings of the board or any of its committees.

53 Each trade association and producer association shall have 15
54 days from the effective date of this act to submit its prescribed list
55 of board of director candidates to the Governor. The Governor
56 shall have 30 days from receipt of each list to select permanent
57 board members from it. If any of the associations named in this
58 section fails to submit the lists from which the Governor is to select
59 members of the board of directors within time, the Governor shall
60 appoint temporary board members to represent each association
61 that has failed to submit its list. In selecting temporary board
62 members, the Governor shall be guided by the selection criteria set
63 forth herein. Upon subsequent receipt of the list from the associa-
64 tion, the Governor shall select permanent board members to replace
65 temporary board members within 30 days. Such replacement
66 shall become effective immediately.

67 The initial appointment of four insurer directors, one producer-
68 group director, and one public member appointed by the Governor
69 shall be for a term of one year. The initial appointments of all
70 other directors shall be for terms of two years. After the initial
71 appointments all directors shall be appointed for terms of two

72 years and shall serve until their successors are appointed and
73 qualified. All appointive vacancies on the board shall be filled in
74 accordance with the above-mentioned procedures and classifications.
75 Appointments to fill vacancies shall be for the unexpired term of
76 the director to be replaced. Except in the case of the Director of
77 the Division of Motor Vehicles, directors may be reimbursed from
78 the moneys of the association for reasonable expenses incurred by
79 them as members.

80 b. After the board has been appointed, it shall elect from its
81 membership a chairman and shall then meet thereafter at least
82 annually, and as often as the chairman or the plan of operation
83 shall require, or at the request of any five members of the board or
84 the commissioner. *All meetings of the board shall be held in New*
85 *Jersey. Written notice setting forth the meeting agenda shall be*
86 *provided for each board meeting. Written notice shall be provided,*
87 *at least five days prior to the date of the meeting, to all directors,*
88 *the commissioner, and the chairmen of the Assembly Banking and*
89 *Insurance Committee and the Senate Labor, Industry and Profes-*
90 *sions Committee, or the successors to those committees. Minutes*
91 *shall be kept of all meetings. A copy of the minutes shall be sent*
92 *within five business days following the meeting to the commissioner,*
93 *and to the chairmen of the two legislative committees. Each mem-*
94 *ber of the board shall be entitled to one vote. The commissioner,*
95 *or his designated representative, shall have no right to vote. Nine*
96 *voting members of the board shall constitute a quorum. No votes*
97 *shall be cast on any matter except at an authorized board meeting.*
98 *All votes shall be recorded in the minutes of the meeting. No votes*
99 *shall be cast on any matter not listed as an agenda item in the*
100 *written notice for that meeting. No member or his surrogate, shall*
101 *be entitled to vote on any matter if not physically present at the*
102 *meeting at which the vote is taken. A majority of the voting mem-*
103 *bers shall determine any action of the board. No member may*
104 *serve as chairman for more than two consecutive years.*

105 c. The board shall have and exercise all powers of the association
106 not reserved to the members by the plan of operation or as other-
107 wise provided in this act.

1 ***[12.]*** *10.* Section 15 of P. L. 1983, c. 362 (C. 39:6A-21) is
2 amended to read as follows:

3 15. The New Jersey Automobile Insurance Risk Exchange: mem-
4 bership, board of directors.

5 There shall be created, within 45 days of the operative date of
6 this act, an unincorporated association, to operate on a nonprofit-
7 nonloss basis, to be known as the New Jersey Automobile Insur-

8 ance Risk Exchange, with its headquarters to be located within
9 the State of New Jersey. Every insurer licensed to transact
10 private-passenger automobile insurance in this State shall be a
11 member of the exchange and shall be bound by the rules of the
12 exchange as a condition of the authority to transact insurance
13 business in this State. The New Jersey Automobile Full Insurance
14 Underwriting Association created pursuant to section 16 of P. L.
15 1983, c. 65 (C. 17:30E-4) shall also be a member of the exchange
16 and shall be bound by the rules of the exchange. Any insurer which
17 ceases to transact automobile insurance business in this State
18 shall remain liable for any amounts due to the exchange for busi-
19 ness transacted prior to the effective date of its cessation of busi-
20 ness in the State.

21 The [rules of the] exchange shall *adopt a plan of operation*
22 *which shall become effective upon approval by the Commissioner of*
23 *Insurance. The [be determined and its] business affairs of the ex-*
24 *change shall be governed by a board of directors to be comprised of*
25 *[nine] 12 members [who]. Ten members shall be appointed, from a*
26 *list of names submitted by the Commissioner of Insurance, by the*
27 *Governor, with the advice and consent of the Senate, [and who shall*
28 *serve at the pleasure of the Governor,] of whom two shall repre-*
29 *sent the Alliance of American Insurers, or its successor organiza-*
30 *tion; two shall represent the National Association of Independent*
31 *Insurers, or its successor organization; two shall represent the*
32 *American Insurance Association, or its successor organization;*
33 *two shall represent the independent companies; [and] one shall*
34 *be an insurer representative on the board of directors of the New*
35 *Jersey Automobile Full Insurance Underwriting Association; and*
36 *one shall be a public member. The Speaker of the General Assem-*
37 *bly* [on the recommendation of the chairman of the Assembly*
38 *Banking and Insurance Committee,]* and the President of the Sen-*
39 *ate* [on the recommendation of the chairman of the Senate Labor,*
40 *Industry and Professions Committee, or any successor to those*
41 *legislative committees,]* shall each appoint one public member.*
42 *The board shall elect a chairman who shall be a representative of an*
43 *insurer domiciled in New Jersey. No insurer shall represent more*
44 *than one organization on the board of directors of the exchange.*
45 *[Appointments shall be made from a list of names submitted by the*
46 *Commissioner of Insurance.]*

47 *All appointments shall be made for two year terms, except that*
48 *of the directors first appointed, five of the insurer representatives*
49 *and one of the public members shall be appointed for one year*
50 *terms. Vacancies on the board of directors of the exchange shall*

51 be filled for the remainder of the term in the same manner as the
 52 original appointments. *Public members shall be compensated in an*
 53 *amount to be determined by the commissioner, and shall be reim-*
 54 *bursed for necessary expenses actually incurred in the performance*
 55 *of their duties. All expenses incurred by the board shall be payable*
 56 *from moneys collected by the exchange.*

57 *The term of office of any person appointed to the board of di-*
 58 *rectors prior to the effective date of this amendatory and supple-*
 59 *mentary act, shall be deemed to begin on that date.*

1 ***[13.]*** *11.* Section 16 of P. L. 1983, c. 362 (C. 39:6A-22) is
 2 amended to read as follows:

3 16. Powers of exchange. **[A]** a. The exchange shall be em-
 4 powered to raise sufficient moneys to (1) pay its operating ex-
 5 penses, and (2) to compensate members of the exchange for claims
 6 paid for noneconomic loss, and associated claim adjustment ex-
 7 penses, which would not have been incurred had the tort limitation
 8 option provided in **[section 14 of this 1983 amendatory and supple-**
 9 **mentary act]** subsection b. of section 8 of P. L. 1972, c. 70 (C.
 10 39:6A-8) been elected by the injured party filing the claim for non-
 11 economic loss.

12 b. In order to enable the exchange to meet its obligations under
 13 subsection a. of this section, **[the exchange shall collect:**

14 (1) From every insurer transacting automobile insurance in this
 15 State, a percentage designated by the board of directors of the
 16 exchange of all bodily injury premiums paid by insureds not elect-
 17 ing the tort limitation option;

18 (2) From the New Jersey Full Insurance Underwriting Asso-
 19 ciation, the percentage designated by the board of directors of
 20 the exchange of the bodily injury portion of association's total
 21 income, as defined in section 20 of P. L. 1983, c. 65 (C. 17:30E-8),
 22 for every insured not electing the tort limitation option] every
 23 member insurer or servicing carrier of the New Jersey Automobile
 24 Full Insurance Underwriting Association, shall forward on a
 25 monthly basis, within 15 days of the close of the member's account-
 26 ing month, a charge, to be known as the AIRE charge, in an amount
 27 and manner to be prescribed by the board of directors.

28 AIRE charge amounts required to be paid to the exchange in
 29 accordance with this subsection shall, in the case of those amounts
 30 determined by the board of directors to be applicable during the
 31 period from July 1, 1984 to the effective date of this amendatory
 32 and supplementary act, be paid to the exchange within 60 days of
 33 that date.

34 *A 10% per annum penalty charge shall be assessed by the ex-*
 35 *change on any overdue AIRE charges.*

36 c. **[All exchange members shall furnish the exchange with, and**
 37 **periodically update, lists of all persons electing]** *The board of*
 38 *directors shall establish guidelines by which members or servicing*
 39 *carriers and the exchange may verify the tort limitation [option*
 40 *for claim verification by members] options elected by claimants.*

41 d. *Moneys collected by or otherwise available to the exchange*
 42 *shall be invested as hereinafter provided in section ***[14]*** *12* of*
 43 *P. L. , c. . . . (C.) (now pending before the*
 44 *Legislature as this bill).*

45 **[d.] e.** *The exchange shall have such powers as may be necessary*
 46 *or appropriate to effectuate the purposes of the exchange.*

1 *****[14.]*** *12.*** (New section) *Moneys collected by or available to*
 2 *the exchange shall be invested by the board of directors in accor-*
 3 *dance with the liabilities of the fund and the statutory limitations on*
 4 *insurer investments in Title 17 of the Revised Statutes; except that*
 5 *the board shall invest moneys of the exchange in New Jersey or in*
 6 *equity securities or debt obligations of businesses incorporated in*
 7 *New Jersey for operations in the State, if at least equivalent to any*
 8 *alternative investment opportunities outside New Jersey, with*
 9 *respect to risk exposure, rates of return and other investment*
 10 *objectives established by the board.*

11 *The exchange shall at least annually file a report with the Com-*
 12 *missioner of Insurance and the chairmen of the Assembly Banking*
 13 *and Insurance Committee and the Senate Labor, Industry and*
 14 *Professions Committee, or the successors of those committees, set-*
 15 *ting forth, among other things, the income, claims and investment*
 16 *experience of the exchange. The commissioner shall prescribe, by*
 17 *regulation, the contents and form of the report.*

1 *****[15.]*** *13.*** *Section 18 of P. L. 1983, c. 362 (C. 17:29A-15.1)*
 2 *is amended to read as follows:*

3 18. *Premium credits shall be provided for each deductible, exclu-*
 4 *sion and setoff on personal injury protection coverage offered in*
 5 *accordance with section 13 of P. L. 1983, c. 362 (C. 39:6A-4.3), and*
 6 *for the tort limitation [option] options on bodily injury liability*
 7 *coverage offered in accordance with section **[14]** of this 1983 amen-*
 8 *datory and supplementary act] 8 of P. L. 1972, c. 70 (C. 39:6A-8).*

9 *All premium credits to which this section applies shall be calculated*
 10 *and represented to the insured as a percentage of the applicable*
 11 *premium for each coverage option, and the percentage for each*
 12 *coverage option shall be uniform by filer on a Statewide basis.*

13 The premium charged for each coverage shall be clearly set forth
14 in any policy or endorsement provided the insured.

15 The percentage rate of commission or rate of other compensation
16 payable by an automobile insurer to an agent or broker shall not
17 vary by reason of the selection or nonselection of any option pro-
18 vided in [sections] section 13 [and 14 of this 1983 amendatory and
19 supplementary act] of P. L. 1983, c. 362 (C. 39:6A-4.3) and section
20 8 of P. L. 1972, c. 70 (C. 39:6A-8).

1 ***[16.]*** *14.* (New section) Any person who, at the time of an
2 automobile accident resulting in injuries to that person, is required
3 but fails to maintain medical expense benefits coverage mandated
4 by section 4 of P. L. 1972, c. 70 (C. 39:6A-4) or section 1 of P. L.
5 . . . , c. (C.) (now pending before the Legislature
6 as Assembly Bill No. 2883 of 1984) shall:

7 a. For the purpose of filing an action for recovery of noneco-
8 nomic loss, as defined in section 2 of P. L. 1972, c. 70 (C. 39:6A-2),
9 be subject to the tort option specified in subsection b. of section 8
10 of P. L. 1972, c. 70 (C. 39:6A-8);

11 b. In the event of a recovery for noneconomic loss pursuant to
12 an arbitration award, judicial judgment or voluntary settlement,
13 be subject to the setoff option as set forth in section c. of section 13
14 of P. L. 1983, c. 362 (C. 39:6A-4.3), except that the amount of the
15 setoff shall be payable to the New Jersey Automobile Insurance
16 Risk Exchange established pursuant to section 15 of P. L. 1983,
17 c. 362 (C. 39:6A-21).

1 ***[17.]*** *15.* Section 8 of P. L. 1972, c. 70 (C. 39:6A-8) is
2 amended to read as follows:

3 8. Tort exemption; limitation on the right to noneconomic loss.
4 One of the following two tort options shall be elected, in accor-
5 dance with section 14.1 of [this 1983 amendatory and supplementary
6 act] P. L. 1983, c. 362 (C. 39:6A-8.1), by any named insured re-
7 quired to maintain personal injury protection coverage pursuant
8 to section 4 of P. L. 1972, c. 70 (C. 39:6A-4):

9 a. Every owner, registrant, operator or occupant of an auto-
10 mobile to which section 4, personal injury protection coverage,
11 regardless of fault, applies, and every person or organization
12 legally responsible for his acts or omissions, is hereby exempted
13 from tort liability for noneconomic loss to a person who is subject
14 to this subsection and who is either a person who is required to
15 maintain the coverage mandated by this act, or is a person who has
16 a right to receive benefits under section 4 of this act as a result of
17 bodily injury, arising out of the ownership, operation, maintenance
18 or use of such automobile in this State, if the bodily injury is con-

19 fined solely to the soft tissue of the body and the medical expenses
20 incurred or to be incurred by such injured person or the equivalent
21 value thereof for the reasonable and necessary treatment of such
22 bodily injury is less than \$200.00, exclusive of hospital expenses,
23 X-rays and other diagnostic medical expenses. There shall be no
24 exemption from tort liability if the injured party has sustained
25 death, permanent disability, permanent significant disfigurement,
26 permanent loss of any bodily function or loss of a body member in
27 whole or in part, regardless of the right of any person to receive
28 benefits under section 4 of this act. Bodily injury confined solely
29 to the soft tissue, for the purpose of this section, means injury in
30 the form of sprains, strains, contusions, lacerations, bruises, hema-
31 tomas, cuts, abrasions, scrapes, scratches, and tears confined to the
32 muscles, tendons, ligaments, cartilages, nerves, fibers, veins, arteries
33 and skin of the human body; or

34 b. As an alternative to the basic tort option specified in sub-
35 section a. of this section, every owner, registrant, operator, or occu-
36 pant of an automobile to which section 4 of P. L. 1972, c. 70 (C.
37 39:6A-4) applies, and every person or organization legally respon-
38 sible for his acts or omissions, is hereby exempted from tort lia-
39 bility for noneconomic loss to a person who is subject to this sub-
40 section and who is either a person who is required to maintain the
41 coverage mandated by P. L. 1972, c. 70 (C. 39:6A-1 et seq.) or is
42 a person who has a right to receive benefits under section 4 of that
43 act (C. 39:6A-4), as a result of bodily injury, arising out of the
44 ownership, operation, maintenance or use of such automobile in
45 this State, if the medical expenses incurred or to be incurred by
46 that injured person, or the equivalent value thereof, for the reason-
47 able and necessary treatment of the bodily injury, is less than
48 \$1,500.00, which amount shall be adjusted annually on January 1
49 of each year following the operative date of this act by the Com-
50 missioner of Insurance to reflect increases or decreases in the na-
51 tional Consumer Price Index for the professional services com-
52 ponent of medical care services, all urban consumers, U. S. city
53 average, and which amount shall be exclusive of hospital expenses,
54 X-rays and other diagnostic medical expenses. The adjusted rate
55 shall apply to any claim for noneconomic loss arising from any
56 automobile accident occurring on or after the adjustment date.
57 There shall be no exemption from tort liability if the injured party
58 has sustained death, permanent disability, permanent significant
59 disfigurement, permanent loss of any bodily function or loss of a
60 body member in whole or in part, regardless of the right of any

61 person to receive benefits under section 4 of P. L. 1972, c. 70 (C.
62 39:6A-4).

63 The tort option provisions of subsection a. of this section shall
64 also apply to the right to recover for noneconomic loss of any
65 person eligible for benefits pursuant to section 4 of P. L. 1972, c. 70
66 (C. 39:6A-4) but who is not required to maintain personal injury
67 protection coverage and is not an immediate family member, as
68 defined in section 14.1 [this 1983 amendatory and supplementary
69 act] *P. L. 1983, c. 362 (C. 39:6A-1)*, under an automobile insur-
70 ance policy.

71 The tort option provisions of subsection b. of this section shall
72 also apply to [the right to recover for noneconomic loss of] any
73 person [who is required but fails to maintain personal injury pro-
74 tection coverage mandated by P. L. 1972, c. 70 (C. 39:6A-1 et seq.)
75 at the time of accident] *subject to section *16* *14* of P. L. . . . ,*
76 *c. . . (C. . .) (now pending before the Legislature as this*
77 *bill).*

78 The tort option provisions of subsection b. of this section shall
79 remain inoperative until July 1, 1984, and shall apply to accidents
80 occurring on or after that date.

81 If any provision of subsection b. of this section shall be deemed
82 to be unconstitutional, the provisions of the entire subsection shall
83 be deemed null and void, and without further effect, but the deci-
84 sion of the court shall not affect the validity of any other provision
85 of this act.

1 *18.* *16.* Section 10 of P. L. 1972, c. 70 (C. 39:6A-10) is
2 amended to read as follows:

3 10. Additional personal injury protection coverage. Insurers
4 shall make available to the named insured covered under section 4,
5 and, at his option, to resident relatives in the household of the
6 named insured, suitable additional first party coverage for income
7 continuation benefits, essential services benefits, death benefits
8 and funeral expense benefits, but the income continuation and
9 essential service benefits shall cease upon the death of the claimant,
10 and shall not operate to increase the amount of any death benefits
11 payable under section 4 and such additional first party coverage
12 shall be payable only to the extent that the claimant establishes that
13 the amount of loss sustained exceeds the coverage specified in sec-
14 tion 4. The additional coverage shall be offered by the insurer at
15 least annually on a form prescribed by the Commissioner of Insur-
16 ance, which shall be attached to or accompany all applications,
17 initial policies and renewal policies or renewal notices. Income con-
18 tinuation in excess of that provided for in section 4 must be

19 provided as an option by insurers for disabilities, as long as the
 20 disability persists, up to an income level of \$35,000.00 per year,
 21 provided that a. the excess between \$5,200.00 and the amount of
 22 coverage contracted for shall be written on the basis of 75% of
 23 said difference, and b. regardless of the duration of the disability,
 24 the benefits payable shall not exceed the total maximum amount of
 25 income continuation benefits contracted for. *Death benefits pro-*
 26 *vided pursuant to this section shall be payable without regard to*
 27 *the period of time clapsing between the date of the accident and*
 28 *the date of death, if death occurs within two years of the accident*
 29 *and results from bodily injury from that accident to which coverage*
 30 *under this section applies.* The Commissioner of Insurance is
 31 hereby authorized and empowered to establish, by rule or regula-
 32 tion, the amounts and terms of income continuation insurance to be
 33 provided pursuant to this section.

1 ***[19.]*** *17.* Section 20 of P. L. 1983, c. 362 (C. 39:6A-9.1) is
 2 amended to read as follows:

3 20. An insurer paying personal injury protection benefits in ac-
 4 cordance with section 4 or section 10 of P. L. 1972, c. 70 (C. 39:6A-4
 5 or C. 39:6A-10), as a result of an accident occurring within this
 6 State shall, within two years of the filing of the claim, have the
 7 right to recover the amount of payments from any tortfeasor who
 8 was not, at the time of the accident, required to maintain personal
 9 injury protection *or medical expense benefits* coverage, other than
 10 for pedestrians, *under the laws of this State, including personal*
 11 *injury protection coverage required to be provided in accordance*
 12 *with section ***[20]*** *18* of P. L. , c. (C.) (now*
 13 *pending before the Legislature as this bill), or although required*
 14 *did not maintain personal injury protection or medical expense*
 15 *benefits coverage at the time of the accident.* In the case of an
 16 accident occurring in this State involving an insured tortfeasor, the
 17 determination as to whether an insurer is legally entitled to recover
 18 the amount of payments and the amount of recovery, including the
 19 costs of processing benefit claims and enforcing rights granted
 20 under this section, shall be made against the insurer of the tort-
 21 feator, and shall be by agreement of the involved insurers or, upon
 22 failing to agree, by arbitration.

1 ***[20.]*** *18.* (New section) Any insurer authorized to transact
 2 or transacting automobile or motor vehicle insurance business in
 3 this State, or controlling or controlled by, or under common control
 4 by, or with, an insurer authorized to transact or transacting insur-
 5 ance business in this State, which sells a policy providing auto-
 6 mobile or motor vehicle liability insurance coverage, or any similar

7 coverage, in any other state or in any province of Canada, shall
 8 include in each policy, coverage to satisfy at least the liability
 9 insurance requirements of section 1 of P. L. 1972, c. 197 (C. 39:6B-1)
 10 or section 3 of P. L. 1972, c. 70 (C. 39:6A-2), the uninsured motorist
 11 insurance requirements of subsection a. of section 2 of P. L. 1968,
 12 c. 385 (C. 17:28-1.1), and personal injury protection benefits cover-
 13 age pursuant to section 4 of P. L. 1972, c. 70 (C. 39:6A-4) or of
 14 section 19 of P. L. 1983, c. 362 (C. 17:28-1.3), whenever the auto-
 15 mobile or motor vehicle insured under the policy is used or operated
 16 in this State.

17 Any liability insurance policy subject to this section shall be con-
 18 strued as providing the coverage required herein, and any named
 19 insured, and any immediate family member as defined in section
 20 14.1 of P. L. 1983, c. 362 (C. 39:6A-8.1), under that policy, shall
 21 be subject to the tort option specified in subsection b. of section 8
 22 of P. L. 1972, c. 70 (C. 39:6A-8).

23 Each insurer authorized to transact or transacting automobile
 24 or motor vehicle insurance business in this State and subject to the
 25 provisions of this section, shall, within 30 days of the effective date
 26 of this amendatory and supplementary act, file and maintain with
 27 the Department of Insurance written certification of compliance
 28 with the provisions of this section.

29 "Automobile" means an automobile as defined in section 2 of
 30 P. L. 1972, c. 70 (C. 39:6A-2).

1 ***[21.]*** *19.* Section 19 of P. L. 1983, c. 362 (C. 17:28-1.3) is
 2 amended to read as follows:

3 19. Every liability insurance policy issued in this State on a
 4 motor vehicle, exclusive of an automobile as defined in section 2 of
 5 P. L. 1972, c. 70 (C. 39:6A-2), but including a motorcycle, *or on a*
 6 *motorized bicycle* insuring against loss resulting from liability
 7 imposed by law for bodily injury, death, and property damage
 8 sustained by any person arising out of the ownership, operation,
 9 maintenance, or use of a motor vehicle *or motorized bicycle* shall
 10 provide personal injury protection coverage benefits, in accordance
 11 with section 4 of P. L. 1972, c. 70 (C. 39:6A-4), to pedestrians who
 12 sustain bodily injury in the State caused by the named insured's
 13 motor vehicle *or motorized bicycle* or by being struck by an object
 14 propelled by or from the motor vehicle *or motorized bicycle*.

1 ***[22.]*** *20.* This act shall take effect immediately, except that
 2 the provisions of sections 5, ***[9, 10, 18, 20, and 21]*** *8, 16, 18, and
 3 19* shall remain inoperative for 90 days following enactment or
 4 until adoption of appropriate regulations by the Commissioner of
 5 Insurance, or the Director of the Division of Motor Vehicles, which-
 6 ever shall occur first.

SPONSORS' STATEMENT

This bill:

1. Permits accident surcharges to be levied on at-fault accidents rather than only those involving liability;
2. Extends the time period, in cases of indigency, for installment payment of surcharges from six months to 10 months;
3. Changes the effective date of the statutory surcharges in section 6 of P. L. 1983, c. 65, from January 1, 1983 to February 10, 1983, or the effective date of that act, and changes the effective dates of other statutory violation surcharges to the dates on which the surcharges enacted;
4. Prohibits the association from paying servicing carrier compensation on moneys from violation surcharges paid by the Division of Motor Vehicles to the association;
5. Requires the Division of Motor Vehicles to refund any surcharges collected that are contrary to the provisions of this bill;
6. Eliminates the requirement that insurers must offer co-insurance options on private passenger automobile collision and comprehensive coverages;
7. Requires the association to insure private passenger automobiles used in the occupation, profession or business of the insured, if the private passenger automobile and insured otherwise qualify for coverage; and
8. Authorizes the Commissioner of Insurance to establish standards for a dangerous driver category, and authorizes automobile insurers to refuse to provide collision or comprehensive coverages, or both, to dangerous drivers.

A3913 (1985)

SENATE LABOR, INDUSTRY AND PROFESSIONS
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3913

with Senate committee amendments

STATE OF NEW JERSEY

DATED: SEPTEMBER 5, 1985

Section 1 of this bill permits the JUA (New Jersey Automobile Full Insurance Underwriting Association) and automobile insurers to levy accident surcharges on at-fault accidents, rather than only on automobile accidents that involve liability. This section also changes the effective date of the surcharges for motor vehicle points, driving-while-intoxicated violations, violations for failing to take a breath test to determine drunkenness, and drunk driving related offenses in other states, to the date that each particular provision was signed into law, rather than the retroactive effective date of January 1, 1983. Additionally, the surcharges for non-point motor vehicle violations or convictions may only be assessed from the date the surcharges are published in the New Jersey Register or the effective date in the regulation. This section also extends the time period for installment payments of surcharges in cases of indigency from six months to 10 months.

Section 2 provides for a refund by the Division of Motor Vehicles of the surcharges that will have been collected but should not have been because of the effective date changes in section 1 of the bill.

Section 3 prohibits the JUA from paying servicing carriers' compensation or producers' commissions on violation surcharges paid by the Division of Motor Vehicles to the JUA. This section also permits the Commissioner of Insurance, for good cause, to extend for no more than 60 days the period for approving or disapproving of a filing for a residual market equalization charge.

Section 4 eliminates the requirement that insurers must offer co-insurance options on private passenger automobile collision and comprehensive coverages.

Section 5 requires insurers (including the JUA) writing at least 2% of the New Jersey private passenger automobile insurance market to provide in its written notice of available coverage options a toll free number through which the insured or applicant may obtain additional information.

Section 6 requires the JUA to insure private passenger automobiles used in the profession, partnership or individual proprietorship of the insured, if the private passenger automobile and insured otherwise qualify for coverage. The section also provides that the private passenger automobiles of military personnel may be insured by the JUA if they are nonresidents who are stationed in this State, whose automobiles are registered in other states and garaged in this State or residents who are stationed in other states, whose automobiles are registered in this State and garaged in other states.

Section 7 allows the Commissioner of Insurance, for good cause, to grant a 30-day extension for submission by an administrative law judge of his findings and recommendations on a property and casualty rate filing. It also removes any statutory limitation on the information that the Commissioner of Insurance may request of an insurer in regard to a rate filing.

Section 8 authorizes the Commissioner of Insurance to establish standards for a dangerous driver category, and allows automobile insurers and the JUA to refuse to provide collision or comprehensive coverage, or both, at standard market rates to dangerous drivers. However, insurers in the voluntary market may, and the JUA shall, issue collision or comprehensive insurance coverage, or both, to dangerous drivers on the basis of the person's experience.

Section 9 specifies certain requirements that must be followed in holding meetings of the board of directors of the JUA, such as: holding board meetings in New Jersey; having five-day written notice of a board meeting; allowing only votes on agenda items in the written notice of the meeting; requiring that a board member or surrogate be physically present at the meeting in order to vote.

Section 10 provides for the appointment of three public members to the New Jersey Automobile Insurance Risk Exchange, prescribes two-year terms for the 12 members of the board (except for some of the members first appointed), and provides for the compensation and expenses of the public members.

Section 11 requires that the premium differential for selecting a \$200.00 tort threshold be transferred by member insurers to the risk exchange within 15 days of the end of the member's monthly accounting period, rather than the current procedure in which the insurers (including the JUA) retain these monies and use bookkeeping entries to maintain their deficit or surplus balances in regard to assessments/ reimbursements and settle with the risk exchange periodically. A penalty at the rate of 10% per annum will be assessed by the risk exchange on overdue payments.

Section 12 prescribes the types of investments that the board of the risk exchange may make with the monies available, and requires the filing of a report on the risk exchange's income, claims and investment experience on at least an annual basis.

Section 13 clarifies that premium credits for coverage options shall be set out for each automobile insurance coverage option.

Sections 14 and 15 continue to provide that a person who is injured in an automobile accident and is required, but fails, to maintain medical expense benefits coverage, would be subject to the \$1,600.00 tort threshold; and, in addition, subject any award, judgment or settlement to that person for noneconomic loss to the 20% setoff option, with the amount of the setoff going to the risk exchange.

Section 16 provides that death benefits under additional personal injury protection coverage are payable if the death occurs within two years of the accident and results from bodily injury from that accident, rather than the current 90-day period currently provided by regulation.

Section 17 reflects the amendments contained in this bill by permitting an insurer paying personal injury protection benefits or medical expense benefits to recover such payment from a tortfeasor who failed to maintain the required personal injury protection or medical expense coverage at the time of the accident.

Section 18 requires insurers authorized to transact or transacting automobile or motor vehicle insurance business in this State to provide to the out-of-state insureds who they insure for liability insurance coverage the same motor vehicle insurance coverage required of New Jersey drivers whenever the automobile or motor vehicle insured under the policy is used or operated in this State. The out-of-state insured would be subject to the \$1,600.00 tort threshold.

Section 19 requires motorized bicycles to maintain personal injury protection coverage for pedestrians.



OFFICE OF THE GOVERNOR

NEWS RELEASE

CN-001

Contact: CARL GOLDEN
609-292-8956

TRENTON, N.J. 08625

Release: TUES., JANUARY 21, 1986

Legislation designed to increase revenue for the State's Joint Underwriting Association (JUA) and preclude the need to impose a surcharge on all auto insurance customers to cover any Association deficit was signed today by Governor Thomas H. Kean.

The bill, A-3913, sponsored by Assemblyman Michael Adubato, D-Essex, makes a number of changes and adds clarifying language to the law which created the JUA.

The legislation provides that insurance agents' commissions will no longer be paid on surcharges collected by the Division of Motor Vehicles and prohibits compensation or commissions to be assessed against surcharges deposited with the JUA. These two provisions are expected to save \$25 million.

The legislation will save money for the JUA by permitting surcharges to be levied for at-fault collision coverage claims. Originally, the law permitted such surcharges only in the event of property damage liability.

The legislation resolves the problem over whether accident surcharges collected by DMV are retroactive by establishing February 10, 1983, as the effective date, rather than January 1, 1983. DMV is given 180 days to refund any surcharges collected between those dates, an amount estimated to be \$3.3 million.

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A-3913 SIGNED
PAGE TWO
JANUARY 21, 1986

The legislation also permits the JUA to provide coverage for passenger cars which were unintentionally classified in the earlier law as commercial vehicles. This provision will also produce additional revenue for the JUA.

The JUA will also be permitted to charge premiums higher than the market rate for collision and comprehensive coverage for drivers identified as dangerous drivers or as having excessive claims. Under the original law, the JUA was prohibited from charging rates higher than the market rate.

The legislation, further, limits the right of an individual to recover non-economic losses if he failed to carry the legally mandated insurance coverage. Persons without the mandated coverage will be compelled to accept a \$1,600 tort threshold and will have 20 percent of their third party recoveries transferred to the Automobile Insurance Risk Exchange to offset any medical benefits collected.

The bill also amends the operations of the Automobile Insurance Risk Exchange by adjusting any inequities which result from the different tort thresholds. The membership of the AIRE board is expanded from 9 members to 12 members who will serve set terms, rather than at the pleasure of the Governor.

-more-

A-3913 SIGNED
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Insurance companies doing business in New Jersey will be required under the legislation to provide coverage to out of State motorists similar to that mandated by New Jersey if the out of State motorist is involved in an accident in New Jersey.

Among the other provisions of the bill are:

*Requiring personal injury protection (PIP) coverage for motorized bicycles.

*Permitting members of the military to obtain JUA coverage if they are non-residents stationed in the State but whose vehicle is registered in another State, or if they are a resident of New Jersey but stationed in another State.

*Permitting the Commissioner of Insurance to waive the requirement that hearings on rate increase filings be held on consecutive working days.

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