

17:38-17 et seq.

December 17, 1970

LEGISLATIVE HISTORY OF R.S.17:38-17 et seq.
(Liability insurance to airlines)

No similar bills introduced, 1965-1970.

Copy 2

L.1970 - Chap.47 - A551.

February 2 - Introduced by Kaltenbacher [and 9 others].

March 16 - Passed Assembly amended (copy enclosed).

April 6 - Passed Senate.

Bill had statement (copy enclosed)

No hearings or reports were located

Clippings enclosed:

Insurance takeover slowed. TET March 17, 1970.

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JH/EH
Enclosure

ASSEMBLY, No. 551

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 2, 1970

By Assemblymen KALTENBACHER, DENNIS, WILSON, FIORE
PFALTZ, CAPUTO, GOLDFARB, RINALDI and PARKER

Referred to Committee on Insurance

AN ACT to amend "An act concerning health and accident insurance, supplementing chapter 38 of Title 17 of the Revised Statutes, and repealing R. S. 17:18-7," approved August 2, 1939 (P. L. 1939, c. 305).

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

1 1. Section 4 of P. L. 1939, chapter 305 (C. 17:38-17) is amended
2 to read as follows:

3 4. Any policy or contract of insurance against death or injury
4 resulting from accident or from accidental means which conforms
5 with the description and complies with the requirements contained
6 in one of the following three paragraphs shall be deemed a blanket
7 insurance policy.

8 (a) A policy or contract issued to any railroad, steamship, motor-
9 bus or airplane carrier of passengers, which carrier shall be deemed
10 the policyholder, covering a group defined as all persons who may
11 become such passengers and whereby such passengers shall be
12 insured against loss or damage resulting from death or bodily
13 injury either while, or as a result of, being such passengers.

14 *A policy or contract covering accidental death or injury to in-*
15 *dividuals resulting from airline accidents may also be issued under*
16 *which the benefits are payable to the airline and the premiums are*
17 *paid from its funds.*

18 (b) A policy or contract issued in the name of any volunteer
19 fire department, first aid or ambulance squad or volunteer police
20 organization, which shall be deemed the policyholder, and covering
21 all the members of any such organization against loss from acci-
22 dents resulting from hazards incidental to duties in connection
23 with such organizations.

24 (c) A policy or contract issued in the name of any established

25 organization whether incorporated or not, having community
26 recognition and operated for the welfare of the community and
27 not for profit, which shall be deemed the policyholder, and covering
28 all volunteer workers who are members of the organization and
29 who serve without pecuniary compensation against loss from acci-
30 dents occurring while engaged in the actual performance of duties
31 on behalf of such organization.

32 Nothing contained in this act shall be deemed to affect the legal
33 liability of the policyholder for the death of, or injury to, any mem-
34 ber of such group.

1 2. Section 5 of P. L. 1939, chapter 305 (C. 17 :38-18) is amended
2 to read as follows:

3 5. No policy of group accident, group health, group accident
4 and health or blanket accident insurance and no certificate there-
5 under shall be issued or delivered in this State unless the policy
6 contains in substance all the provisions specified in subsections
7 (a) to (o) following:

8 (a) A provision that no statement made by the applicant for
9 insurance shall avoid the insurance or reduce benefits thereunder
10 unless contained in the written application signed by the applicant;
11 and a provision that no agent has authority to change the policy
12 or to waive any of its provisions; and that no change in the policy
13 shall be valid unless approved by an officer of the insurer and
14 evidenced by endorsement on the policy, or by amendment to the
15 policy signed by the policyholder and the insurer.

16 (b) A provision that the policy, the application of the person or
17 association in whose name the policy is to be issued, a copy of which
18 shall be attached to the policy, and the individual applications, if
19 any, of the employees or members shall constitute the entire con-
20 tract between the parties and that all statements contained in any
21 such application for insurance shall be deemed representations
22 and not warranties.

23 (c) A provision that all new employees or new members, as the
24 case may be, in the groups or classes eligible for such insurance
25 must be added to such eligible groups or classes.

26 (d) A provision that all premiums due under the policy shall be
27 remitted by the employer or employers of the persons insured, by
28 the policyholder, or by some other designated person acting on
29 behalf of the association or group insured, to the insurer on or
30 before the due date thereof with such period of grace as may be
31 specified therein.

32 (e) A provision stating the conditions under which the insurer
33 may decline to renew the policy.

34 (f) A provision that the insurer shall issue to the employer, the
35 policyholder, or other person or association in whose name such
36 policy is issued, for delivery to each employee or member, an in-
37 dividual certificate setting forth in summary form a statement of
38 the essential features of the insurance coverage, to whom the bene-
39 fits thereunder are payable, and in substance the provisions of sub-
40 sections (g) to (n) inclusive of this section. This subsection shall
41 not apply to blanket accident policies issued pursuant to subsections
42 (a) and (c) of section 4 of this act, nor to group accident and health
43 policies insuring a private plan under the Temporary Disability
44 Benefits Law, if reasonable notice of the benefits provided thereby
45 is furnished to the covered employees by direct notification or by
46 conspicuous posting at the place of employment.

47 (g) A provision specifying the ages, if any there be, to which
48 the insurance provided therein shall be limited; and the ages, if
49 any there be, for which additional restrictions are placed on bene-
50 fits, and the additional restrictions placed on the benefits at such
51 ages.

52 (h) A provision that written notice of sickness or of injury
53 must be given to the insurer within 20 days after the date when
54 such sickness or injury occurred. Failure to give notice within
55 such time shall not invalidate nor reduce any claim if it shall be
56 shown not to have been reasonably possible to give such notice
57 and that notice was given as soon as was reasonably possible.

58 (i) A provision that in the case of claim for loss of time for dis-
59 ability, written proof of such loss must be furnished to the insurer
60 within 30 days after the commencement of the period for which
61 the insurer is liable, and that subsequent written proofs of the
62 continuance of such disability must be furnished to the insurer at
63 such intervals as the insurer may reasonably require, and that in
64 the case of claim for any other loss, written proof of such loss must
65 be furnished to the insurer within 90 days after the date of such
66 loss. Failure to furnish such proof within such time shall not in-
67 validate nor reduce any claim if it shall be shown not to have been
68 reasonably possible to furnish such proof and that such proof was
69 furnished as soon as was reasonably possible.

70 (j) A provision that the insurer will furnish to the person making
71 claim, or to the policyholder for delivery to such person, such forms
72 as are usually furnished by it for filing proof of loss. If the person
73 making claim does not receive such forms before the expiration of
74 15 days after the insurer receives notice of any claim under the
75 policy, the person making such claim shall be deemed to have
76 complied with the requirements of the policy as to proof of loss

77 upon submitting within the time fixed in the policy for filing proof
78 of loss, written proof covering the occurrence, character and extent
79 of the loss for which claim is made.

80 (k) A provision that the insurer shall have the right and oppor-
81 tunity to examine the person of the insured when and so often
82 as it may reasonably require during the pendency of claim under
83 the policy and also the right and opportunity to make an autopsy
84 in case of death where it is not prohibited by law.

85 (l) A provision that all benefits payable under the policy other
86 than benefits for loss of time will be payable not more than 60 days
87 after receipt of proof, and that, subject to due proof of loss, all
88 accrued benefits payable under the policy for loss of time will be
89 paid not later than at the expiration of each period of 30 days
90 during the continuance of the period for which the insurer is liable,
91 and that any balance remaining unpaid at the termination of such
92 period will be paid immediately upon receipt of such proof.

93 (m) A provision that indemnity for loss of life of the insured
94 shall be payable to the beneficiary or beneficiaries designated by
95 the insured, other than the policyholder or an officer thereof as
96 such, or if no beneficiary is designated, to such other person or
97 persons as shall be specified in the policy; and that all other in-
98 demnities of the policy are payable to the employee or member,
99 except that, at the request of the employee or member or in the
100 event of his death, payment of benefits to the extent of expenses
101 incurred on account of hospitalization may be made by the insurer
102 to the hospital. If a beneficiary is designated, the consent of the
103 beneficiary shall not be requisite to change of beneficiary or to any
104 other changes in the policy or certificate except as may be spe-
105 cifically provided by the policy.

106 *This subsection shall not apply to a blanket insurance policy*
107 *issued to an airline under which the benefits are payable to the*
108 *airline and the premiums are paid from its funds.*

109 (n) A provision that no action at law or in equity shall be brought
110 to recover on the policy prior to the expiration of 60 days after
111 proof of loss has been filed in accordance with the requirements
112 of the policy and that no such action shall be brought at all unless
113 brought within 2 years from the expiration of the time within which
114 proof of loss is required by the policy.

115 (o) In the case of insurance issued pursuant to subsection (a)
116 of section 4 of this act, a provision that the company will issue to
117 the policyholder, for delivery to the insured persons, certificates
118 setting forth the name of the insurance company and the essential
119 features of such insurance.

120 *This subsection shall not apply to a blanket insurance policy*
121 *issued to an airline under which the benefits are payable to the*
122 *airline and the premiums are paid from its funds.*

1 3. This act shall take effect immediately.

STATEMENT

The purpose of this bill is to enable life insurance companies to provide liability insurance to airlines.

ASSEMBLY COMMITTEE AMENDMENTS TO
ASSEMBLY, No. 551

STATE OF NEW JERSEY

ADOPTED MARCH 9, 1970

Amend page 1, title, line 4, after "c. 305)", insert ", and amending sections 17:17-3 and 17:34-13 of the Revised Statutes".

Amend page 1, section 1, line 16, omit "the benefits are payable to the airline and the".

Amend page 1, section 1, line 17, omit "its".

Amend page 1, section 1, line 17, after "funds", insert "of the airline and the benefits are payable to the airline or to a trust established for the purpose of funding payments to persons with claims against the airline by reason of the death or bodily injury of individuals".

Amend page 4, section 2, line 108, after "airline", insert "or a trust established by the airline".

Amend page 5, section 2, line 122, after "airline", insert "or a trust established by the airline".

Amend page 5, section 3, line 1, omit in its entirety.

Amend page 5, section 3, after line 1, insert the following sections:

"3. R. S. 17:17-3 is amended to read as follows:

17:17-3. A company may be formed:

a. For the purposes specified in any or all of the paragraphs of section 17:17-1 of this Title except paragraph "c"; or

b. For the purposes specified in paragraph "c" and for the purpose of making insurances against bodily injury or death by accident as specified in paragraph "d" of said section 17:17-1.

In addition, a company authorized to do the business specified in paragraph "c" and insure against bodily injury or death by accident as specified in paragraph "d" may reinsure the legal liability of an airline arising out of the death or injury of any person resulting from an airline accident and may undertake to pay the ceding insurer stipulated amounts in the event of the death or injury of any person whether or not such undertaking is directly related to the liability of the ceding insurer or is subject to aggregate or other limitations.

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

Any reinsurance authorized by this section or any reinsurance of blanket accident insurance referred to in section 4 of P. L. 1939, chapter 305 (C. 17:38-17) may be provided through pooling arrangements with other insurers for purposes of spreading the reinsurance risk, provided such arrangements have been approved in writing by the commissioner of insurance upon findings that the arrangements do not impair the protection of policyholders of the ceding and assuming reinsurers and do not substantially restrain competition in the business of insurance or reinsurance or create a monopoly therein.”

“4. R. S. 17:34-13 is amended to read as follows:

17:34-13. No life insurance company of this State may reinsure all or any substantial part of its outstanding risks or policy obligations in any other company, or itself reinsure all or any substantial part of the outstanding risks or obligations of another company until the contract for such reinsurance shall have been submitted to the Commissioner of [Banking and] Insurance together with satisfactory evidence that the interests of the policyholders are fully protected and until such contract of reinsurance shall have been approved by him; provided, however, that this section shall not be applicable to contracts of reinsurance heretofore or hereafter entered into providing for the reinsuring of single risks or policies, in whole or in part, or risks covered by any group policy or contract, in whole or in part.

Reinsurance of the risk of legal liability of airlines for the death or injury of any person resulting from an airline accident as referred to in R. S. 17:17-3, or reinsurance of a blanket policy issued to an airline with premiums payable from the airline’s funds and benefits payable to it or to a trust established by it as referred to in section 4 of P. L. 1939, chapter 305 (17:38-17) may be provided through pooling arrangements as specified in R. S. 17:17-3.”.

“5. This act shall take effect immediately.”.

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APPROVED 5-8-70 70

[OFFICIAL COPY REPRINT]
ASSEMBLY, No. 551

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 2, 1970

By Assemblymen KALTENBACHER, DENNIS, WILSON, FIORE
PFALTZ, CAPUTO, GOLDFARB, RINALDI and PARKER

Referred to Committee on Insurance

AN ACT to amend "An act concerning health and accident insurance, supplementing chapter 38 of Title 17 of the Revised Statutes, and repealing R. S. 17:18-7," approved August 2, 1939 (P. L. 1939, c. 305) *, and amending sections 17:17-3 and 17:34-13 of the Revised Statutes*.

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

1 1. Section 4 of P. L. 1939, chapter 305 (C. 17:38-17) is amended
2 to read as follows:

3 4. Any policy or contract of insurance against death or injury
4 resulting from accident or from accidental means which conforms
5 with the description and complies with the requirements contained
6 in one of the following three paragraphs shall be deemed a blanket
7 insurance policy.

8 (a) A policy or contract issued to any railroad, steamship, motor-
9 bus or airplane carrier of passengers, which carrier shall be deemed
10 the policyholder, covering a group defined as all persons who may
11 become such passengers and whereby such passengers shall be
12 insured against loss or damage resulting from death or bodily
13 injury either while, or as a result of, being such passengers.

14 A policy or contract covering accidental death or injury to in-
15 dividuals resulting from airline accidents may also be issued under
16 which ***[the benefits are payable to the airline and the]*** premiums
17 are paid from ***[its]*** funds *of the airline and the benefits are
17A payable to the airline or to a trust established for the purpose of
17B funding payments to persons with claims against the airline by
17C reason of the death or bodily injury of individuals*.

18 (b) A policy or contract issued in the name of any volunteer

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

19 fire department, first aid or ambulance squad or volunteer police
20 organization, which shall be deemed the policyholder, and covering
21 all the members of any such organization against loss from acci-
22 dents resulting from hazards incidental to duties in connection
23 with such organizations.

24 (c) A policy or contract issued in the name of any established
25 organization whether incorporated or not, having community
26 recognition and operated for the welfare of the community and
27 not for profit, which shall be deemed the policyholder, and covering
28 all volunteer workers who are members of the organization and
29 who serve without pecuniary compensation against loss from acci-
30 dents occurring while engaged in the actual performance of duties
31 on behalf of such organization.

32 Nothing contained in this act shall be deemed to affect the legal
33 liability of the policyholder for the death of, or injury to, any mem-
34 ber of such group.

1 2. Section 5 of P. L. 1939, chapter 305 (C. 17:38-18) is amended
2 to read as follows:

3 5. No policy of group accident, group health, group accident
4 and health or blanket accident insurance and no certificate there-
5 under shall be issued or delivered in this State unless the policy
6 contains in substance all the provisions specified in subsections
7 (a) to (o) following:

8 (a) A provision that no statement made by the applicant for
9 insurance shall avoid the insurance or reduce benefits thereunder
10 unless contained in the written application signed by the applicant;
11 and a provision that no agent has authority to change the policy
12 or to waive any of its provisions; and that no change in the policy
13 shall be valid unless approved by an officer of the insurer and
14 evidenced by endorsement on the policy, or by amendment to the
15 policy signed by the policyholder and the insurer.

16 (b) A provision that the policy, the application of the person or
17 association in whose name the policy is to be issued, a copy of which
18 shall be attached to the policy, and the individual applications, if
19 any, of the employees or members shall constitute the entire con-
20 tract between the parties and that all statements contained in any
21 such application for insurance shall be deemed representations
22 and not warranties.

23 (c) A provision that all new employees or new members, as the
24 case may be, in the groups or classes eligible for such insurance
25 must be added to such eligible groups or classes.

26 (d) A provision that all premiums due under the policy shall be
27 remitted by the employer or employers of the persons insured, by

28 the policyholder, or by some other designated person acting on
29 behalf of the association or group insured, to the insurer on or
30 before the due date thereof with such period of grace as may be
31 specified therein.

32 (e) A provision stating the conditions under which the insurer
33 may decline to renew the policy.

34 (f) A provision that the insurer shall issue to the employer, the
35 policyholder, or other person or association in whose name such
36 policy is issued, for delivery to each employee or member, an in-
37 dividual certificate setting forth in summary form a statement of
38 the essential features of the insurance coverage, to whom the bene-
39 fits thereunder are payable, and in substance the provisions of sub-
40 sections (g) to (n) inclusive of this section. This subsection shall
41 not apply to blanket accident policies issued pursuant to subsections
42 (a) and (c) of section 4 of this act, nor to group accident and health
43 policies insuring a private plan under the Temporary Disability
44 Benefits Law, if reasonable notice of the benefits provided thereby
45 is furnished to the covered employees by direct notification or by
46 conspicuous posting at the place of employment.

47 (g) A provision specifying the ages, if any there be, to which
48 the insurance provided therein shall be limited; and the ages, if
49 any there be, for which additional restrictions are placed on bene-
50 fits, and the additional restrictions placed on the benefits at such
51 ages.

52 (h) A provision that written notice of sickness or of injury
53 must be given to the insurer within 20 days after the date when
54 such sickness or injury occurred. Failure to give notice within
55 such time shall not invalidate nor reduce any claim if it shall be
56 shown not to have been reasonably possible to give such notice
57 and that notice was given as soon as was reasonably possible.

58 (i) A provision that in the case of claim for loss of time for dis-
59 ability, written proof of such loss must be furnished to the insurer
60 within 30 days after the commencement of the period for which
61 the insurer is liable, and that subsequent written proofs of the
62 continuance of such disability must be furnished to the insurer at
63 such intervals as the insurer may reasonably require, and that in
64 the case of claim for any other loss, written proof of such loss must
65 be furnished to the insurer within 90 days after the date of such
66 loss. Failure to furnish such proof within such time shall not in-
67 validate nor reduce any claim if it shall be shown not to have been
68 reasonably possible to furnish such proof and that such proof was
69 furnished as soon as was reasonably possible.

70 (j) A provision that the insurer will furnish to the person making
71 claim, or to the policyholder for delivery to such person, such forms
72 as are usually furnished by it for filing proof of loss. If the person
73 making claim does not receive such forms before the expiration of
74 15 days after the insurer receives notice of any claim under the
75 policy, the person making such claim shall be deemed to have
76 complied with the requirements of the policy as to proof of loss
77 upon submitting within the time fixed in the policy for filing proof
78 of loss, written proof covering the occurrence, character and extent
79 of the loss for which claim is made.

80 (k) A provision that the insurer shall have the right and oppor-
81 tunity to examine the person of the insured when and so often
82 as it may reasonably require during the pendency of claim under
83 the policy and also the right and opportunity to make an autopsy
84 in case of death where it is not prohibited by law.

85 (l) A provision that all benefits payable under the policy other
86 than benefits for loss of time will be payable not more than 60 days
87 after receipt of proof, and that, subject to due proof of loss, all
88 accrued benefits payable under the policy for loss of time will be
89 paid not later than at the expiration of each period of 30 days
90 during the continuance of the period for which the insurer is liable,
91 and that any balance remaining unpaid at the termination of such
92 period will be paid immediately upon receipt of such proof.

93 (m) A provision that indemnity for loss of life of the insured
94 shall be payable to the beneficiary or beneficiaries designated by
95 the insured, other than the policyholder or an officer thereof as
96 such, or if no beneficiary is designated, to such other person or
97 persons as shall be specified in the policy; and that all other in-
98 demnities of the policy are payable to the employee or member,
99 except that, at the request of the employee or member or in the
100 event of his death, payment of benefits to the extent of expenses
101 incurred on account of hospitalization may be made by the insurer
102 to the hospital. If a beneficiary is designated, the consent of the
103 beneficiary shall not be requisite to change of beneficiary or to any
104 other changes in the policy or certificate except as may be spe-
105 cifically provided by the policy.

106 *This subsection shall not apply to a blanket insurance policy*
107 *issued to an airline under which the benefits are payable to the*
108 *airline *or a trust established by the airline* and the premiums are*
108A *paid from its funds.*

109 (n) A provision that no action at law or in equity shall be brought
110 to recover on the policy prior to the expiration of 60 days after
111 proof of loss has been filed in accordance with the requirements

112 of the policy and that no such action shall be brought at all unless
 113 brought within 2 years from the expiration of the time within which
 114 proof of loss is required by the policy.

115 (o) In the case of insurance issued pursuant to subsection (a)
 116 of section 4 of this act, a provision that the company will issue to
 117 the policyholder, for delivery to the insured persons, certificates
 118 setting forth the name of the insurance company and the essential
 119 features of such insurance.

120 *This subsection shall not apply to a blanket insurance policy*
 121 *issued to an airline under which the benefits are payable to the*
 122 *airline* or a trust established by the airline* and the premiums are*
 123 *paid from its funds.*

1 ~~1~~ ***3.** This act shall take effect immediately.]*

~~1A~~ *3. R. S. 17:17-3 is amended to read as follows:

2 17:17-3. A company may be formed:

3 a. For the purposes specified in any or all of the paragraphs of
 4 section 17:17-1 of this Title except paragraph "c"; or

5 b. For the purposes specified in paragraph "c" and for the
 6 purpose of making insurances against bodily injury or death by
 7 accident as specified in paragraph "d" of said section 17:17-1.

8 In addition, a company authorized to do the business specified
 9 in paragraph "c" and insure against bodily injury or death by
 10 accident as specified in paragraph "d" may reinsure the legal
 11 liability of an airline arising out of the death or injury of any
 12 person resulting from an airline accident and may undertake to
 13 pay the ceding insurer stipulated amounts in the event of the death
 14 or injury of any person whether or not such undertaking is directly
 15 related to the liability of the ceding insurer or is subject to aggre-
 16 gate or other limitations.

17 Any reinsurance authorized by this section or any reinsurance
 18 of blanket accident insurance referred to in section 4 of P. L. 1939,
 19 chapter 305 (C. 17:38-17) may be provided through pooling
 20 arrangements with other insurers for purposes of spreading the
 21 reinsurance risk, provided such arrangements have been approved
 22 in writing by the commissioner of insurance upon findings that the
 23 arrangements do not impair the protection of policyholders of the
 24 ceding and assuming reinsurers and do not substantially restrain
 25 competition in the business of insurance or reinsurance or create
 26 a monopoly therein.*

1 *4. R. S. 17:34-13 is amended to read as follows:

2 17:34-13. No life insurance company of this State may reinsure
 3 all or any substantial part of its outstanding risks or policy obliga-
 4 tions in any other company, or itself reinsure all or any substantial
 5 part of the outstanding risks or obligations of another company

6 until the contract for such reinsurance shall have been submitted
7 to the Commissioner of [Banking and] Insurance together with
8 satisfactory evidence that the interests of the policyholders are
9 fully protected and until such contract of reinsurance shall have
10 been approved by him; provided, however, that this section shall
11 not be applicable to contracts of reinsurance heretofore or hereafter
12 entered into providing for the reinsuring of single risks or policies,
13 in whole or in part, or risks covered by any group policy or contract,
14 in whole or in part.

15 Reinsurance of the risk of legal liability of airlines for the death
16 or injury of any person resulting from an airline accident as
17 referred to in R. S. 17:17-3, or reinsurance of a blanket policy
18 issued to an airline with premiums payable from the airline's funds
19 and benefits payable to it or to a trust established by it as referred
20 to in section 4 of P. L. 1939, chapter 305 (17:38-17) may be provided
21 through pooling arrangements as specified in R. S. 17:17-3.*

1 *5. This act shall take effect immediately.*