

17:22-6.14a

LEGISLATIVE HISTORY CHECKLIST

HJSA 17:22-6.14a (Insurance Agents--Commission)

LAWS OF 1979 CHAPTER 75

Bill No. A1905

Sponsor(s) Bornheimer

Date Introduced Jan. 9, 1979

Committee: Assembly Banking and Insurance

Senate Labor, Industry and Professions

Amended during passage Yes Amendments during passage denoted by asterisks

Date of Passage: Assembly Feb. 13, 1979

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Following statements are attached if available:

Sponsor statement Yes

Committee Statement: Assembly Yes

Senate Yes

Fiscal Note No

Veto message No

Message on signing No

Following were printed:

Reports No

Hearings No

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CHAPTER 75
4-10-79

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ASSEMBLY, No. 1905

STATE OF NEW JERSEY

INTRODUCED JANUARY 9, 1979

By Assemblyman BORNHEIMER

Referred to Committee on Banking and Insurance

AN ACT concerning certain insurance agency contracts, and amending P. L. 1970, c. 217.

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

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

3 1. In the event that a policy is canceled 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 is
7 canceled by the insured, any broker of record may retain his
8 ****[portion of the unearned]**** ****earned**** commission, and the
9 balance of the unearned premium including any balance of
10 unearned commission, shall be returned to the policyholder. Con-
11 tracts between insurance companies and agents for the appointment
12 of the agent as the representative of the company shall set forth
13 the rates of commission to be paid to the agent for each class of
14 insurance within the scope of such appointment written on all
15 risks or operations in this State except:

- 16 (a) Reinsurance.
17 (b) Life insurance.
18 (c) Annuities.
19 (d) Accident and health insurance.
20 (e) Title insurance.
21 (f) Mortgage guaranty insurance.
22 (g) Hospital service, medical service, or dental service corpora-
23 tions, investment companies, mutual benefit associations, or fra-
24 ternal beneficiary associations.

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

25 Said rates of commission shall continue in force and effect unless
26 changed by mutual written consent or until termination of said
27 contract as hereinafter provided. Failure to achieve such mutual
28 consent shall require that the agent's contract be terminated as
29 hereinbelow provided. The rate of commissions being paid on each
30 class of insurance on the date of enactment hereof shall be deemed
31 to be pursuant to the existing contract between agent and company.

32 Termination of any such contract for any reason other than one
33 excluded herein shall become effective after not less than 90 days'
34 notice in writing given by the company to the agent and the Com-
35 missioner of Insurance. No new business nor increases in liability
36 on renewal or in force business shall be written by the agent for
37 the company after notice of termination without written approval
38 of the company. However, during the term of the agency
39 contract, including the said 90-day period, the company shall
40 not refuse to renew such business from the agent as would
41 be in accordance with said company's current underwriting
42 standards. The company shall during a period of 9 months from
43 the effective date of such termination or **[during any period in*
44 *which]** **for the 3 years following if* the insurer renews the policy*
45 *pursuant to the provisions of section 3 of P. L. 1972, c. 70*
46 *(C. 39:6A-3), **provided the former agent has been designated as*
47 *the broker of record by the insured,*** upon request in writing of the
48 terminated agent, renew all contracts of insurance for such agent
49 for said company as may be in accordance with said company's then
50 current underwriting standards and pay to the terminated agent
51 a commission in accordance with the previous agency contract of
52 the terminated agent**, *provided, however, that if such policy is*
53 *canceled, the unearned commission shall be returned to the policy-*
54 *holder**.* Said commission can be paid only to the holder of a New
55 Jersey broker's license. In the event any risk shall not meet the
55A then current underwriting standards of said company, that com-
55B pany may decline its renewal, provided that the company shall give
55C the terminated agent and the insured not less than 60 days' notice
55D of its intention not to renew said contract of insurance.

56 The agency termination provisions of this act shall not apply to
57 those contracts in which the agent is paid on a salary basis without
58 commission or where he agrees to represent exclusively one com-
59 pany or to the termination of an agent's contract for insolvency,
60 abandonment, gross and willful misconduct, or failure to pay over
61 to the company moneys due to the company after his receipt of a
62 written demand therefor, or after revocation of the agent's license

63 by the Commissioner of Insurance; and in any such case the com-
64 pany shall upon request of the insured, provided he meets the then
65 current underwriting standards of the company, renew any contract
66 of insurance formerly processed by the terminated agent through
67 an active agent, or directly pursuant to such rules and regulations
68 as may be promulgated by the Commissioner of Insurance.

69 The Commissioner of Insurance, on the written complaint of any
70 person stating that there has been a violation of this act, or when
71 he deems it necessary without a complaint, may inquire and other-
72 wise investigate to determine whether there has been any violation
73 of this act.

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

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

80 Whenever under this act it is required that the company shall
81 renew a contract of insurance, the renewal shall be for a time period
82 equal to one additional term of the term specified in the original
83 contract, but in no event to be less than 1 year.

1 2. This act shall take effect immediately**, and expire 3 years
2 after enactment**.

69 The Commissioner of Insurance, on the written complaint of any
70 person stating that there has been a violation of this act, or when
71 he deems it necessary without a complaint, may inquire and other-
72 wise investigate to determine whether there has been any violation
73 of this act.

74 All existing contracts between agent and company in effect in
75 the State of New Jersey on the effective date of this act are subject
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78 company is in unsatisfactory financial condition, exclude such com-
79 pany from the provisions of this act.

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81 renew a contract of insurance, the renewal shall be for a time period
82 equal to one additional term of the term specified in the original
83 contract, but in no event to be less than 1 year.

1 2. This act shall take effect immediately.

STATEMENT

This legislation provides that during the period of the renewal of an automobile insurance policy pursuant to the provisions of P. L. 1972, c. 70, an insurer would be required to pay to an agent whose contract had been terminated the full commission which would have been payable when the agency contract was in force. At present, some insurers have sharply reduced the commission rates payable on such policies, thus creating a windfall for insurers, who keep the portion of the premium formerly payable to the agent.

A1905 (1979)

ASSEMBLY BANKING AND INSURANCE COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1905

STATE OF NEW JERSEY

DATED: JANUARY 25, 1979

This legislation provides that insurance companies must pay terminated agents commissions on policies which are renewed by the company pursuant to the provisions of the no-fault law.

Under existing law, if an agent is terminated by an insurance company, the company is required to renew for 9 months such business from the terminated agent as meets their current underwriting standards. Such renewal must be in accordance with the agent's written request, and payment of commission is required to be in accordance with the previous agency contract of the terminated agent. However, because the contract of insurance is not easily cancellable by the company because of the requirements of the State's no fault law (P. L. 1972, c. 70), sometimes agents are required to continue to service the policies beyond that period, and the insurance companies frequently cut the commission substantially. This legislation would provide that commissions be continued to be paid at the previous level.

The Banking and Insurance Committee has amended the legislation to restrict the payment of such commissions to a period of 3 years.

SENATE LABOR, INDUSTRY AND
PROFESSIONS COMMITTEE

STATEMENT TO
ASSEMBLY, No. 1905
with Senate committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 22, 1979

This legislation provides that insurance companies must pay terminated agents commissions on policies which are renewed by the company pursuant to the provisions of the no-fault law.

The Senate Labor, Industry and Professions Committee amended the bill to make it clear that there is only one broker of record to service a given policy. A further amendment provides that if a policy is cancelled the unearned portion of the commission must be returned to the policy holder. The bill as amended will expire 3 years after enactment.