

P.L. 1999, CHAPTER 275, *approved November 24, 1999*
Senate, No. 1112 (*Fourth Reprint*)

1 AN ACT concerning ¹~~the filing of certain life insurance policy forms~~
2 and] ³~~the operations of the Department of Banking and~~
3 ~~Insurance.~~ ¹ the filing of certain life insurance policy forms and³
4 amending P.L.1995, c.73 ³~~and supplementing Title 17 of the~~
5 ~~Revised Statutes~~ ¹].³

6
7 **BE IT ENACTED** by the Senate and General Assembly of the State
8 of New Jersey:

9
10 1. Section 17 of P.L.1995, c.73 (C.17B:25-18.3) is amended to
11 read as follows:

12 17. a. Pursuant to the provisions of this section, an insurer
13 authorized to do business in this State may file with the commissioner
14 and use, in accordance with subsection d. of this section, any form of
15 life insurance policy, health insurance policy, annuity, variable
16 contract, endorsement or related form that is stipulated by the
17 commissioner to be of a kind or type eligible for file and use pursuant
18 to subsection b. of this section. The form shall be accompanied by a
19 certification memorandum which includes a statement that it is filed in
20 accordance with the provisions of this section, and which is executed
21 by a responsible officer of the insurer who certifies that the form being
22 filed is in conformance with the law and regulation applicable to that
23 type or kind of form as specified in a certification form to be
24 determined by the commissioner², except that any life insurance policy
25 or contract form that is the same as or substantially similar to a life
26 insurance policy or contract form that has been approved for use in at
27 least ³[38] 42³ other states ³in which the combined population equals
28 or ⁴[exceed] exceeds⁴ two-thirds of the total United States
29 population, except that the ⁴[populations] population⁴ of the
30 ⁴[states] State⁴ of New Jersey ⁴[and New York]⁴ shall not be
31 included in the total United States population, as determined by the
32 most current decennial census³ shall be deemed to comply with the law
33 and regulation applicable to that type or kind of form, except for the
34 conditions provided therefor in subsection b. of this section². If the
35 commissioner determines that the form being filed does not conform
36 with the law or regulation applicable to that type or kind of form, the
37 commissioner shall notify the insurer of his objections in writing and

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SCM committee amendments adopted June 15, 1998.

² Senate floor amendments adopted September 28, 1998.

³ Assembly ABI committee amendments adopted March 18, 1999.

⁴ Senate amendments adopted in accordance with Governor's recommendations September 30, 1999.

1 may disapprove that form for further use in New Jersey.

2 b. Policy and contract forms, including related endorsements, riders
3 and application forms, eligible for certification pursuant to this section
4 shall include, but not be limited to certain categories of individual life,
5 individual annuity, group annuity, group life, group health, individual
6 health and variable contracts which the commissioner shall define by
7 regulation and¹, notwithstanding any other provision of law or
8 regulation to the contrary,¹ any life insurance policy or contract form
9 that is the same as or substantially similar to a life insurance policy or
10 contract form that has been approved for use in at least ³[38] 42³
11 other states ³in which the combined population equals or exceeds two-
12 thirds of the total United States population, except that the
13 ⁴[populations] population⁴ of the ⁴[states] State⁴ of New Jersey
14 ⁴[and New York]⁴ shall not be included in the total United States
15 population, as determined by the most current decennial census³
16 ¹unless disapproved by the commissioner within ³[15] 60³ days of
17 filing with the commissioner. Such disapproval shall be in writing and
18 shall set forth the substantive, not arbitrary, reasons for the
19 disapproval ⁴[which shall be based on preventing deceptive policy or
20 contract form provisions¹]⁴.

21 c. The certification memorandum shall be signed and
22 acknowledged by a responsible officer of the insurer. The
23 acknowledgment by that officer shall be done in the same manner in
24 which documents for recording instruments conveying or affecting
25 interests in real estate in this State must be acknowledged to be
26 eligible for recording, or in such other manner as specified by the
27 commissioner by regulation from time to time.

28 d. Upon receipt of an acknowledgment from the commissioner that
29 the form and a certification memorandum which conforms to the
30 requirements of this section have been received, the form so submitted
31 may be used by the insurer. ²The acknowledgment shall be sent by
32 ³first class mail by³ the commissioner to the insurer within ³[20] 60³
33 days of receipt by the commissioner of the form and the certification
34 memorandum which conforms to the requirements of this section.²

35 e. (1) Improper certification shall subject an insurer submitting
36 such improper certification to a fine not to exceed \$50,000 and, in
37 addition, a maximum penalty of \$1,000 per policy issued on a form
38 determined to be improperly certified pursuant to the provisions of this
39 section. The commissioner shall promulgate a schedule of penalties to
40 be applied pursuant to this section. In determining the amount of any
41 penalty to be imposed, the commissioner shall consider the severity of
42 the violation based upon the potential adverse impact to the public and
43 whether it is the filer's first violation of this section.

44 (2) If after notice and a hearing pursuant to the "Administrative
45 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), an insurer is
46 found by the commissioner to be in violation of this section, the form

1 may be disapproved, and in addition to any other penalties that may be
 2 imposed under Title 17B of the New Jersey Statutes, the commissioner
 3 may bar that insurer from participating in the certification process
 4 pursuant to this section for a period not to exceed one year.

5 f. The commissioner shall hold a hearing annually, or more often,
 6 for the purpose of adopting regulations to define the specific forms
 7 eligible for certification pursuant to this section. Initial regulations
 8 shall be adopted pursuant to this section no later than 180 days after
 9 enactment of this act.

10 g. For purposes of this section:

11 (1) "a responsible officer of the insurer" means a corporate officer
 12 of the level of vice president or higher, or of equivalent title within the
 13 insurer's structure, who is either the actuary of the insurer with
 14 responsibility for the type of form filed, or the individual with
 15 responsibility for managing the form filing process for the insurer with
 16 regard to the type of form filed; and

17 (2) "improper certification" means providing any misrepresentation
 18 or false statement material to a certification form required pursuant to
 19 subsection a. of this section.

20 (cf: P.L.1995, c.73, s.17)

21
 22 ³[¹2. (New section) a. An officer or employee of the Department
 23 of Banking and Insurance shall not take or threaten any action or
 24 omission in retaliation against a person for efforts of that person, or a
 25 person acting on his behalf, to secure or enforce any rights under
 26 contract, the laws of this State or the laws of the United States, or the
 27 good faith complaint of that person, or a person acting on his behalf,
 28 to any other government official, officer or employee or other person
 29 concerning any actions or omissions of the officer or employee of the
 30 department in regard to that person.

31 b. Any officer or employee who violates the provisions of
 32 subsection a. of this section shall, after notice and a hearing, be
 33 terminated from employment with the State.¹³

34
 35 ³[¹[^{2.} ^{3.}¹] ^{2.}³ This act shall take effect immediately and
 36 ³[¹section 1¹] shall apply to life insurance policy and contract forms
 37 filed on or after that date.

38
 39
 40 _____
 41
 42 Permits insurers to file and use life insurance policy forms if approved
 43 in at least 42 other states under certain circumstances.

SENATE, No. 1112

STATE OF NEW JERSEY
208th LEGISLATURE

INTRODUCED MAY 21, 1998

Sponsored by:

Senator GERALD CARDINALE

District 39 (Bergen)

SYNOPSIS

Permits insurers to file and use life insurance policy forms in this State if approved in at least 38 other states.

CURRENT VERSION OF TEXT

As introduced.



S1112 CARDINALE

2

1 AN ACT concerning the filing of certain life insurance policy forms and
2 amending P.L.1995, c.73.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 17 of P.L.1995, c.73 (C.17B:25-18.3) is amended to
8 read as follows:

9 17. a. Pursuant to the provisions of this section, an insurer
10 authorized to do business in this State may file with the commissioner
11 and use, in accordance with subsection d. of this section, any form of
12 life insurance policy, health insurance policy, annuity, variable
13 contract, endorsement or related form that is stipulated by the
14 commissioner to be of a kind or type eligible for file and use pursuant
15 to subsection b. of this section. The form shall be accompanied by a
16 certification memorandum which includes a statement that it is filed in
17 accordance with the provisions of this section, and which is executed
18 by a responsible officer of the insurer who certifies that the form being
19 filed is in conformance with the law and regulation applicable to that
20 type or kind of form as specified in a certification form to be
21 determined by the commissioner. If the commissioner determines that
22 the form being filed does not conform with the law or regulation
23 applicable to that type or kind of form, the commissioner shall notify
24 the insurer of his objections in writing and may disapprove that form
25 for further use in New Jersey.

26 b. Policy and contract forms, including related endorsements, riders
27 and application forms, eligible for certification pursuant to this section
28 shall include, but not be limited to certain categories of individual life,
29 individual annuity, group annuity, group life, group health, individual
30 health and variable contracts which the commissioner shall define by
31 regulation and any life insurance policy or contract form that is the
32 same as or substantially similar to a life insurance policy or contract
33 form that has been approved for use in at least 38 other states.

34 c. The certification memorandum shall be signed and
35 acknowledged by a responsible officer of the insurer. The
36 acknowledgment by that officer shall be done in the same manner in
37 which documents for recording instruments conveying or affecting
38 interests in real estate in this State must be acknowledged to be
39 eligible for recording, or in such other manner as specified by the
40 commissioner by regulation from time to time.

41 d. Upon receipt of an acknowledgment from the commissioner that
42 the form and a certification memorandum which conforms to the

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

Matter underlined thus is new matter.

1 requirements of this section have been received, the form so submitted
2 may be used by the insurer.

3 e. (1) Improper certification shall subject an insurer submitting
4 such improper certification to a fine not to exceed \$50,000 and, in
5 addition, a maximum penalty of \$1,000 per policy issued on a form
6 determined to be improperly certified pursuant to the provisions of this
7 section. The commissioner shall promulgate a schedule of penalties to
8 be applied pursuant to this section. In determining the amount of any
9 penalty to be imposed, the commissioner shall consider the severity of
10 the violation based upon the potential adverse impact to the public and
11 whether it is the filer's first violation of this section.

12 (2) If after notice and a hearing pursuant to the "Administrative
13 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), an insurer is
14 found by the commissioner to be in violation of this section, the form
15 may be disapproved, and in addition to any other penalties that may be
16 imposed under Title 17B of the New Jersey Statutes, the commissioner
17 may bar that insurer from participating in the certification process
18 pursuant to this section for a period not to exceed one year.

19 f. The commissioner shall hold a hearing annually, or more often,
20 for the purpose of adopting regulations to define the specific forms
21 eligible for certification pursuant to this section. Initial regulations
22 shall be adopted pursuant to this section no later than 180 days after
23 enactment of this act.

24 g. For purposes of this section:

25 (1) "a responsible officer of the insurer" means a corporate officer
26 of the level of vice president or higher, or of equivalent title within the
27 insurer's structure, who is either the actuary of the insurer with
28 responsibility for the type of form filed, or the individual with
29 responsibility for managing the form filing process for the insurer with
30 regard to the type of form filed; and

31 (2) "improper certification" means providing any misrepresentation
32 or false statement material to a certification form required pursuant to
33 subsection a. of this section.

34 (cf: P.L.1995, c.73, s.17)

35

36 2. This act shall take effect immediately and shall apply to life
37 insurance policy and contract forms filed on or after that date.

38

39

40

STATEMENT

41

42 This bill provides that, in addition to other policy or contract forms
43 approved through regulation for file and use, insurers may file and use
44 any life insurance policy or contract form that has been approved in at
45 least 38 of the other states.

ASSEMBLY BANKING AND INSURANCE COMMITTEE

STATEMENT TO

[Second Reprint]
SENATE, No. 1112

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 18, 1999

The Assembly Banking and Insurance Committee reports favorably and with committee amendments Senate Bill No. 1112 2R.

This bill, as amended by the committee, provides that, in addition to other policy or contract forms approved through regulation for file and use, any life insurance policy or contract form that has been approved in at least 42 other states in which the combined population equals or exceeds two-thirds of the total United States population as determined by the most current decennial census, shall be deemed to comply with the New Jersey law and regulation applicable to that form, unless disapproved by the commissioner within 60 days of filing. The bill also provides, however, that the populations of the states of New Jersey and New York shall not be included in the total United States population calculation. The disapproval must be in writing and set forth the substantive, not arbitrary, reasons for the disapproval, which shall be based on preventing deceptive policy or contract form provisions.

In addition, the bill provides that an acknowledgment, which allows the insurer to use the form, must be sent by the Commissioner of Banking and Insurance to the insurer within 60 days of filing.

The committee amended the bill to increase the number of states necessary for approval of a policy or contract form from 38 to 42 and further, to require that the combined population of those 42 states equal or exceed two-thirds of the total United States population, as determined by the most current decennial census. Because New York has a unique form nor approval process and a form would not yet be approved for use in New Jersey, but still pending approval, the populations of the States of New Jersey and New York are not to be included in the total United States population calculation in order to streamline the form approval process. The committee also amended the bill to extend to 60 days the time period within which the Commissioner of Banking and Insurance must respond to a request for form approval.

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 1112

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 15, 1998

The Senate Commerce Committee reports favorably and with committee amendments Senate Bill No. 1112.

This bill, as amended by the committee, provides that, in addition to other policy or contract forms approved through regulation for file and use, insurers may file and use any life insurance policy or contract form that has been approved in at least 38 other states unless disapproved by the commissioner within 15 days of filing. The disapproval must be in writing and set forth the substantive, not arbitrary, reasons for the disapproval which shall be based on preventing deceptive policy or contract form provisions.

The bill also prohibits retaliation by officers and employees of the Department of Banking and Insurance against persons for their efforts to secure or enforce any rights under contract or the laws of this State or the United States or the good faith complaints of those persons to other government officials, officers or employees or other persons concerning any actions or omissions of officers or employees of the department. Any such officer or employee involved in retaliation shall, after notice and a hearing, be fired.

STATEMENT TO
[First Reprint]
SENATE, No. 1112

with Senate Floor Amendments
(Proposed By Senator CARDINALE)

ADOPTED: SEPTEMBER 28, 1998

This amendment specifies that any life insurance policy or contract form that has been approved in at least 38 other states shall be deemed to comply with our law and regulation applicable to that form. In addition, the amendment provides that an acknowledgment, which allows the insurer to use the form, must be sent by the commissioner to the insurer within 20 days of receipt by the commissioner of the form and the certification memorandum.

SENATE BILL NO. 1112
(THIRD REPRINT)

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Senate Bill No. 1112 (Third Reprint) with my recommendations for reconsideration.

A.SUMMARY OF THE BILL

This bill requires the Commissioner of Banking and Insurance to automatically approve a life insurance policy or contract form that is the same as, or substantially similar to, a life insurance policy or contract form that has been approved for use in at least forty-two other states. The forty-two states must also comprise at least two-thirds of the total population of the United States, excluding the populations of New York and New Jersey. The Commissioner of Banking and Insurance may only disapprove such a life insurance policy or contract form if the policy or form contains deceptive provisions. The disapproval must be in writing and must set forth substantive, not arbitrary, reasons for the disapproval. The Commissioner has sixty days after the receipt of a similar or substantially similar life insurance policy or form to submit a certification memorandum to the insurer authorizing the insurer's use of the policy or form in the State of New Jersey.

B.RECOMMENDED ACTION

I recognize the intent of the sponsor to streamline the regulatory process and to expedite the approval of life insurance products for sale to consumers in the State of New Jersey. Specifically, the sponsor is concerned about the availability of various life insurance products, whose form is approved in other states but not in New Jersey. I agree that consumers in New Jersey should be able to purchase a variety of life insurance products. Wider product availability will give consumers more choices and will stimulate competition in the life insurance industry. Greater competition will ultimately drive down the costs of life insurance products. Furthermore, I support efforts to attract additional insurance business to our State. Yet under this bill, the Commissioner of Banking and Insurance is only allowed to disapprove a life insurance policy or contract form that is similar to a policy or form approved for use in forty-two other states if that policy or form

contains a deceptive provision. I believe that this bill excessively restricts the Commissioner's regulatory authority, especially in light of the fact that the Department of Banking and Insurance has recently taken steps to reform its approval and filing process. For instance, the Commissioner has signed a Memorandum of Understanding with the American Council of Life Insurance that reiterates her pledge to address the issue of policy approval and that reaffirms her commitment to improve the insurance policy and contract form filing process. This Memorandum of Understanding forms a working group that will create checklists for various life insurance and annuity products which will facilitate the policy and form filing process for both the life insurance industry and the Department of Banking and Insurance.

While it is appropriate to address legitimate regulatory concerns raised by the insurance industry, it is also imperative to provide adequate safeguards for life insurance consumers in the State of New Jersey. Toward this end, it is critical that the Commissioner retain adequate regulatory flexibility and ability to disapprove certain policies or forms. In order to maintain that regulatory flexibility, I recommend that the Commissioner be able to disapprove policies and contract forms if she does so for substantive, not arbitrary, reasons.

To gauge the effect of the Commissioner's efforts in the area of policy and contract form approval, I shall request the Commissioner to maintain a list of the life insurance policies and forms disapproved by the Department of Banking and Insurance during the twelve month period following the effective date of this bill. I will also request the Commissioner to share that list and the reasons for the disapprovals with the Legislature.

Moreover, I do not believe that it is appropriate to exclude New York from the population requirement of the bill, given that New York State has a population of approximately 18,000,000, according to the 1990 census. This represents approximately 7 percent of the total population of the United States. Excluding such a significant percentage of the United States population from the two-thirds population requirement in the bill unnecessarily skews the population calculation.

Therefore, I herewith return Senate Bill No. 1112 (Third Reprint) and recommend that it be amended as follows:

- | | |
|--|--|
| <u>Page 2, Section 1, Line 28:</u> | Delete “exceed” and insert “exceeds” |
| <u>Page 2, Section 1, Line 29:</u> | Delete “populations” and insert “population”; delete “states” and insert “State” |
| <u>Page 2, Section 1, Line 29:</u> | Delete “and New York” |
| <u>Page 3, Section 1, Line 9:</u> | Delete “populations” and insert “population”; delete “states” and insert “State” |
| <u>Page 3, Section 1, Line 9:</u> | Delete “and New York” |
| <u>Page 3, Section 1, Lines 14-15:</u> | Delete “which shall be based on preventing deceptive policy or contract form provisions” |

Respectfully,

/s/ Christine Todd Whitman

Governor

[seal]

Attest:

/s/ Jessica L. Furey

Deputy Chief Counsel to the Governor

Office of the Governor
NEWS RELEASE

PO BOX 004
TRENTON, NJ 08625

CONTACT: Gene Herman
609-777-2600

RELEASE: July 1, 1999

Gov. Christie Whitman today conditionally vetoed the following pieces of legislation:

S-504, sponsored by Senators Andrew R. Ciesla (R-Monmouth/Ocean) and John J. Matheussen (R-Camden/Gloucester) and Assembly Members Francis J. Blee (R-Atlantic) and Joseph R. Malone, 3d (R-Burlington/Monmouth/Ocean), requires public school districts to provide transportation to all nonpublic school students in certain situations. Current law requires school districts to provide transportation to nonpublic school students living more than 2 miles from school for elementary school students and more than 2 1/2 miles from school for secondary students, provided the nonpublic school is not more than 20 miles from the student's residence. If a school district cannot provide such transportation for less than a certain statutorily-determined maximum amount (\$702 for the 1998-1999 school year), then the school district must provide that amount to the student's parents or legal guardian as aid in lieu of transportation.

The bill provides that if a school district is currently providing transportation to a nonpublic school located not more than 20 miles from a student's residence, the district shall provide transportation to all nonpublic school pupils residing in the municipality of that student, regardless of the 20 mile limit.

In her conditional veto, the Governor commended the sponsors for their work on the legislation, which serves the important purpose of extending transportation services to certain nonpublic school students. She recommended that a school district provide transportation to nonpublic school students residing beyond the 20 mile limit only when seats are available on existing bus routes. She recommended that if no seats are available, or if the cost of transporting the nonpublic school student would exceed the statutorily established maximum expenditure, aid in lieu of transportation would be provided to the student.

S-1112, sponsored by Senator Gerald Cardinale (R-Bergen), requires the Commissioner of Banking and Insurance to automatically approve a life insurance policy or contract form that is the same as, or substantially similar to, a life insurance policy or contract form that has been approved for use in at least 42 other states. The 42 states must also comprise at least two-thirds of the total population of the United States, excluding the populations of New York and New Jersey. The Commissioner may only disapprove such a life insurance policy or contract form if the policy or form contains deceptive provisions. The disapproval must be in writing and must set forth substantive, not arbitrary, reasons for the disapproval. The bill gives the Commissioner 60 days after the receipt of a similar or substantially similar life insurance policy or form to submit a certification memorandum to the insurer authorizing the insurer's use of the policy or form in the state. A contract form is a standard package of boiler plate insurance contracts.

The Governor conditionally vetoed the bill because it would dramatically curtail the regulatory authority of the Department of Banking and Insurance (DBI) in the area of life insurance. The Governor in her

conditional veto said she recognized the intent of the sponsor to streamline the regulatory process and to expedite the sale of insurance products in New Jersey. She said, however, she did not believe it was appropriate to exclude New York from the population requirement, given that New York State has a population of approximately 18 million. She also recommended that the Commissioner of DBI be given greater latitude in disapproving policies and contract forms. To that end, the Governor in her conditional veto recommended removing that limitation and that the Commissioner be able to disapprove policies and contract forms if she does so for substantive, not arbitrary, reasons

Office of the Governor
NEWS RELEASE

PO BOX 004
TRENTON, NJ 08625

CONTACT: Gene Herman
609-777-2600

RELEASE: November 24, 1999

Gov. Christie Whitman today signed the following pieces of legislation:

S-1063, sponsored by Senators Robert Martin (R-Essex/Morris/Passaic) and Raymond J. Zane (D-Salem/Cumberland/Gloucester), and Assembly Member Michael Patrick Carroll (R-Morris), establishes a new civil penalty enforcement act. The bill incorporates recommendations the Governor made in a conditional veto.

S-1112, sponsored by Senator Gerald Cardinale (R-Bergen), permits insurers to file and use life insurance policy contract forms in New Jersey if the forms were approved in at least 42 other states. The bill incorporates recommendations the Governor made in a conditional veto.

S-235, sponsored by Senator James S. Cafiero (R-Cape May/Atlantic/Cumberland) and Assembly Members Nicholas Asselta (R-Cape May/Atlantic/Cumberland) and John C. Gibson (R-Cape May/Atlantic/Cumberland), makes certain changes in the requirements for and enforcement of cancellation of mortgages of record. The bill incorporates recommendations the Governor made in a conditional veto.

S-761, sponsored by Senators Joseph M. Kyrillos, Jr. (R-Middlesex/Monmouth) and Bernard F. Kenny, Jr. (D-Hudson) and Assembly Members Steve Corodemus (R-Monmouth) and Louis A. Romano (D-Hudson), exempts the purchase, repair and maintenance of commuter ferries from the sales and use tax. The bill incorporates recommendations the Governor made in a conditional veto.

A-2884, sponsored by Assembly Members Joseph Azzolina (R-Middlesex/Monmouth) and George F. Geist (R-Camden/Gloucester), requires the New Jersey Economic Development Authority (EDA), in consultation with the Department of Military and Veterans' Affairs, to establish informational sessions to advise veterans of business assistance programs available from the EDA and assist them in applying to these programs.