

40A:10-36 to 40A:10-49

LEGISLATIVE HISTORY CHECKLIST

NJSA: 40A:10-36 to 40A:10-49

Local government units - permit establishment of joint insurance funds)

LAWS OF: 1983

CHAPTER: 372

Bill No: A1611

Sponsor(s): Marsella and others

Date Introduced: June 14, 1982

Committee: Assembly: Municipal Government, Banking and Insurance

Senate: County and Municipal Government

Amended during passage: NO Assembly Committee substitute enacted.

Date of Passage: Assembly: February 14, 1983

Senate: August 29, 1983

Date of Approval: October 28, 1983

Following statements are attached if available:

Sponsor statement: YES

Committee statement: Assembly YES

Senate NO

Fiscal Note: NO

Veto Message: NO

Message on Signing: NO

Following were printed:

Reports: NO

Hearings: NO

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ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 1611**  
**STATE OF NEW JERSEY**

ADOPTED NOVEMBER 23, 1982

AN ACT concerning joint insurance funds for local units of government, and supplementing chapter 10 of Title 40A of the New Jersey Statutes.

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

1 1. The governing body of any local unit may by resolution or  
2 ordinance, as appropriate, agree to join together with any other  
3 local unit or units to establish a joint insurance fund for the  
4 purpose of insuring against liability, property damage, and  
5 workers' compensation as provided in Articles 3 and 4 of chapter  
6 10 of Title 40A of the New Jersey Statutes and may appropriate  
7 such moneys as are required therefor.

1 2. Upon the establishment of a joint insurance fund, the officer  
2 or body of each local unit having the power to make appointments  
3 for the unit shall appoint one member of the governing body or  
4 employee of the local unit to represent that local unit as insurance  
5 fund commissioner. Commissioners who are members of the gov-  
6 erning body shall hold office for two years or for the remainder of  
7 their term of office as members of the governing body, whichever  
8 shall be less, and until their successors shall have been duly  
9 appointed and qualified. Commissioners who are employees of the  
10 local unit shall hold office at the pleasure of the appointing officer  
11 or body. In the event that the number of local units represented  
12 is an even number, an additional member shall be annually selected  
13 by the participating local units on a rotating basis. If the total  
14 number of commissioners exceeds seven, the commissioners shall  
15 annually meet to select not more than seven commissioners to serve  
16 as the executive committee of the fund. The executive committee  
17 shall exercise the full power and authority of the commission.

18 Vacancies on the executive committee shall be filled by election of  
19 the entire board. The commissioners shall serve without compen-  
20 sation. Any vacancy in the office of insurance fund commissioner,  
21 caused by any reason other than expiration of term as a member  
22 of the local unit governing body, shall be filled by the appointing  
23 authority in the manner generally prescribed by law. The commis-  
24 sion shall annually elect a chairman and a secretary.

1 3. a. The commissioners of a joint insurance fund shall have the  
2 powers and authority granted to commissioners of individual local  
3 insurance funds under the provisions of subsections a., b., c., and  
4 e. of N. J. S. 40A:10-10.

5 b. The commissioners may invest the funds, including workers'  
6 compensation funds, as authorized under the provisions of sub-  
7 section b. of N. J. S. 40A:10-10.

8 c. The commissioners or the executive board, as the case may  
9 be, of any joint insurance fund established pursuant to the provi-  
10 sions of this act shall be subject to and operate in compliance with  
11 the provisions of the "Local Fiscal Affairs Law" (N. J. S. 40A:5-1  
12 et seq.), the "Local Public Contracts Law" (P. L. 1971, c. 198;  
13 C. 40A:11-1 et seq.) and such other rules and regulations as govern  
14 the custody, investment and expenditure of public funds by local  
15 units.

1 4. The commissioners shall prepare and, after the approval, by  
2 resolution, of the governing body of each participating local gov-  
3 ernmental unit, shall adopt bylaws for the joint insurance fund.  
4 The bylaws shall include, but not be limited to:

5 a. Procedures for the organization and administration of the  
6 joint insurance fund, the insurance fund commission and, if appro-  
7 priate, the executive board of the fund. The procedures may  
8 include the designation of one member local unit to serve as the  
9 lead agency to be responsible for the custody and maintenance of  
10 the assets of the fund and such other duties as may be assigned  
11 by the commissioners of the fund;

12 b. Procedures for the assessment of members for their contri-  
13 butions to the fund and for the collection of contributions in  
14 default;

15 c. Procedures for the maintenance and administration of appro-  
16 priate reserves in accordance with sound actuarial principles;

17 d. Procedures for the purchase of commercial direct insurance  
18 or reinsurance, if any;

19 e. Contingency plans for paying losses in the event that the fund  
20 is exhausted;

21 f. Procedures governing loss adjustment and legal fees;

22 g. Procedures for the joining of the fund by a non-member local  
23 unit;

24 h. Procedures for the withdrawal from the fund by a local unit;

25 i. Procedures for the expulsion of a member local unit;

26 j. Procedures for the termination and liquidation of the joint  
27 insurance fund and the payment of its outstanding obligations;

28 k. Such other procedures and plans as the Commissioner of the  
29 Department of Insurance may require by rule and regulation.

1 5. The commissioners shall prepare, or cause to be prepared,  
2 a plan of risk management for the joint insurance fund. The plan  
3 shall include, but not be limited to:

4 a. The perils or liability to be insured against;

5 b. Limits of coverage, whether self-insurance, direct insurance  
6 purchased from a commercial carrier, or reinsurance;

7 c. The amount of risk to be retained by the fund;

8 d. The amount of reserves to be established;

9 e. The proposed method of assessing contributions to be paid  
10 by each member of the fund;

11 f. Procedures governing loss adjustment and legal fees;

12 g. Coverage to be purchased from a commercial insurer, if any;

13 h. Reinsurance to be purchased, if any, and the amount of  
14 premium therefor;

15 i. Such other procedures and information as the Commissioner  
16 of Insurance may require by rule or regulation.

1 6. No joint insurance fund shall begin providing insurance cov-  
2 erage to its member local units until its bylaws and plan of risk  
3 management have been approved as hereinafter provided:

4 a. The commissioners of each joint insurance fund shall con-  
5 currently file with the Commissioner of the Department of Insur-  
6 ance for his approval a copy of the fund's bylaws adopted pursuant  
7 to section 4. of this act and a copy of the fund's plan of risk man-  
8 agement prepared pursuant to section 5. of this act.

9 b. Upon receipt of any such bylaws and plan of risk management,  
10 the Commissioner of Insurance shall immediately notify the Com-  
11 missioner of the Department of Community Affairs and shall  
12 immediately provide that commissioner with a copy of the bylaws  
13 and plan of risk management. The Commissioner of the Depart-  
14 ment of Community Affairs, or if the commissioner shall so  
15 designate, the Director of Local Governmental Services in the  
16 Department of Community Affairs, is empowered to approve or  
17 disapprove any such bylaws and plans on the basis of whether or  
18 not they conform with rules and regulations governing the custody,  
19 investment or expenditure of public moneys. Within 25 working

20 days of the receipt of any such bylaws and plan of risk manage-  
21 ment, the Commissioner of the Department of Community Affairs  
22 shall notify the Commissioner of Insurance of his approval or  
23 disapproval. As a condition of approval, the Commissioner of the  
24 Department of Community Affairs may require such modification  
25 of any bylaws or plan of risk management as he may deem neces-  
26 sary to bring them into conformity with the rules and regulations  
27 governing the custody, investment or expenditure of public moneys.  
28 No bylaws or plan of risk management disapproved by the Com-  
29 missioner of the Department of Community Affairs, or his desig-  
30 nee, shall take effect. If the Commissioner of the Department of  
31 Community Affairs, or his designee, fails to approve or disapprove  
32 any bylaws or plan of risk management within 25 working days, the  
33 bylaws or plan of risk management shall be deemed approved.

34 c. Within 30 working days of receipt, the Commissioner of Insur-  
35 ance shall either approve or disapprove the bylaws or plan of risk  
36 management of any joint insurance fund. If the Commissioner of  
37 Insurance shall fail to either approve or disapprove the bylaws or  
38 plan of risk management within that 30 working day period, the  
39 bylaws or plan shall be deemed approved.

40 If any bylaws or plan shall be disapproved, the Commissioner of  
41 Insurance shall set forth in writing the reasons for disapproval.  
42 Upon the receipt of the notice of disapproval, the commissioners  
43 of the affected joint insurance fund may request a public hearing.  
44 The public hearing shall be convened by the Commissioner of  
45 Insurance in a timely manner.

1 7. Upon the approval of its bylaws and plan of risk management  
2 pursuant to the provisions of section 6 of this act, a joint insurance  
3 fund may provide insurance coverage to its member local units by  
4 self-insurance, the purchase of commercial insurance or rein-  
5 surance, or any combination thereof.

1 8. The commissioners may, from time to time, amend the bylaws  
2 and plan of risk management of the fund; provided, however, that  
3 no such amendment shall take effect until approved as hereinafter  
4 provided:

5 a. The commissioners shall file with the Commissioner of Insur-  
6 ance for his approval a copy of any amendment to the bylaws of  
7 the fund upon approval, by resolution, of the governing body of  
8 each member local unit, or any amendment to the plan of risk  
9 management, upon adoption by the commissioners.

10 b. Upon receipt of the amendment, the Commissioner of Insur-  
11 ance shall immediately notify the Commissioner of the Department  
12 of Community Affairs and shall immediately provide that commis-

13 sioner with a copy of the amendment. The Commissioner of the  
14 Department of Community Affairs, or by his designation, the  
15 Director of the Division of Local Governmental Services in the  
16 Department of Community Affairs, is empowered to approve or  
17 disapprove any amendment on the basis of whether or not it con-  
18 forms with rules and regulations governing the custody, investment  
19 or expenditure of public moneys. Within 25 working days of the  
20 receipt of the amendment, the Commissioner of the Department of  
21 Community Affairs, or his designee, shall notify the Commissioner  
22 of Insurance of his approval or disapproval. As a condition of  
23 approval, the Commissioner of the Department of Community  
24 Affairs, or his designee, may require a modification of the amend-  
25 ment in order to bring its provisions into conformity with rules  
26 and regulations governing the custody, investment or expendi-  
27 ture of public moneys. No amendment disapproved by the Com-  
28 missioner of the Department of Community Affairs, or his  
29 designee, shall take effect. If the Commissioner of the Department  
30 of Community Affairs, or his designee, fail to approve or dis-  
31 approve any amendment within 25 working days of receipt, the  
32 amendment shall be deemed to be approved.

33 c. Within 30 working days of receipt, the Commissioner of  
34 Insurance shall either approve or disapprove any amendment to  
35 the bylaws or plan of risk management. If the Commissioner of  
36 Insurance shall fail to either approve or disapprove the amend-  
37 ment within that 30 working day period, the amendment shall be  
38 deemed approved.

39 If any amendment shall be disapproved, the Commissioner of  
40 Insurance shall set forth in writing the reasons for disapproval.  
41 Upon the receipt of the notice of disapproval, the commissioners  
42 of the affected joint insurance fund may request a public hearing.  
43 The public hearing shall be convened by the Commissioner of  
44 Insurance in a timely manner.

1 9. The Commissioner of Insurance shall have the authority to  
2 suspend or terminate the authority of any joint insurance, or to  
3 assume control of the insurance fund, or to direct or take any  
4 action he may deem necessary, for good cause, to enable a fund to  
5 meet its obligations, cover its expected losses or to liquidate,  
6 rehabilitate or otherwise modify its affairs. Such action shall be  
7 taken by the Commissioner of Insurance in the event of:

8 a. A failure to comply with the rules and regulations promul-  
9 gated by the Commissioner of Insurance or with any of the provi-  
10 sions of this act;

11 b. A failure to comply with a lawful order of the Commissioner  
12 of Insurance;

13 c. A deterioration of the financial condition of the fund to the  
14 extent that it causes an adverse effect upon the ability of the  
15 joint insurance fund to pay expected losses.

1 10. The Commissioner of Insurance may, in his discretion,  
2 require the commissioners of any fund to file copies of any agree-  
3 ments or contracts entered into by the commissioners of the fund,  
4 or any other pertinent documents as he may deem necessary.

1 11. The insurance fund commissioners or the executive board  
2 thereof, as the case may be, shall cause an annual audit to be  
3 conducted by an independent certified public accountant or a regis-  
4 tered municipal accountant in accordance with the rules and  
5 regulations promulgated by the Commissioner of Insurance pur-  
6 suant to section 14 of this act. Copies of every audit shall be  
7 submitted to the Commissioner of Insurance and the Commissioner  
8 of the Department of Community Affairs within 30 working days  
9 of its completion.

1 12. The Commissioner of Insurance may conduct such examina-  
2 tions of any joint insurance fund as he deems necessary. The  
3 expense of any such examination shall be borne by the affected  
4 fund.

1 13. A joint insurance fund established pursuant to the pro-  
2 visions of this act is not an insurance company or an insurer under  
3 the laws of this State, and the authorized activities of the fund do  
4 not constitute the transaction of insurance nor doing an insurance  
5 business. A fund established pursuant to this act shall not be  
6 subject to the provisions of Subtitle 3 of Title 17 of the Revised  
7 Statutes.

1 14. Within 180 days after the effective date of this act, the  
2 Commissioner of Insurance, after consultation with the Commis-  
3 sioner of the Department of Community Affairs, or if that com-  
4 missioner shall so designate, the Director of the Division of Local  
5 Government Services in the Department of Community Affairs,  
6 shall promulgate rules and regulations to effectuate the purposes  
7 of this act. Such rules and regulations shall include, but not be  
8 limited to, the establishment, operation, modification and dissolu-  
9 tion of joint insurance funds established pursuant to the provisions  
10 of this act.

1 15. This act shall take effect immediately, but no joint insurance  
2 fund shall be established prior to the date occurring 180 days  
3 following enactment.

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**ASSEMBLY, No. 1611**  
**STATE OF NEW JERSEY**

INTRODUCED JUNE 14, 1982

By Assemblymen MARSELLA, DOYLE, BRYANT and MAZUR

AN ACT concerning joint insurance funds for local units of government, and supplementing Chapter 10 of Title 40A of the New Jersey Statutes.

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

1 1. The governing body of any local unit may by resolution agree  
2 to join together with any other local unit or units to establish a  
3 joint insurance fund for the purpose of insuring against liability,  
4 property damage, and workers' compensation as provided in  
5 Articles 3 and 4 of Chapter 10 of Title 40A of the New Jersey  
6 Statutes and may appropriate such moneys as are required there-  
7 for.

1 2. Upon the establishment of a joint insurance fund the officer or  
2 body of each local unit who has the power to make appointments for  
3 the unit shall appoint one member of the governing body or em-  
4 ployee of the local unit to represent that unit as an insurance fund  
5 commissioner. Commissioners who are members of the governing  
6 body shall hold office for 2 years or for the remainder of their  
7 term of office as members of the governing body, whichever shall  
8 be less, and until their successors shall have been duly appointed  
9 and qualified. Commissioners who are employees of the local unit  
10 shall hold office at the pleasure of the appointing officer or body.  
11 In the event that the number of local units represented is an even  
12 number, an additional member shall be made by all participating  
13 local units on a rotating basis. If the total number of commis-  
14 sioners exceeds seven, the commissioners shall meet to select not



15 more than seven commissioners to serve as the executive committee  
16 of the fund. The executive committee shall exercise the full power  
17 and authority of the commission. Vacancies on the executive com-  
18 mittee shall be filled by election of the entire board. The commis-  
19 sioners shall serve without compensation. Vacancies in the office  
20 of insurance fund commissioner caused by any reason other than  
21 expiration of term as a member of the local unit governing body  
22 shall be filled for the unexpired term. The commission shall an-  
23 nually elect a chairman and a secretary as provided in N. J. S.  
24 40A:10-9. The commissioners of a joint insurance fund shall have  
25 the powers and authority granted to commissioners of individual  
26 local units granted in N. J. S. 40A:10-10.

1 3. Any joint insurance fund established pursuant to this act may  
2 self-insure or may purchase commercial insurance or reinsurance,  
3 at their option, provided that the plan of insurance is approved by  
4 the commissioner pursuant to section 5 of this act.

1 4. Every joint insurance fund established pursuant to this act  
2 shall adopt bylaws, which shall be ratified by the governing body  
3 of each member of the fund by resolution. No joint insurance fund  
4 may begin functioning as a means of providing insurance coverage  
5 to its members until the bylaws have been submitted to the Com-  
6 missioner of Insurance for his approval. The bylaws shall include,  
7 but not be limited to:

8 a. Procedures for the administration of the risk management  
9 programs with which the fund is charged;

10 b. Procedures for the assessment of members for their con-  
11 tributions to the fund and for the collection of contributions in  
12 default;

13 c. Procedures for the maintenance and administration of appro-  
14 priate reserves in accordance with sound actuarial principles;

15 d. Procedures for the purchase of commercial direct insurance  
16 or reinsurance, if any;

17 e. Contingency plans for paying losses in the event that the fund  
18 is exhausted;

19 f.- Procedures for the joining of the fund by a member;

20 g. Procedures for the withdrawal from the fund by a member;

21 h. Procedures for the termination and liquidation of the joint  
22 insurance fund and the payment of its outstanding obligations;

23 i. Such other procedures as are necessary and proper for the  
24 operation of the insurance fund. Amendments to the bylaws shall  
25 be submitted to the Commissioner of Insurance for his approval.  
26 If the commissioner has not approved or disapproved the initial  
27 submission of the bylaws or any amendments thereto within 60  
28 days of their submission they shall be deemed approved.

- 1 9. The Commissioner of Insurance may conduct examinations
- 2 of joint insurance funds as he deems necessary. The expense of the
- 3 examination shall be borne by the fund.
- 1 10. This act shall take effect 90 days following enactment.

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Sponsor' STATEMENT

This legislation supplements Chapter 10 of Title 40A of the New Jersey Statutes to permit local governmental units to combine for the purpose of establishing a joint insurance fund.

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ASSEMBLY MUNICIPAL GOVERNMENT COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR

**ASSEMBLY, No. 1611**

**STATE OF NEW JERSEY**

DATED: NOVEMBER 23, 1982

The committee reported a Committee Substitute for Assembly Bill No. 1611.

The Committee Substitute supplements Chapter 10 of Title 40A of the New Jersey Statutes to permit local governmental units to join together to establish a joint insurance fund. Under the provisions of the Committee Substitute, a joint insurance fund is authorized to provide insurance against liability, property damage and workers' compensation. The method of providing such coverage may be through self-insurance, the purchase of commercial insurance or reinsurance, or any combination thereof.

The Committee Substitute provides that the governing body of any local unit may, by ordinance or resolution, as appropriate, agree to join together to establish a joint insurance fund. Each of the participating local units is authorized to appoint one person to serve as a commissioner of the joint insurance fund. The appointee may either be a member of the governing body or an employee of the local unit. If he is a member of the local governing body, his term as commissioner is not to exceed two years or the remainder of his elected term as a member of the governing body, whichever is less. An appointee who is an employee of the local governing body is to serve at the pleasure of the local appointing authority.

In the event that an even number of local units combine to establish a joint insurance fund, an additional member is to be annually selected by each of the participating units on a rotating basis. In the event that more than seven local units combine, the various commissioners are to select a seven member executive committee. The members of the commission are to serve without compensation.

The commission is to select annually a chairman and a secretary.

Before a joint insurance fund may begin providing coverage, its bylaws and plan of risk management must be approved. The Committee Substitute requires approval by both the Commissioner of the Department of Insurance and the Commissioner of the Department of Community Affairs, or by that commissioner's designation the Director of

the Division of Local Government Services in the Department of Community Affairs. Under the provisions of the Committee Substitute, the Commissioner of Insurance has 30 working days in which to approve or disapprove a fund's bylaws or plan of risk management. If he should fail to act within the 30 working day period, the bylaws and risk management plan are deemed to be approved. The Commissioner of the Department of Community Affairs, or his designee, have 25 working days in which to approve or disapprove a fund's bylaws or plan of risk management. The Committee Substitute provides that the review by the Department of Community Affairs is to be restricted to the fund's proposals concerning the custody, investment and expenditure of public moneys.

If any bylaws or plan of risk management is disapproved, the commissioners of the affected fund may request a public hearing. Such public hearings are to be convened by the Commissioner of Insurance in a timely manner.

The commissioners are permitted to amend a fund's bylaws and plan of risk management, but the Committee Substitute provides that no such amendments shall take effect until approved by the Commissioner of Insurance and the Commissioner of the Department of Community Affairs, or his designee.

Under the provisions of the Committee Substitute, the Commissioner of Insurance has the authority to suspend or terminate any joint insurance fund, to assume control, or to direct or take any other action he may deem necessary in order to assure the integrity of a joint insurance fund.

The Committee Substitute further provides that the Commissioner of Insurance is to receive a copy of the annual audit of each fund and may conduct such examinations of any joint insurance fund as he deems necessary.

A joint insurance fund established pursuant to this bill is not to be deemed an insurance company or an insurer under the laws of New Jersey and its activities are not constituted the transaction of insurance, and it is not subject to the provisions of Subtitle 3 of Title 17 of the Revised Statutes.

The Committee Substitute directs the Commissioner of Insurance, after consultation with the Commissioner of the Department of Community Affairs, or his designee, to promulgate rules and regulations to effectuate the purposes of this bill within 180 days of its enactment.

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ASSEMBLY BANKING AND INSURANCE COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR

**ASSEMBLY, No. 1611**

**STATE OF NEW JERSEY**

DATED: JANUARY 31, 1983

Assembly Bill No. 1611 (ACS) authorizes two or more local units (i.e., counties or municipalities) to join together to establish a joint insurance fund against liability, including workers' compensation, or property damage, and to appropriate moneys therefor. Coverage may be provided by self-insurance, the purchase of commercial insurance or reinsurance.

The bill:

(1) stipulates the manner of selection of insurance fund commissioners and, if any, the executive committee members (section 2);

(2) prescribes the powers of the commissioners, or executive board, of the joint insurance fund (sections 3 and 7);

(3) requires the commissioners to adopt, and sets forth the provisions to be contained in, fund bylaws (section 4) and the plan of risk management (section 5);

(4) provides for the prior review and approval by the Commissioner of Community Affairs, or his designee, and the Commissioner of Insurance, of the bylaws and plan of risk management, including any amendments thereto (sections 6 and 8);

(5) requires joint insurance funds to have annual audits of their financial conditions conducted by an independent certified public accountant or a registered municipal accountant (section 11);

(6) authorizes the Commissioner of Insurance to require (a) the filing of contracts or agreements entered into by a fund and (b) departmental examination of the financial condition of the fund, which examination is to be made at the expenses of the fund (sections 10 and 12);

(7) exempts joint insurance funds from the provisions of subtitle 3 of Title 17 of the Revised Statutes, on property and liability insurance (section 13); and

(8) authorizes the Commissioners of Community Affairs and Insurance to adopt rules and regulations effectuating the purposes of this bill (section 14).