

# 17:22-6.14a

## LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 2003                      **CHAPTER:** 153

**NJSA:** 17:22-6.14a      (Provides protections for insurance producers)

**BILL NO:** A3319                      (Substituted for S2385)

**SPONSOR(S):** Cohen and Bateman

**DATE INTRODUCED:** February 10, 2003

**COMMITTEE:**                      **ASSEMBLY:** Banking and Insurance

**SENATE:**                      ---

**AMENDED DURING PASSAGE:**                      Yes

**DATE OF PASSAGE:**                      **ASSEMBLY:** May 22, 2003

**SENATE:**                      June 23, 2003

**DATE OF APPROVAL:**                      August 15, 2003

### FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) (2nd reprint enacted)  
(Amendments during passage denoted by superscript numbers)

#### A3319

[SPONSORS STATEMENT](#): (Begins on page 6 of original bill)                      [Yes](#)

**COMMITTEE STATEMENT:**                      [ASSEMBLY:](#)                      [Yes](#)

**SENATE:**                      No

[FLOOR AMENDMENT STATEMENT:](#)                      [Yes](#)

**LEGISLATIVE FISCAL ESTIMATE:**                      No

#### S2385

[SPONSORS STATEMENT](#): (Begins on page 6 of original bill)                      [Yes](#)

Bill and Sponsors Statement identical to A3319

**COMMITTEE STATEMENT:**                      **ASSEMBLY:**                      No

[SENATE:](#)                      [Yes](#)

**FLOOR AMENDMENT STATEMENTS:**                      No

**LEGISLATIVE FISCAL ESTIMATE:**                      No

**VETO MESSAGE:**                      No

**GOVERNOR'S PRESS RELEASE ON SIGNING:**                      No

**FOLLOWING WERE PRINTED:**

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**REPORTS:**

No

**HEARINGS:**

No

**NEWSPAPER ARTICLES:**

No

P.L. 2003, CHAPTER 153, *approved August 15, 2003*  
Assembly Bill No. 3319 (*Second Reprint*)

1 **AN ACT** concerning certain insurance producers and amending  
2 P.L.1970, c.217.

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 1. Section 1 of P.L.1970, c.217 (C.17:22-6.14a) is amended to  
8 read as follows:

9 1. a. In the event that a policy is canceled by the insurer, either at  
10 its own behest or at the behest of the agent or broker of record, the  
11 unearned premium, including the unearned commission, shall be  
12 returned to the policyholder.

13 b. In the event that a policy of insurance, issued by the automobile  
14 insurance plan established pursuant to P.L.1970, c.215 (C.17:29D-1)  
15 or any successor thereto, is canceled by reason of nonpayment of  
16 premium to the insurer issuing the policy or nonpayment of an  
17 installment payment due pursuant to an insurance premium finance  
18 agreement, the broker of record for that policy may retain the full  
19 annual commission due thereon and, if a premium finance agreement  
20 is not involved, the effective date of cancellation of the policy shall be  
21 no earlier than 10 days prior to the last full day for which the premium  
22 paid by the insured, net of the broker's full annual commission, would  
23 pay for coverage on a pro rata basis in accordance with rules  
24 established by the commissioner.

25 c. Contracts between insurance companies and agents for the  
26 appointment of the agent as the representative of the company shall set  
27 forth the rate of commission to be paid to the agent for each class of  
28 insurance within the scope of such appointment written on all risks or  
29 operations in this State, except:

- 30 (1) Reinsurance.  
31 (2) Life insurance.  
32 (3) Annuities.  
33 (4) Accident and health insurance.  
34 (5) Title insurance.  
35 (6) Mortgage guaranty insurance.  
36 (7) Hospital service, medical service, health service, or dental  
37 service corporations, investment companies, mutual benefit  
38 associations, or fraternal beneficiary associations.

39 Said rates of commission shall continue in force and effect unless

**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:**

<sup>1</sup> Assembly ABI committee amendments adopted March 10, 2003.

<sup>2</sup> Assembly floor amendments adopted May 15, 2003.

1 changed by mutual written consent or until termination of said contract  
2 as hereinafter provided. Failure to achieve such mutual consent shall  
3 require that the agent's contract be terminated as hereinbelow  
4 provided. The rate of commission being paid on each class of  
5 insurance on the date of enactment hereof shall be deemed to be  
6 pursuant to the existing contract between agent and company.

7 d. Termination of any such contract for any reason other than one  
8 excluded herein shall become effective after not less than 90 days'  
9 notice in writing given by the company to the agent and the  
10 Commissioner of Banking and Insurance. No new business or changes  
11 in liability on renewal or in force business, except as provided in  
12 subsection l. of this section, shall be written by the agent for the  
13 company after notice of termination without prior written approval of  
14 the company. However, during the term of the agency contract,  
15 including the said 90-day period, the company shall not refuse to  
16 renew such business from the agent as would be in accordance with  
17 said company's current underwriting standards. The company shall,  
18 during a period of 12 months from the effective date of such  
19 termination, provided the former agent has not been replaced as the  
20 broker of record by the insured, and upon request in writing of the  
21 terminated agent, renew all contracts of insurance for such agent for  
22 said company as may be in accordance with said company's then  
23 current underwriting standards and pay to the terminated agent a  
24 commission in accordance with the agency contract in effect at the  
25 time notice of termination was issued. Said commission can be paid  
26 only to the holder of a valid New Jersey insurance producer's license.  
27 In the event any risk shall not meet the then current underwriting  
28 standards of said company, that company may decline its renewal,  
29 provided that the company shall give the terminated agent and the  
30 insured not less than 60 days' notice of its intention not to renew said  
31 contract of insurance.

32 e. The agency termination provisions of this act shall not apply to  
33 those contracts:

34 (1) in which the agent is paid on a salary basis without commission  
35 or where he agrees to represent exclusively one company or to the  
36 termination of an agent's contract for insolvency, abandonment, gross  
37 and willful misconduct, or failure to pay over to the company moneys  
38 due to the company after his receipt of a written demand therefor, or  
39 after revocation of the agent's license by the Commissioner of Banking  
40 and Insurance; and in any such case the company shall, upon request  
41 of the insured, provided he meets the then current underwriting  
42 standards of the company, renew any contract of insurance formerly  
43 processed by the terminated agent, through an active agent, or directly  
44 pursuant to such rules and regulations as may be promulgated by the  
45 Commissioner of Banking and Insurance; or

46 (2) which are entered into between a qualified insurer and a UEZ

1 agent pursuant to section 22 of P.L.1997, c.151 (C.17:33C-4).

2 f. The Commissioner of Banking and Insurance, on the written  
3 complaint of any person stating that there has been a violation of this  
4 act, or when he deems it necessary without a complaint, may inquire  
5 and otherwise investigate to determine whether there has been any  
6 violation of this act.

7 g. All existing contracts between agent and company in effect in  
8 the State of New Jersey on the effective date of this act are subject to  
9 all provisions of this act.

10 h. The Commissioner of Banking and Insurance may, if he  
11 determines that a company is in unsatisfactory financial condition,  
12 exclude such company from the provisions of this act.

13 I. Whenever under this act it is required that the company shall  
14 renew a contract of insurance, the renewal shall be for a time period  
15 equal to one additional term of the term specified in the original  
16 contract, but in no event to be less than one year.

17 j. The provisions of subsection b. of this section shall not apply to  
18 policies written by the New Jersey Automobile Full Insurance  
19 Underwriting Association established pursuant to sections 13 through  
20 34 of P.L.1983, c.65 (C.17:30E-1 et seq.).

21 k. The New Jersey Automobile Full Insurance Underwriting  
22 Association established pursuant to sections 13 through 34 of  
23 P.L.1983, c.65 (C.17:30E-1 et seq.), shall not be liable to pay any  
24 commission required by subsection b. of this section on any policies  
25 written by the association prior to January 1, 1986.

26 l. A company which terminates its contractual relationship with an  
27 agent subject to the provisions of subsection d. of this section shall, at  
28 the time of the agent's termination, with respect to insurance covering  
29 an automobile as defined in subsection a. of section 2 of P.L.1972,  
30 c.70 (C.39:6A-2), notify each named insured whose policy is serviced  
31 by the terminated agent in writing of the following: (1) that the agent's  
32 contractual relationship with the company is being terminated and the  
33 effective date of that termination; and (2) that the named insured may  
34 (a) continue to renew and obtain service through the terminated agent;  
35 or (b) renew the policy and obtain service through another agent of the  
36 company.

37 Notwithstanding any provision of this section to the contrary, no  
38 insurance company which has terminated its contractual relationship  
39 with an agent subject to subsection d. of this section shall, upon the  
40 expiration of any automobile insurance policy renewed pursuant to  
41 subsection d. of this section which is required to be renewed pursuant  
42 to section 3 of P.L.1972, c.70 (C.39:6A-3), refuse to renew, accept  
43 additional or replacement vehicles, refuse to provide changes in the  
44 limits of liability or refuse to service a policyholder in any other  
45 manner which is in accordance with the company's current  
46 underwriting standards, upon the written request of the agent or as

1 otherwise provided in this section, provided the agent maintains a valid  
2 New Jersey insurance producer's license and has not been replaced as  
3 the broker of record by the insured. However, nothing in this section  
4 shall be deemed to prevent nonrenewal of an automobile insurance  
5 policy pursuant to the provisions of section 26 of P.L.1988, c.119  
6 (C.17:29C-7.1).

7 The company shall pay a terminated agent who continues to service  
8 policies pursuant to the provisions of this subsection a commission in  
9 an amount not less than that provided for under the agency contract  
10 in effect at the time the notice of termination was issued. A terminated  
11 agent who continues to service automobile insurance policies pursuant  
12 to this subsection shall be deemed to be an insurance <sup>2</sup>[broker]  
13 producer<sup>2</sup> as defined in section <sup>2</sup>[2 of P.L.1987, c.293 (C.17:22A-2)]  
14 3 of P.L.2001, c.210 (C.17:22A-28.)<sup>2</sup>, and not an agent of the  
15 company, except that the terminated agent shall have the authority to  
16 bind coverage for renewals, additional or replacement vehicles, and for  
17 changed limits of liability as provided in this subsection to the same  
18 extent as an active agent for the company. The company shall provide  
19 the terminated agent with a written copy of its current underwriting  
20 guidelines during the time the agent continues to service policies  
21 pursuant to this subsection.

22 If a terminated agent who is continuing to service policies pursuant  
23 to the provisions of this subsection violates the written underwriting  
24 guidelines of the company in such a manner or with such frequency as  
25 to substantially affect the company's ability to underwrite or provide  
26 coverage, the company may discontinue accepting renewal and service  
27 requests from, and paying commissions to, the terminated agent;  
28 provided, however, that the company provides the terminated agent  
29 with at least 45 days' written notice which shall include a detailed  
30 explanation of the reasons for discontinuance. A copy of this notice,  
31 along with supporting documentation providing evidence that the  
32 terminated agent received proper notice of discontinuance pursuant to  
33 this subsection and evidence in support of the company's action, shall  
34 be sent by the company to the Division of Enforcement and Consumer  
35 Protection in the Department of Banking and Insurance.

36 The provisions of this subsection shall not apply to any policy  
37 issued by the New Jersey Automobile Full Insurance Underwriting  
38 Association created pursuant to the provisions of P.L.1983, c.65  
39 (C.17:30E-1 et seq.).

40 m. A qualified insurer which terminates its contractual relationship  
41 with its UEZ agent pursuant to section 22 of P.L.1997, c.151  
42 (C.17:33C-4) shall terminate its relationship in accordance with the  
43 following provisions:

44 (1) The qualified insurer shall give the UEZ agent at least 60 days'  
45 written notice of termination. Notice of termination shall be on a form  
46 prescribed by the commissioner and shall indicate the date of

1 termination and the reason for the termination. A copy of the notice  
2 of termination shall be sent to the commissioner.

3 (2) Notwithstanding the provisions of this section and section 26  
4 of P.L.1988, c.119 (C.17:29C-7.1), a qualified insurer may refuse to  
5 renew the business written through a UEZ agent in an orderly and  
6 non-discriminatory manner over the course of at least a three-year  
7 period provided that such refusals to renew in each year shall not  
8 exceed one-third of a terminated UEZ agent's book of business on the  
9 effective date of termination of its relationship with its UEZ agent. A  
10 qualified insurer intending to refuse renewal business written by a  
11 terminated UEZ agent shall notify the commissioner prior to the date  
12 of the UEZ agent's termination.

13 (3) The terminated UEZ agent who continues to service  
14 automobile insurance policies shall continue to receive commissions  
15 for any renewal business pursuant to the terms of the contract in force  
16 with the qualified insurer at the time of termination, provided that the  
17 UEZ agent maintains a valid New Jersey insurance producer's license  
18 and has not been replaced as the broker of record by the insured. A  
19 terminated UEZ agent who continues to service automobile insurance  
20 policies shall be deemed to be an insurance broker and not the agent  
21 of the qualified insurer.

22 n. <sup>2</sup>[No] In any case of a<sup>2</sup> transfer by an insurance company of any  
23 kind or kinds of insurance specified in its certificate of authority to  
24 another company, pursuant to the provisions of R.S.17:17-10 or  
25 section 72 of P.L.1990, c.8 (C.17:33B-30), <sup>2</sup>[shall be effective unless  
26 the transfer order issued by the Commissioner of Banking and  
27 Insurance specifies that]<sup>2</sup> the policies transferred shall continue to be  
28 serviced by the agent of record and <sup>2</sup>[that]<sup>2</sup> the company to which the  
29 business is transferred shall offer contracts to the agents of the  
30 transferring company which contain terms and conditions <sup>1</sup>concerning  
31 the use, control and ownership of policy expirations and payment of  
32 commissions<sup>1</sup> that are no less favorable than the terms and conditions  
33 of their current contracts <sup>1</sup>[, except that the commissioner may allow  
34 contracts with terms that are less favorable concerning the agent's  
35 right to produce new business]]. Nothing in this subsection shall  
36 prohibit a company from offering contracts to agents of the  
37 transferring company that limit the agents' right to produce new  
38 business <sup>2</sup>or prohibit subsequent modification of the rate of  
39 commission set forth in the agency contract in accordance with  
40 subsection c. of this section<sup>2</sup>. This subsection shall not apply if the  
41 company seeking to transfer policies pays it agents on a salary basis  
42 without commission or if its agents represent the company  
43 exclusively.<sup>1</sup>

44 (cf: P.L.1997, c.151, s.28)

45

46 2. This act shall take effect immediately.

1

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2

3 Provides protections for insurance producers doing business with  
4 insurers transferring business to another company.



# ASSEMBLY, No. 3319

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## STATE OF NEW JERSEY

### 210th LEGISLATURE

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INTRODUCED FEBRUARY 10, 2003

**Sponsored by:**

**Assemblyman NEIL M. COHEN**

**District 20 (Union)**

**Assemblyman CHRISTOPHER "KIP" BATEMAN**

**District 16 (Morris and Somerset)**

**Co-Sponsored by:**

**Assemblyman Impreveduto**

**SYNOPSIS**

Provides protections for insurance producers doing business with insurers transferring business to another company.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 3/11/2003)**

1 AN ACT concerning certain insurance producers and amending  
2 P.L.1970, c.217.

3

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

6

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

9 1. a. In the event that a policy is canceled by the insurer, either at  
10 its own behest or at the behest of the agent or broker of record, the  
11 unearned premium, including the unearned commission, shall be  
12 returned to the policyholder.

13 b. In the event that a policy of insurance, issued by the automobile  
14 insurance plan established pursuant to P.L.1970, c.215 (C.17:29D-1)  
15 or any successor thereto, is canceled by reason of nonpayment of  
16 premium to the insurer issuing the policy or nonpayment of an  
17 installment payment due pursuant to an insurance premium finance  
18 agreement, the broker of record for that policy may retain the full  
19 annual commission due thereon and, if a premium finance agreement  
20 is not involved, the effective date of cancellation of the policy shall be  
21 no earlier than 10 days prior to the last full day for which the premium  
22 paid by the insured, net of the broker's full annual commission, would  
23 pay for coverage on a pro rata basis in accordance with rules  
24 established by the commissioner.

25 c. Contracts between insurance companies and agents for the  
26 appointment of the agent as the representative of the company shall set  
27 forth the rate of commission to be paid to the agent for each class of  
28 insurance within the scope of such appointment written on all risks or  
29 operations in this State, except:

- 30 (1) Reinsurance.  
31 (2) Life insurance.  
32 (3) Annuities.  
33 (4) Accident and health insurance.  
34 (5) Title insurance.  
35 (6) Mortgage guaranty insurance.  
36 (7) Hospital service, medical service, health service, or dental  
37 service corporations, investment companies, mutual benefit  
38 associations, or fraternal beneficiary associations.

39 Said rates of commission shall continue in force and effect unless  
40 changed by mutual written consent or until termination of said contract  
41 as hereinafter provided. Failure to achieve such mutual consent shall  
42 require that the agent's contract be terminated as hereinbelow  
43 provided. The rate of commission being paid on each class of

**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 insurance on the date of enactment hereof shall be deemed to be  
2 pursuant to the existing contract between agent and company.

3 d. Termination of any such contract for any reason other than one  
4 excluded herein shall become effective after not less than 90 days'  
5 notice in writing given by the company to the agent and the  
6 Commissioner of Banking and Insurance. No new business or changes  
7 in liability on renewal or in force business, except as provided in  
8 subsection l. of this section, shall be written by the agent for the  
9 company after notice of termination without prior written approval of  
10 the company. However, during the term of the agency contract,  
11 including the said 90-day period, the company shall not refuse to  
12 renew such business from the agent as would be in accordance with  
13 said company's current underwriting standards. The company shall,  
14 during a period of 12 months from the effective date of such  
15 termination, provided the former agent has not been replaced as the  
16 broker of record by the insured, and upon request in writing of the  
17 terminated agent, renew all contracts of insurance for such agent for  
18 said company as may be in accordance with said company's then  
19 current underwriting standards and pay to the terminated agent a  
20 commission in accordance with the agency contract in effect at the  
21 time notice of termination was issued. Said commission can be paid  
22 only to the holder of a valid New Jersey insurance producer's license.  
23 In the event any risk shall not meet the then current underwriting  
24 standards of said company, that company may decline its renewal,  
25 provided that the company shall give the terminated agent and the  
26 insured not less than 60 days' notice of its intention not to renew said  
27 contract of insurance.

28 e. The agency termination provisions of this act shall not apply to  
29 those contracts:

30 (1) in which the agent is paid on a salary basis without commission  
31 or where he agrees to represent exclusively one company or to the  
32 termination of an agent's contract for insolvency, abandonment, gross  
33 and willful misconduct, or failure to pay over to the company moneys  
34 due to the company after his receipt of a written demand therefor, or  
35 after revocation of the agent's license by the Commissioner of Banking  
36 and Insurance; and in any such case the company shall, upon request  
37 of the insured, provided he meets the then current underwriting  
38 standards of the company, renew any contract of insurance formerly  
39 processed by the terminated agent, through an active agent, or directly  
40 pursuant to such rules and regulations as may be promulgated by the  
41 Commissioner of Banking and Insurance; or

42 (2) which are entered into between a qualified insurer and a UEZ  
43 agent pursuant to section 22 of P.L.1997, c.151 (C.17:33C-4).

44 f. The Commissioner of Banking and Insurance, on the written  
45 complaint of any person stating that there has been a violation of this  
46 act, or when he deems it necessary without a complaint, may inquire

1 and otherwise investigate to determine whether there has been any  
2 violation of this act.

3 g. All existing contracts between agent and company in effect in  
4 the State of New Jersey on the effective date of this act are subject to  
5 all provisions of this act.

6 h. The Commissioner of Banking and Insurance may, if he  
7 determines that a company is in unsatisfactory financial condition,  
8 exclude such company from the provisions of this act.

9 i. Whenever under this act it is required that the company shall  
10 renew a contract of insurance, the renewal shall be for a time period  
11 equal to one additional term of the term specified in the original  
12 contract, but in no event to be less than one year.

13 j. The provisions of subsection b. of this section shall not apply to  
14 policies written by the New Jersey Automobile Full Insurance  
15 Underwriting Association established pursuant to sections 13 through  
16 34 of P.L.1983, c.65 (C.17:30E-1 et seq.).

17 k. The New Jersey Automobile Full Insurance Underwriting  
18 Association established pursuant to sections 13 through 34 of  
19 P.L.1983, c.65 (C.17:30E-1 et seq.), shall not be liable to pay any  
20 commission required by subsection b. of this section on any policies  
21 written by the association prior to January 1, 1986.

22 l. A company which terminates its contractual relationship with an  
23 agent subject to the provisions of subsection d. of this section shall, at  
24 the time of the agent's termination, with respect to insurance covering  
25 an automobile as defined in subsection a. of section 2 of P.L.1972,  
26 c.70 (C.39:6A-2), notify each named insured whose policy is serviced  
27 by the terminated agent in writing of the following: (1) that the  
28 agent's contractual relationship with the company is being terminated  
29 and the effective date of that termination; and (2) that the named  
30 insured may (a) continue to renew and obtain service through the  
31 terminated agent; or (b) renew the policy and obtain service through  
32 another agent of the company.

33 Notwithstanding any provision of this section to the contrary, no  
34 insurance company which has terminated its contractual relationship  
35 with an agent subject to subsection d. of this section shall, upon the  
36 expiration of any automobile insurance policy renewed pursuant to  
37 subsection d. of this section which is required to be renewed pursuant  
38 to section 3 of P.L.1972, c.70 (C.39:6A-3), refuse to renew, accept  
39 additional or replacement vehicles, refuse to provide changes in the  
40 limits of liability or refuse to service a policyholder in any other  
41 manner which is in accordance with the company's current  
42 underwriting standards, upon the written request of the agent or as  
43 otherwise provided in this section, provided the agent maintains a valid  
44 New Jersey insurance producer's license and has not been replaced as  
45 the broker of record by the insured. However, nothing in this section  
46 shall be deemed to prevent nonrenewal of an automobile insurance

1 policy pursuant to the provisions of section 26 of P.L.1988, c.119  
2 (C.17:29C-7.1).

3 The company shall pay a terminated agent who continues to service  
4 policies pursuant to the provisions of this subsection a commission in  
5 an amount not less than that provided for under the agency contract  
6 in effect at the time the notice of termination was issued. A terminated  
7 agent who continues to service automobile insurance policies pursuant  
8 to this subsection shall be deemed to be an insurance broker as defined  
9 in section 2 of P.L.1987, c.293 (C.17:22A-2), and not an agent of the  
10 company, except that the terminated agent shall have the authority to  
11 bind coverage for renewals, additional or replacement vehicles, and for  
12 changed limits of liability as provided in this subsection to the same  
13 extent as an active agent for the company. The company shall provide  
14 the terminated agent with a written copy of its current underwriting  
15 guidelines during the time the agent continues to service policies  
16 pursuant to this subsection.

17 If a terminated agent who is continuing to service policies pursuant  
18 to the provisions of this subsection violates the written underwriting  
19 guidelines of the company in such a manner or with such frequency as  
20 to substantially affect the company's ability to underwrite or provide  
21 coverage, the company may discontinue accepting renewal and service  
22 requests from, and paying commissions to, the terminated agent;  
23 provided, however, that the company provides the terminated agent  
24 with at least 45 days' written notice which shall include a detailed  
25 explanation of the reasons for discontinuance. A copy of this notice,  
26 along with supporting documentation providing evidence that the  
27 terminated agent received proper notice of discontinuance pursuant to  
28 this subsection and evidence in support of the company's action, shall  
29 be sent by the company to the Division of Enforcement and Consumer  
30 Protection in the Department of Banking and Insurance.

31 The provisions of this subsection shall not apply to any policy  
32 issued by the New Jersey Automobile Full Insurance Underwriting  
33 Association created pursuant to the provisions of P.L.1983, c.65  
34 (C.17:30E-1 et seq.).

35 m. A qualified insurer which terminates its contractual relationship  
36 with its UEZ agent pursuant to section 22 of P.L.1997, c.151  
37 (C.17:33C-4) shall terminate its relationship in accordance with the  
38 following provisions:

39 (1) The qualified insurer shall give the UEZ agent at least 60 days'  
40 written notice of termination. Notice of termination shall be on a form  
41 prescribed by the commissioner and shall indicate the date of  
42 termination and the reason for the termination. A copy of the notice  
43 of termination shall be sent to the commissioner.

44 (2) Notwithstanding the provisions of this section and section 26  
45 of P.L.1988, c.119 (C.17:29C-7.1), a qualified insurer may refuse to  
46 renew the business written through a UEZ agent in an orderly and

1 non-discriminatory manner over the course of at least a three-year  
2 period provided that such refusals to renew in each year shall not  
3 exceed one-third of a terminated UEZ agent's book of business on the  
4 effective date of termination of its relationship with its UEZ agent. A  
5 qualified insurer intending to refuse renewal business written by a  
6 terminated UEZ agent shall notify the commissioner prior to the date  
7 of the UEZ agent's termination.

8 (3) The terminated UEZ agent who continues to service  
9 automobile insurance policies shall continue to receive commissions  
10 for any renewal business pursuant to the terms of the contract in force  
11 with the qualified insurer at the time of termination, provided that the  
12 UEZ agent maintains a valid New Jersey insurance producer's license  
13 and has not been replaced as the broker of record by the insured. A  
14 terminated UEZ agent who continues to service automobile insurance  
15 policies shall be deemed to be an insurance broker and not the agent  
16 of the qualified insurer.

17 n. No transfer by an insurance company of any kind or kinds of  
18 insurance specified in its certificate of authority to another company,  
19 pursuant to the provisions of R.S.17:17-10 or section 72 of P.L.1990,  
20 c.8 (C.17:33B-30), shall be effective unless the transfer order issued  
21 by the Commissioner of Banking and Insurance specifies that the  
22 policies transferred shall continue to be serviced by the agent of record  
23 and that the company to which the business is transferred shall offer  
24 contracts to the agents of the transferring company which contain  
25 terms and conditions that are no less favorable than the terms and  
26 conditions of their current contracts, except that the commissioner  
27 may allow contracts with terms that are less favorable concerning the  
28 agent's right to produce new business.

29 (cf: P.L.1997, c.151, s.28)

30  
31 2. This act shall take effect immediately.

32  
33  
34 STATEMENT

35  
36 This bill provides ownership protection for certain insurance  
37 producers in their books of business in the event that their contractual  
38 relationship with an insurance company is terminated because the  
39 company is seeking to withdraw from doing certain business in this  
40 State and applies to the Commissioner of Banking and Insurance to  
41 transfer its business to another company.

42 The bill provides that no transfer by an insurance company of any  
43 kind or kinds of insurance specified in its certificate of authority to  
44 another company, pursuant to the provisions of R.S.17:17-10 or  
45 section 72 of P.L.1990, c.8 (C.17:33B-30), shall be effective unless  
46 the transfer order issued by the Commissioner of Banking and

**A3319 COHEN, BATEMAN**

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1 Insurance specifies that the policies transferred shall continue to be  
2 serviced by the agent of record and that the company to which the  
3 business is transferred shall offer contracts to the agents of the  
4 transferring company which contain terms and conditions no less  
5 favorable than the terms and conditions of their current contracts. The  
6 bill also provides, however, that the commissioner may allow contracts  
7 with terms that are less favorable concerning the agent's right to  
8 produce new business for that company.

# ASSEMBLY BANKING AND INSURANCE COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 3319**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: MARCH 10, 2003

The Assembly Banking and Insurance Committee reports favorably, and with committee amendments, Assembly Bill No. 3319.

This bill, as amended by the committee, provides ownership protection for insurance producers in their books of property/casualty business in the event that their contractual relationship with an insurance company is terminated because the company is seeking to withdraw from doing certain business in this State by applying to the Commissioner of Banking and Insurance to transfer its business to another company.

The bill provides that no transfer by an insurance company of any kind or kinds of insurance specified in its certificate of authority to another company, pursuant to the provisions of R.S.17:17-10 or section 72 of P.L.1990, c.8 (C.17:33B-30), shall be effective unless the transfer order issued by the Commissioner of Banking and Insurance specifies that the policies transferred shall continue to be serviced by the agent of record and that the company to which the business is transferred shall offer contracts to the agents of the transferring company which contain terms and conditions concerning the use, control and ownership of policy expirations and payment of commissions no less favorable than those in their current contracts. The bill also provides, however, that a company may limit the agent's right to produce new business for that company.

Finally, the provisions of the bill shall not apply if the company seeking to transfer policies pays its agents on a salary basis without commission or if its agents represent the company exclusively.

#### COMMITTEE AMENDMENTS:

The committee amendments clarify that contracts offered by another insurance company to agents of a transferring company shall contain terms and conditions concerning the use, control and ownership of policy expirations and payment of commissions that are no less favorable than those in their current contract. The amendments also provide that a company may limit the agent's right to produce new business for that company.



Finally, the amendments specify that the provisions of the bill shall not apply if the company seeking to transfer policies pays its agents on a salary basis without commission or if its agents represent the company exclusively.

# STATEMENT TO

[First Reprint]

## **ASSEMBLY, No. 3319**

with Assembly Floor Amendments  
(Proposed By Assemblyman COHEN)

ADOPTED: MAY 15, 2003

The amendments provide that in any case of a transfer by an insurance company of any kind or kinds of insurance specified in its certificate of authority, to another company, pursuant to the provisions of R.S.17:17-10 or section 72 of P.L.1990, c.8 (C.17:33B-30), the policies transferred shall continue to be serviced by the agent of record and the company to which the business is transferred shall offer contracts to the agents of the transferring company which contain terms and conditions concerning the use, control and ownership of policy expirations and payment of commissions that are no less favorable than the terms and conditions of their current contracts. The amendments delete language that refers to a transfer order issued by the Commissioner of Banking and Insurance because in some instances, a transfer order is not required. In addition, the amendments clarify that the provisions of the bill apply to all transfers of a line of property and casualty insurance pursuant to the provisions of R.S.17:17-10 or section 72 of P.L.1990, c.8 (C.17:33B-30), not just those transfers in which a transfer order is issued by the commissioner.

Finally, the amendments provide that the provisions of the bill do not prohibit a company from subsequently modifying the rate of commission set forth in the agency contract in accordance with the existing provisions of the law.

**SENATE, No. 2385**

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**STATE OF NEW JERSEY**  
**210th LEGISLATURE**

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INTRODUCED MARCH 10, 2003

**Sponsored by:**

**Senator STEPHEN M. SWEENEY**

**District 3 (Salem, Cumberland and Gloucester)**

**Senator ROBERT W. SINGER**

**District 30 (Burlington, Mercer, Monmouth and Ocean)**

**SYNOPSIS**

Provides protections for insurance producers doing business with insurers transferring business to another company.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 3/11/2003)**

1 AN ACT concerning certain insurance producers and amending  
2 P.L.1970, c.217.

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 1. Section 1 of P.L.1970, c.217 (C.17:22-6.14a) is amended to  
8 read as follows:

9 1. a. In the event that a policy is canceled by the insurer, either at  
10 its own behest or at the behest of the agent or broker of record, the  
11 unearned premium, including the unearned commission, shall be  
12 returned to the policyholder.

13 b. In the event that a policy of insurance, issued by the automobile  
14 insurance plan established pursuant to P.L.1970, c.215 (C.17:29D-1)  
15 or any successor thereto, is canceled by reason of nonpayment of  
16 premium to the insurer issuing the policy or nonpayment of an  
17 installment payment due pursuant to an insurance premium finance  
18 agreement, the broker of record for that policy may retain the full  
19 annual commission due thereon and, if a premium finance agreement  
20 is not involved, the effective date of cancellation of the policy shall be  
21 no earlier than 10 days prior to the last full day for which the premium  
22 paid by the insured, net of the broker's full annual commission, would  
23 pay for coverage on a pro rata basis in accordance with rules  
24 established by the commissioner.

25 c. Contracts between insurance companies and agents for the  
26 appointment of the agent as the representative of the company shall set  
27 forth the rate of commission to be paid to the agent for each class of  
28 insurance within the scope of such appointment written on all risks or  
29 operations in this State, except:

- 30 (1) Reinsurance.  
31 (2) Life insurance.  
32 (3) Annuities.  
33 (4) Accident and health insurance.  
34 (5) Title insurance.  
35 (6) Mortgage guaranty insurance.  
36 (7) Hospital service, medical service, health service, or dental  
37 service corporations, investment companies, mutual benefit  
38 associations, or fraternal beneficiary associations.

39 Said rates of commission shall continue in force and effect unless  
40 changed by mutual written consent or until termination of said contract  
41 as hereinafter provided. Failure to achieve such mutual consent shall  
42 require that the agent's contract be terminated as hereinbelow  
43 provided. The rate of commission being paid on each class of

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

**Matter underlined thus is new matter.**

1 insurance on the date of enactment hereof shall be deemed to be  
2 pursuant to the existing contract between agent and company.

3 d. Termination of any such contract for any reason other than one  
4 excluded herein shall become effective after not less than 90 days'  
5 notice in writing given by the company to the agent and the  
6 Commissioner of Banking and Insurance. No new business or changes  
7 in liability on renewal or in force business, except as provided in  
8 subsection l. of this section, shall be written by the agent for the  
9 company after notice of termination without prior written approval of  
10 the company. However, during the term of the agency contract,  
11 including the said 90-day period, the company shall not refuse to  
12 renew such business from the agent as would be in accordance with  
13 said company's current underwriting standards. The company shall,  
14 during a period of 12 months from the effective date of such  
15 termination, provided the former agent has not been replaced as the  
16 broker of record by the insured, and upon request in writing of the  
17 terminated agent, renew all contracts of insurance for such agent for  
18 said company as may be in accordance with said company's then  
19 current underwriting standards and pay to the terminated agent a  
20 commission in accordance with the agency contract in effect at the  
21 time notice of termination was issued. Said commission can be paid  
22 only to the holder of a valid New Jersey insurance producer's license.  
23 In the event any risk shall not meet the then current underwriting  
24 standards of said company, that company may decline its renewal,  
25 provided that the company shall give the terminated agent and the  
26 insured not less than 60 days' notice of its intention not to renew said  
27 contract of insurance.

28 e. The agency termination provisions of this act shall not apply to  
29 those contracts:

30 (1) in which the agent is paid on a salary basis without commission  
31 or where he agrees to represent exclusively one company or to the  
32 termination of an agent's contract for insolvency, abandonment, gross  
33 and willful misconduct, or failure to pay over to the company moneys  
34 due to the company after his receipt of a written demand therefor, or  
35 after revocation of the agent's license by the Commissioner of Banking  
36 and Insurance; and in any such case the company shall, upon request  
37 of the insured, provided he meets the then current underwriting  
38 standards of the company, renew any contract of insurance formerly  
39 processed by the terminated agent, through an active agent, or directly  
40 pursuant to such rules and regulations as may be promulgated by the  
41 Commissioner of Banking and Insurance; or

42 (2) which are entered into between a qualified insurer and a UEZ  
43 agent pursuant to section 22 of P.L.1997, c.151 (C.17:33C-4).

44 f. The Commissioner of Banking and Insurance, on the written  
45 complaint of any person stating that there has been a violation of this  
46 act, or when he deems it necessary without a complaint, may inquire

1 and otherwise investigate to determine whether there has been any  
2 violation of this act.

3 g. All existing contracts between agent and company in effect in  
4 the State of New Jersey on the effective date of this act are subject to  
5 all provisions of this act.

6 h. The Commissioner of Banking and Insurance may, if he  
7 determines that a company is in unsatisfactory financial condition,  
8 exclude such company from the provisions of this act.

9 i. Whenever under this act it is required that the company shall  
10 renew a contract of insurance, the renewal shall be for a time period  
11 equal to one additional term of the term specified in the original  
12 contract, but in no event to be less than one year.

13 j. The provisions of subsection b. of this section shall not apply to  
14 policies written by the New Jersey Automobile Full Insurance  
15 Underwriting Association established pursuant to sections 13 through  
16 34 of P.L.1983, c.65 (C.17:30E-1 et seq.).

17 k. The New Jersey Automobile Full Insurance Underwriting  
18 Association established pursuant to sections 13 through 34 of  
19 P.L.1983, c.65 (C.17:30E-1 et seq.), shall not be liable to pay any  
20 commission required by subsection b. of this section on any policies  
21 written by the association prior to January 1, 1986.

22 l. A company which terminates its contractual relationship with an  
23 agent subject to the provisions of subsection d. of this section shall, at  
24 the time of the agent's termination, with respect to insurance covering  
25 an automobile as defined in subsection a. of section 2 of P.L.1972,  
26 c.70 (C.39:6A-2), notify each named insured whose policy is serviced  
27 by the terminated agent in writing of the following: (1) that the  
28 agent's contractual relationship with the company is being terminated  
29 and the effective date of that termination; and (2) that the named  
30 insured may (a) continue to renew and obtain service through the  
31 terminated agent; or (b) renew the policy and obtain service through  
32 another agent of the company.

33 Notwithstanding any provision of this section to the contrary, no  
34 insurance company which has terminated its contractual relationship  
35 with an agent subject to subsection d. of this section shall, upon the  
36 expiration of any automobile insurance policy renewed pursuant to  
37 subsection d. of this section which is required to be renewed pursuant  
38 to section 3 of P.L.1972, c.70 (C.39:6A-3), refuse to renew, accept  
39 additional or replacement vehicles, refuse to provide changes in the  
40 limits of liability or refuse to service a policyholder in any other  
41 manner which is in accordance with the company's current  
42 underwriting standards, upon the written request of the agent or as  
43 otherwise provided in this section, provided the agent maintains a valid  
44 New Jersey insurance producer's license and has not been replaced as  
45 the broker of record by the insured. However, nothing in this section  
46 shall be deemed to prevent nonrenewal of an automobile insurance

1 policy pursuant to the provisions of section 26 of P.L.1988, c.119  
2 (C.17:29C-7.1).

3 The company shall pay a terminated agent who continues to service  
4 policies pursuant to the provisions of this subsection a commission in  
5 an amount not less than that provided for under the agency contract  
6 in effect at the time the notice of termination was issued. A terminated  
7 agent who continues to service automobile insurance policies pursuant  
8 to this subsection shall be deemed to be an insurance broker as defined  
9 in section 2 of P.L.1987, c.293 (C.17:22A-2), and not an agent of the  
10 company, except that the terminated agent shall have the authority to  
11 bind coverage for renewals, additional or replacement vehicles, and for  
12 changed limits of liability as provided in this subsection to the same  
13 extent as an active agent for the company. The company shall provide  
14 the terminated agent with a written copy of its current underwriting  
15 guidelines during the time the agent continues to service policies  
16 pursuant to this subsection.

17 If a terminated agent who is continuing to service policies pursuant  
18 to the provisions of this subsection violates the written underwriting  
19 guidelines of the company in such a manner or with such frequency as  
20 to substantially affect the company's ability to underwrite or provide  
21 coverage, the company may discontinue accepting renewal and service  
22 requests from, and paying commissions to, the terminated agent;  
23 provided, however, that the company provides the terminated agent  
24 with at least 45 days' written notice which shall include a detailed  
25 explanation of the reasons for discontinuance. A copy of this notice,  
26 along with supporting documentation providing evidence that the  
27 terminated agent received proper notice of discontinuance pursuant to  
28 this subsection and evidence in support of the company's action, shall  
29 be sent by the company to the Division of Enforcement and Consumer  
30 Protection in the Department of Banking and Insurance.

31 The provisions of this subsection shall not apply to any policy  
32 issued by the New Jersey Automobile Full Insurance Underwriting  
33 Association created pursuant to the provisions of P.L.1983, c.65  
34 (C.17:30E-1 et seq.).

35 m. A qualified insurer which terminates its contractual relationship  
36 with its UEZ agent pursuant to section 22 of P.L.1997, c.151  
37 (C.17:33C-4) shall terminate its relationship in accordance with the  
38 following provisions:

39 (1) The qualified insurer shall give the UEZ agent at least 60 days'  
40 written notice of termination. Notice of termination shall be on a form  
41 prescribed by the commissioner and shall indicate the date of  
42 termination and the reason for the termination. A copy of the notice  
43 of termination shall be sent to the commissioner.

44 (2) Notwithstanding the provisions of this section and section 26  
45 of P.L.1988, c.119 (C.17:29C-7.1), a qualified insurer may refuse to  
46 renew the business written through a UEZ agent in an orderly and

1 non-discriminatory manner over the course of at least a three-year  
2 period provided that such refusals to renew in each year shall not  
3 exceed one-third of a terminated UEZ agent's book of business on the  
4 effective date of termination of its relationship with its UEZ agent. A  
5 qualified insurer intending to refuse renewal business written by a  
6 terminated UEZ agent shall notify the commissioner prior to the date  
7 of the UEZ agent's termination.

8 (3) The terminated UEZ agent who continues to service  
9 automobile insurance policies shall continue to receive commissions  
10 for any renewal business pursuant to the terms of the contract in force  
11 with the qualified insurer at the time of termination, provided that the  
12 UEZ agent maintains a valid New Jersey insurance producer's license  
13 and has not been replaced as the broker of record by the insured. A  
14 terminated UEZ agent who continues to service automobile insurance  
15 policies shall be deemed to be an insurance broker and not the agent  
16 of the qualified insurer.

17 n. No transfer by an insurance company of any kind or kinds of  
18 insurance specified in its certificate of authority to another company,  
19 pursuant to the provisions of R.S.17:17-10 or section 72 of P.L.1990,  
20 c.8 (C.17:33B-30), shall be effective unless the transfer order issued  
21 by the Commissioner of Banking and Insurance specifies that the  
22 policies transferred shall continue to be serviced by the agent of record  
23 and that the company to which the business is transferred shall offer  
24 contracts to the agents of the transferring company which contain  
25 terms and conditions that are no less favorable than the terms and  
26 conditions of their current contracts, except that the commissioner  
27 may allow contracts with terms that are less favorable concerning the  
28 agent's right to produce new business.

29 (cf: P.L.1997, c.151, s.28)

30  
31 2. This act shall take effect immediately.

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34 STATEMENT

35  
36 This bill provides ownership protection for certain insurance  
37 producers in their books of business in the event that their contractual  
38 relationship with an insurance company is terminated because the  
39 company is seeking to withdraw from doing certain business in this  
40 State and applies to the Commissioner of Banking and Insurance to  
41 transfer its business to another company.

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43 kind or kinds of insurance specified in its certificate of authority to  
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**S2385 SWEENEY, SINGER**

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2 serviced by the agent of record and that the company to which the  
3 business is transferred shall offer contracts to the agents of the  
4 transferring company which contain terms and conditions no less  
5 favorable than the terms and conditions of their current contracts. The  
6 bill also provides, however, that the commissioner may allow contracts  
7 with terms that are less favorable concerning the agent's right to  
8 produce new business for that company.

# SENATE COMMERCE COMMITTEE

## STATEMENT TO

### **SENATE, No. 2385**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: MAY 15, 2003

The Senate Commerce Committee reports favorably, and with committee amendments, Senate Bill No. 2385.

This bill, as amended by the committee, provides ownership protection for insurance producers in their books of property/casualty business in the event that their contractual relationship with an insurance company is terminated because the company is seeking to transfer its business to another company.

The bill provides that the policies transferred shall continue to be serviced by the agent of record and that the company to which the business is transferred shall offer contracts to the agents of the transferring company which contain terms and conditions concerning the use, control and ownership of policy expirations and payment of commissions no less favorable than those in their current contracts. The bill also provides, however, that a company may limit the agent's right to produce new business for that company and may subsequently modify the rate of commission set forth in the agency contract in accordance with the existing provision of law being amended.

Finally, the provisions of the bill do not apply if the company seeking to transfer policies pays its agents on a salary basis without commission or if its agents represent the company exclusively.

The committee amended the bill to delete language that referred to a transfer order issued by the Commissioner of Banking and Insurance, because in some instances such an order is not required. The amendments also add a provision allowing a company to limit the agent's right to produce new business for that company and to modify the rate of commission and the provision excluding agents paid on a salary basis or who represent the company exclusively.

As amended, this bill is identical to Assembly Bill No. 3319 (2R).