

17:44A-49

LEGISLATIVE HISTORY CHECKLIST

(Insurance agents-fraternal benefit societies-additional requirements for licensing)

HJSA 17:44A-49

LAWS OF 1977

CHAPTER 418

Bill No. S16

Sponsor(s) Dunn

Date Introduced Pre-filed

Committee: Assembly Labor, Industry & Professions

Senate Labor, Industry & Professions

Amended during passage Yes XX

Amendments during passage denoted by asterisks. Substituted for A.1889 (enclosed)

Date of Passage: Assembly Feb. 10, 1977

Senate June 10, 1976

Date of approval February 25, 1978

Following statements are attached if available:

Sponsor statement ~~XXX~~ No

Committee Statement: Assembly Yes ~~XX~~

Senate Yes ~~XX~~

Fiscal Note ~~XXX~~ No

Veto Message ~~XXX~~ No

Message on signing ~~XXX~~ No

Following were printed:

Reports ~~XXX~~ No

Hearings ~~XXX~~ No

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SENATE, No. 16

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1976 SESSION

By Senator DUNN

AN ACT to amend "An act concerning fraternal benefit societies, defining certain terms relative thereto, providing for the enforcement of the act, providing penalties for violations, repealing chapters 39 to 44, both inclusive, of Title 17 and supplementing Title 17, of the Revised Statutes," approved November 12, 1959 (P. L. 1959, c. 167).

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

1 1. Section 29 of P. L. 1959, c. 167 (C. 17:44A-29) is amended
2 to read as follows:

3 29. Agents of societies shall be licensed in accordance with the
4 provisions of this section.

5 (1) Insurance agent defined. The term "insurance agent" as
6 used in this section means any authorized or acknowledged agent
7 of a society who acts as such in the solicitation, negotiation or
8 procurement or making of a life insurance, accident and health
9 insurance or annuity contract, except that the term "insurance
10 agent" shall not include:

11 (a) Any regular salaried officer or employee of a licensed society
12 who devotes substantially all of his services to activities other than
13 the solicitation of fraternal insurance contracts from the public,
14 and who receives for the solicitation of such contracts no commis-
15 sion or other compensation directly dependent upon the amount of
16 business obtained; or

17 (b) Any agent or representative of a society who devotes, or
18 intends to devote, less than 50% of his time to the solicitation and
19 procurement of insurance contracts for such society. Any person
20 who in the preceding calendar year has solicited and procured life

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

21 insurance contracts on behalf of any society in an amount of in-
 22 surance in excess of \$50,000.00, or, in the case of any other kind
 23 or kinds of insurance which the society might write, on the persons
 24 of more than 25 individuals and who has received or will receive
 25 a commission or other compensation, therefor, shall be presumed
 26 to be devoting, or intending to devote, 50% of his time to the solici-
 27 tation or procurement of insurance contracts for such society.

28 (2) License required. No person shall act in this State as an
 29 insurance agent, as defined in subsection (1) hereof, for a society
 30 without having authority so to do by virtue of a license issued and
 31 in force pursuant to the provisions of this section.

32 (3) Payment of commissions forbidden. No society doing busi-
 33 ness in this State shall pay any commission or other compensation
 34 to any person for any services in obtaining in this State any new
 35 contract of life, accident or health insurance, or any new annuity
 36 contract, except to a licensed insurance agent of such society and
 37 except an agent exempted under subsection (1) (b) of this section.

38 (4) Prerequisites, issuance and renewal of insurance agent's
 39 licenses.

40 (a) The commissioner may issue a license to any person who
 41 has complied with the requirements of this section, authorizing the
 42 licensee to act as an insurance agent on behalf of any society named
 43 in such license which is authorized to do business in this State. The
 44 annual fee for each license issued shall be ~~[\$2.00]~~ \$5.00.

45 (b) Before any insurance agent's license shall be issued there
 46 shall be on file in the office of the commissioner the following docu-
 47 ments:

48 (1) A written application by the prospective licensee in
 49 such form or forms and supplements thereto, and containing
 50 such information, as the commissioner may prescribe; ~~[and]~~

51 (2) A certificate by the society which is to be named in such
 52 license, stating that such society has satisfied itself that the
 53 named applicant is trustworthy and competent to act as such
 54 insurance agent and that the society will appoint such appli-
 55 cant to act as its agent if the license applied for is issued by
 56 the commissioner. Such certificates shall be executed and ac-
 57 knowledged by an officer or managing agent of such society~~[.]~~;
 58 *and*

59 (3) *A certificate that the applicant for a license shall have*
 60 *taken, and successfully completed, a program of studies estab-*
 61 *lished by regulation of the commissioner to the end that the*
 62 *applicant shall be reasonably familiar with the kinds of in-*

63 *urance he intends to solicit or negotiate. The commissioner*
 64 *may waive the educational requirement set forth herein if the*
 65 *applicant was previously licensed for the authority he is seek-*
 66 *ing.*

67 (c) **[No]** *A written [or other] examination shall be required*
 68 **[of]** *to be satisfactorily completed by any individual seeking to*
 69 *be named as a licensee to represent a fraternal benefit society as*
 70 *its agent. An examination fee of *~~[\$10.00]~~* *\$15.00* shall be paid*
 71 *at the time of the original application for each examination sched-*
 72 *uled unless the applicant be exempt hereunder. An examination*
 73 *fee shall be paid for each examination and reexamination permitted.*
 74 *If the applicant fails to qualify for, or is refused, a license, the*
 75 *license fee shall be returned. The examination fee shall not be*
 76 *returned for any reason.*

77 *No written examination or program of studies as prescribed in*
 78 *subsection 4 (b) (3) of this section will be required of:*

79 (1) *An applicant who is the holder of a valid agent's license*
 80 *issued by the commissioner or an applicant for a renewal license,*
 81 *except in a case where the commissioner has good and sufficient*
 82 *cause to believe that the applicant for renewal has demonstrated*
 83 *incompetency in the conduct of his business as an agent to the*
 84 *detriment of the insurance-buying public;*

85 (2) *An applicant whose license to do business or act as an in-*
 86 *surance agent for life insurance, health insurance or annuities in*
 87 *this State has expired less than 3 years prior to the date of appli-*
 88 *cation. If the applicant has permitted his license to lapse for a*
 89 *period of more than 3 years, he must submit to and pass an exami-*
 90 *nation the same as a new applicant, except where the applicant is*
 91 *a veteran who meets the requirements of paragraph (c) (3) here-*
 92 *under, when no reexamination shall be required;*

93 (3) *An applicant who is a citizen of New Jersey and has served*
 94 *in the Armed Forces of the United States and has been honorably*
 95 *discharged or released under conditions other than dishonorable*
 96 *and was the holder at any time of an agent's license or a broker's*
 97 *license, in New Jersey, which authorized the applicant to transact*
 98 *the business of life insurance, health insurance or annuity;*

99 (4) *An applicant who provides certification that he is a desig-*
 100 *nated Fraternal Insurance Counselor.*

101 (d) *The commissioner may refuse to issue or renew any in-*
 102 *surance agent's license if in his judgment the proposed licensee*
 103 *is not trustworthy and competent to act as such agent, or has given*
 104 *cause for revocation or suspension of such license, or has failed*

105 to comply with any prerequisite for the issuance or renewal, as
106 the case may be, of such license.

107 (e) Every license issued pursuant to this section, and every
108 renewal thereof, shall expire *biennially* on December 31 [of each
109 year].

110 (f) If the application for renewal license shall have been filed
111 with the commissioner on or before December 31 of the year in
112 which the existing license is to expire, such applicant named in
113 such existing license may continue to act as insurance agent under
114 such existing license, unless same shall be revoked or suspended,
115 until the issuance by the commissioner of the renewal license or
116 until the expiration of 5 days after he shall have refused to renew
117 such license and shall have served written notice of such refusal
118 on the applicant. If the applicant shall, within 30 days after such
119 notice is given, notify the commissioner in writing of his request
120 for a hearing on such refusal, the commissioner shall, within a
121 reasonable time after receipt of such notice, grant such hearing,
122 and he may, in his discretion, reinstate such license.

123 (g) Any such renewal license of an insurance agent may be
124 issued upon the application of a society named in the existing li-
125 cense. Such application shall be in the form or forms prescribed
126 by the commissioner and shall contain such information as he may
127 require. Such application shall contain a certificate executed by
128 the president, or by a vice president, a secretary, an assistant sec-
129 retary, or corresponding officer by whatever name known, or by
130 an employee expressly designated and authorized to execute such
131 certificate of a domestic or foreign society or by the United States
132 manager of an alien society, stating that the addresses therein
133 given of the agents of such society for whom renewal licenses are
134 requested therein have been verified in each instance immediately
135 preceding the preparation of the application. Notwithstanding the
136 filing of such application, the commissioner may, after reasonable
137 notice to any such society, require that any or all agents of such
138 society to be named as licensees in renewal licenses shall execute
139 and file separate applications for the renewal of such licenses, as
140 hereinbefore specified, and he may also require that each such
141 application shall be accompanied by the certificate specified in para-
142 graph (b) (2) of subsection (4) of this section.

143 (5) Notice of termination of appointment of insurance agent.
144 Every society doing business in this State shall, upon the termina-
145 tion of the appointment of any insurance agent licensed to repre-
146 sent it in this State, forthwith file with the commissioner a state-

147 ment, in such form as he may prescribe, of the facts relative to such
148 termination and the cause thereof. Every statement made pursuant
149 to this section shall be deemed a privileged communication.

150 (6) Revocation or suspension of insurance agent's license.

151 (a) The commissioner may revoke, or may suspend for such
152 period as he may determine, any insurance agent's license if, after
153 notice and hearing as specified in this section, he determines that
154 the licensee has :

155 (1) Violated any provision of, or any obligation imposed
156 by, this section, or has violated any law in the course of his
157 dealings as agent;

158 (2) Made a material misstatement in the application for such
159 license;

160 (3) Been guilty of fraudulent or dishonest practices;

161 (4) Demonstrated his incompetency or untrustworthiness
162 to act as an insurance agent; or

163 (5) Been guilty of rebating as defined by the laws of this
164 State applicable to life insurance companies;

165 (6) The revocation or suspension of any insurance agent's
166 license shall terminate forthwith the license of such agent. No
167 individual whose license has been revoked shall be entitled to
168 obtain any individual agent's license under the provisions of
169 this section for a period of 1 year after such revocation or, if
170 such revocation be judicially reviewed, for 1 year after the
171 final determination thereof affirming the action of the com-
172 missioner in revoking such license.

1 2. This act shall take effect immediately*, *but shall remain in-*
2 *operative for 90 days**.

ASSEMBLY LABOR, INDUSTRY AND PROFESSIONS
COMMITTEE

STATEMENT TO
SENATE, No. 16

STATE OF NEW JERSEY

DATED: AUGUST 2, 1976

The statement prepared by the Senate Labor, Industry and Professions Committee adequately explains this bill's provisions. It has received the support of the Department of Insurance, the Association of Life Underwriters, the Insurance Workers Union, AFL-CIO, and the Executive Council of Fraternal Insurers. No opposition was registered during the course of the committee's discussion of the bill.

SENATE LABOR, INDUSTRY AND
PROFESSIONS COMMITTEE

STATEMENT TO

SENATE, No. 16

with Senate committee amendments

STATE OF NEW JERSEY

DATED: MAY 24, 1976

Under the law governing fraternal benefit societies adopted in 1959 (N. J. S. A. 17:44A-1 et seq.), special provisions are set forth for the licensing of agents of the societies who act as such in the solicitation, negotiation, or procurement or making of the societies' life, accident, and health insurance or annuity contracts. The law does not require the applicant to take a program of studies or a written examination as are required of other applicants for licenses to be insurance agents.

Senate Bill No. 16 would amend the present requirements by requiring an applicant to complete successfully a program of studies approved by the Commissioner of Insurance (30 hours) and to take a written examination. Excluded from these requirements would be (1) an applicant who holds a valid agent's license or an applicant for a license renewal, (2) an applicant whose license to sell life or health insurance or annuities expired less than 3 years from his application, (3) a veteran who was licensed prior to his military service and honorable discharge, and (4) an applicant who provides certification he is a designated Fraternal Insurance Counselor.

At the request of the Department of Insurance, the committee amended the bill to require a \$15.00 examination fee, rather than a \$10.00 fee, and made the effective date of the act 90 days after enactment, rather than immediately.

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ASSEMBLY, No. 1889

STATE OF NEW JERSEY

INTRODUCED APRIL 8, 1976

By Assemblyman BORNHEIMER

Referred to Committee on Commerce, Banking and Insurance

AN ACT to amend "An act concerning fraternal benefit societies, defining certain terms relative thereto, providing for the enforcement of the act, providing penalties for violations, repealing chapters 39 to 44, both inclusive, of Title 17 and supplementing Title 17, of the Revised Statutes," approved November 12, 1959 (P. L. 1959, c. 167).

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2 *of New Jersey:*

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4 provisions of this section.

5 (1) Insurance agent defined. The term "insurance agent" as
6 used in this section means any authorized or acknowledged agent
7 of a society who acts as such in the solicitation, negotiation or
8 procurement or making of a life insurance, accident and health
9 insurance or annuity contract, except that the term "insurance
10 agent" shall not include:

11 (a) Any regular salaried officer or employee of a licensed society
12 who devotes substantially all of his services to activities other than
13 the solicitation of fraternal insurance contracts from the public,
14 and who receives for the solicitation of such contracts no commis-
15 sion or other compensation directly dependent upon the amount of
16 business obtained; or

17 (b) Any agent or representative of a society who devotes, or
18 intends to devote, less than 50% of his time to the solicitation and
19 procurement of insurance contracts for such society. Any person
20 who in the preceding calendar year has solicited and procured life

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

21 insurance contracts on behalf of any society in an amount of in-
 22 surance in excess of \$50,000.00, or, in the case of any other kind
 23 or kinds of insurance which the society might write, on the persons
 24 of more than 25 individuals and who has received or will receive
 25 a commission or other compensation, therefor, shall be presumed
 26 to be devoting, or intending to devote, 50% of his time to the solici-
 27 tation or procurement of insurance contracts for such society.

28 (2) License required. No person shall act in this State as an
 29 insurance agent, as defined in subsection (1) hereof, for a society
 30 without having authority so to do by virtue of a license issued and
 31 in force pursuant to the provisions of this section.

32 (3) Payment of commissions forbidden. No society doing busi-
 33 ness in this State shall pay any commission or other compensation
 34 to any person for any services in obtaining in this State any new
 35 contract of life, accident or health insurance, or any new annuity
 36 contract, except to a licensed insurance agent of such society and
 37 except an agent exempted under subsection (1) (b) of this section.

38 (4) Prerequisites, issuance and renewal of insurance agent's
 39 licenses.

40 (a) The commissioner may issue a license to any person who
 41 has complied with the requirements of this section, authorizing the
 42 licensee to act as an insurance agent on behalf of any society named
 43 in such license which is authorized to do business in this State. The
 44 annual fee for each license issued shall be ~~[\$2.00]~~ \$5.00.

45 (b) Before any insurance agent's license shall be issued there
 46 shall be on file in the office of the commissioner the following docu-
 47 ments:

48 (1) A written application by the prospective licensee in
 49 such form or forms and supplements thereto, and containing
 50 such information, as the commissioner may prescribe; ~~[and]~~

51 (2) A certificate by the society which is to be named in such
 52 license, stating that such society has satisfied itself that the
 53 named applicant is trustworthy and competent to act as such
 54 insurance agent and that the society will appoint such appli-
 55 cant to act as its agent if the license applied for is issued by
 56 the commissioner. Such certificates shall be executed and ac-
 57 knowledged by an officer or managing agent of such society~~[.]~~;
 58 *and*

59 (3) *A certificate that the applicant for a license shall have*
 60 *taken, and successfully completed, a program of studies estab-*
 61 *lished by regulation of the commissioner to the end that the*
 62 *applicant shall be reasonably familiar with the kinds of in-*

63 *surance he intends to solicit or negotiate. The commissioner*
 64 *may waive the educational requirement set forth herein if the*
 65 *applicant was previously licensed for the authority he is seek-*
 66 *ing.*

67 (c) **[No]** *A written [or other] examination shall be required*
 68 **[of]** *to be satisfactorily completed by any individual seeking to*
 69 *be named as a licensee to represent a fraternal benefit society as*
 70 *its agent. An examination fee of ***[\$10.00]*** *\$15.00* shall be paid*
 71 *at the time of the original application for each examination*
 72 *scheduled unless the applicant be exempt hereunder. An examina-*
 73 *tion fee shall be paid for each examination and reexamination per-*
 74 *mitted. If the applicant fails to qualify for, or is refused, a license,*
 75 *the license fee shall be returned. The examination fee shall not be*
 76 *returned for any reason.*

77 *No written examination or program of studies as prescribed in*
 78 *subsection 4 (b) (3) of this section will be required of:*

79 (1) *An applicant who is the holder of a valid agent's license*
 80 *issued by the commissioner or an applicant for a renewal license,*
 81 *except in a case where the commissioner has good and sufficient*
 82 *cause to believe that the applicant for renewal has demonstrated*
 83 *incompetency in the conduct of his business as an agent to the*
 84 *detriment of the insurance-buying public;*

85 (2) *An applicant whose license to do business or act as an in-*
 86 *surance agent for life insurance, health insurance or annuities in*
 87 *this State has expired less than 3 years prior to the date of appli-*
 88 *cation. If the applicant has permitted his license to lapse for a*
 89 *period of more than 3 years, he must submit to and pass an exami-*
 90 *nation the same as a new applicant, except where the applicant is*
 91 *a veteran who meets the requirements of paragraph (c) (3) here-*
 92 *under, when no reexamination shall be required;*

93 (3) *An applicant who is a citizen of New Jersey and has served*
 94 *in the Armed Forces of the United States and has been honorably*
 95 *discharged or released under conditions other than dishonorable*
 96 *and was the holder at any time of an agent's license or a broker's*
 97 *license, in New Jersey, which authorized the applicant to transact*
 98 *the business of life insurance, health insurance or annuity;*

99 (4) *An applicant who provides certification that he is a desig-*
 100 *nated Fraternal Insurance Counselor.*

101 (d) *The commissioner may refuse to issue or renew any in-*
 102 *surance agent's license if in his judgment the proposed licensee*
 103 *is not trustworthy and competent to act as such agent, or has given*
 104 *cause for revocation or suspension of such license, or has failed*

105 to comply with any prerequisite for the issuance or renewal, as
106 the case may be, of such license.

107 (e) Every license issued pursuant to this section, and every
108 renewal thereof, shall expire *biennially* on December 31 ~~of each~~
109 year].

110 (f) If the application for renewal license shall have been filed
111 with the commissioner on or before December 31 of the year in
112 which the existing license is to expire, such applicant named in
113 such existing license may continue to act as insurance agent under
114 such existing license, unless same shall be revoked or suspended,
115 until the issuance by the commissioner of the renewal license or
116 until the expiration of 5 days after he shall have refused to renew
117 such license and shall have served written notice of such refusal
118 on the applicant. If the applicant shall, within 30 days after such
119 notice is given, notify the commissioner in writing of his request
120 for a hearing on such refusal, the commissioner shall, within a
121 reasonable time after receipt of such notice, grant such hearing,
122 and he may, in his discretion, reinstate such license.

123 (g) Any such renewal license of an insurance agent may be
124 issued upon the application of a society named in the existing li-
125 cense. Such application shall be in the form or forms prescribed
126 by the commissioner and shall contain such information as he may
127 require. Such application shall contain a certificate executed by
128 the president, or by a vice president, a secretary, an assistant sec-
129 retary, or corresponding officer by whatever name known, or by
130 an employee expressly designated and authorized to execute such
131 certificate of a domestic or foreign society or by the United States
132 manager of an alien society, stating that the addresses therein
133 given of the agents of such society for whom renewal licenses are
134 requested therein have been verified in each instance immediately
135 preceding the preparation of the application. Notwithstanding the
136 filing of such application, the commissioner may, after reasonable
137 notice to any such society, require that any or all agents of such
138 society to be named as licensees in renewal licenses shall execute
139 and file separate applications for the renewal of such licenses, as
140 hereinbefore specified, and he may also require that each such
141 application shall be accompanied by the certificate specified in para-
142 graph (b) (2) of subsection (4) of this section.

143 (5) Notice of termination of appointment of insurance agent.
144 Every society doing business in this State shall, upon the termina-
145 tion of the appointment of any insurance agent licensed to repre-
146 sent it in this State, forthwith file with the commissioner a state-

147 ment, in such form as he may prescribe, of the facts relative to such
 148 termination and the cause thereof. Every statement made pursuant
 149 to this section shall be deemed a privileged communication.

150 (6) Revocation or suspension of insurance agent's license.

151 (a) The commissioner may revoke, or may suspend for such
 152 period as he may determine, any insurance agent's license if, after
 153 notice and hearing as specified in this section, he determines that
 154 the licensee has:

155 (1) Violated any provision of, or any obligation imposed
 156 by, this section, or has violated any law in the course of his
 157 dealings as agent;

158 (2) Made a material misstatement in the application for such
 159 license;

160 (3) Been guilty of fraudulent or dishonest practices;

161 (4) Demonstrated his incompetency or untrustworthiness
 162 to act as an insurance agent; or

163 (5) Been guilty of rebating as defined by the laws of this
 164 State applicable to life insurance companies;

165 (6) The revocation or suspension of any insurance agent's
 166 license shall terminate forthwith the license of such agent. No
 167 individual whose license has been revoked shall be entitled to
 168 obtain any individual agent's license under the provisions of
 169 this section for a period of 1 year after such revocation or, if
 170 such revocation be judicially reviewed, for 1 year after the
 171 final determination thereof affirming the action of the com-
 172 missioner in revoking such license.

1 2. This act shall take effect ***[immediately]*** **90 days after*
 2 *enactment**.

147 ment, in such form as he may prescribe, of the facts relative to such
148 termination and the cause thereof. Every statement made pursuant
149 to this section shall be deemed a privileged communication.

150 (6) Revocation or suspension of insurance agent's license.

151 (a) The commissioner may revoke, or may suspend for such
152 period as he may determine, any insurance agent's license if, after
153 notice and hearing as specified in this section, he determines that
154 the licensee has:

155 (1) Violated any provision of, or any obligation imposed
156 by, this section, or has violated any law in the course of his
157 dealings as agent;

158 (2) Made a material misstatement in the application for such
159 license;

160 (3) Been guilty of fraudulent or dishonest practices;

161 (4) Demonstrated his incompetency or untrustworthiness
162 to act as an insurance agent; or

163 (5) Been guilty of rebating as defined by the laws of this
164 State applicable to life insurance companies;

165 (6) The revocation or suspension of any insurance agent's
166 license shall terminate forthwith the license of such agent. No
167 individual whose license has been revoked shall be entitled to
168 obtain any individual agent's license under the provisions of
169 this section for a period of 1 year after such revocation or, if
170 such revocation be judicially reviewed, for 1 year after the
171 final determination thereof affirming the action of the com-
172 missioner in revoking such license.

1 2. This act shall take effect immediately.

STATEMENT

This bill prescribes additional qualifications for the licensing of insurance agents of fraternal benefit societies.