

17:37A-1 et seq.

September 15, 1970

Copy 3

LEGISLATIVE NOTES ON R.S.17:37A-1 et seq.  
(Creates Fire and Extended Coverage Insurance Underwriting Ass'n)

Riots occurred in Newark and several other New Jersey cities.

Governor Hughes recommended an insurance pool in:

974.901      New Jersey Governor (Hughes)  
G52            a moral recommitment for New  
                 Jersey; special message...  
                 April 25, 1968. p.22

Report:

974.90      New Jersey Legislative Commission to  
I59            study refusal of certain insurance  
1968           companies to issue insurance.  
                 Report... 15 *pages*

L. 1968 C.129 - S712

April 29 - Introduced by Guilliano and others.

May 27 - Passed in Senate.

June 20 - Passed Assembly under emergency resolution,  
amended.

June 24 - Assembly amendment passed in Senate.

July 2 - Approved, Chapter 29.

No statement.

Amended during passage (copy enclosed of bill and  
amendment).

Governor's statement on signing (enclosed).

For many newspaper articles on this legislation see:

Vertical File--New Jersey--Insurance - 1968

Amended by:

L. 1969 - Chapter 84 - This amended 17:39A-2.

See legislative history of this section (enclosed).

RSL/EH

CHAPTER.....WS OF N. J. 1968

APPROVED.....  
[OFFICIAL COPY REPRINT]

SENATE, No. 712

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# STATE OF NEW JERSEY

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INTRODUCED APRIL 29, 1968

By Senators GIULIANO, DELTUFO, WALLWORK, MATTURRI,  
WALDOR and DOWD

Referred to Committee on Banking and Insurance

AN ACT concerning insurance, creating the "[Fire and Extended Coverage]" \*New Jersey\* Insurance Underwriting Association," prescribing the powers, duties and functions thereof and supplementing Title 17 of the Revised Statutes.

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

1 1. It is hereby declared that an adequate market for fire and  
2 extended coverage insurance is necessary to attract private capital  
3 to central city areas; that without such insurance it is impossible  
4 to supply needed goods and services, and expand job opportunities;  
5 that orderly community development depends upon an adequate  
6 supply of such insurance to enable homeowners to obtain financing  
7 for the purchase and improvement of their property; that while  
8 the need for such insurance is growing there is reason to believe  
9 that the market for same is constricting, and likely to become more  
10 constricted in the future; that voluntary efforts to provide fire  
11 and extended coverage insurance in areas likely to be unprofitable  
12 deserve praise, but are insufficient to meet the needs of these areas;  
13 that the State has an obligation to require every insurance company  
14 writing fire and extended coverage insurance in New Jersey to meet  
15 its public responsibilities, instead of shifting the entire burden  
16 to a few public spirited companies; that it is the purpose of this  
17 act to accept this obligation; and that any mandatory program  
18 to provide fire and extended coverage insurance for all citizens of  
19 New Jersey should be supervised by the Commissioner of Banking  
20 and Insurance and periodically reviewed in the light of experience  
21 and intervening events by the Legislature.

2 2. As used in this act, the following words and terms shall have  
3 the following meanings, unless the context indicates or requires  
4 another or different meaning or intent:

EXPLANATION—The words enclosed in [ ] placed brackets [thus] in the above bill  
is to be omitted and is not to be omitted in the law.

4 \*a. "Fire insurance" means insurance coverage against direct  
5 or indirect loss or damage to property, including loss of use or  
6 occupancy resulting from fire;]\*

7 \*b. "Extended coverage" means insurance coverage against  
8 direct or indirect loss or damage to property, including loss of  
9 use or occupancy resulting from smoke; smudge; lightning; tempest  
10 on land, including windstorm, tornado and cyclone; earthquake,  
11 collapse of buildings; hail; frost or snow; bombardment; invasion;  
12 insurrection; riot; civil war or commotion; military or usurped  
13 power; vandalism or malicious mischief; striking employees;  
14 explosion, whether fire ensues or not, except explosion of steam  
15 boilers and fly wheels; and arising from the use of elevators, air-  
16 craft, automobiles or other vehicles;]\*

17 \*a. "Essential property insurance" means insurance against  
18 direct loss to property as defined and limited in the standard fire  
19 policy and extended coverage endorsement thereon, as approved  
20 by the commissioner, and insurance for such types, classes, and  
21 locations of property against the perils of vandalism, malicious  
22 mischief, burglary, or theft, or such other classes of insurance as  
23 the commissioner may designate in order to comply with Federal  
24 legislation and obtain Federal reinsurance;

25 b. "Basic property insurance" means insurance against loss to  
26 property as defined and limited in: the standard fire policy and  
27 extended coverage endorsement thereon, the allied line policy or  
28 endorsement, the homeowners multiple peril policy, the commercial  
29 multiple peril policy, the burglary or theft coverage policy and  
30 other like policies.\*

31 c. "Association" means the \*[[Fire and Extended Coverage]]\*  
32 \*New Jersey\* Insurance Underwriting Association established pur-  
33 suant to the provisions of this act;

34 d. "Plan of operation" means the plan of operation of the  
35 association approved \*or promulgated\* by the commissioner pur-  
36 suant to the provisions of this act;

37 e. "Insurable property" means real property at fixed locations  
38 \*[[anywhere]]\* \*in urban areas\* in this State, or the tangible per-  
39 sonal property located thereon, \*but shall not include insurance  
40 on automobile, farm and manufacturing risks,\* with an insurable  
41 value not in excess of the limits provided in the plan of operation  
42 of the association and in no event more than \$1,500,000.00, which  
43 property is determined by the association, after inspection and  
44 pursuant to the criteria specified in the plan of operation to be  
45 in an insurable location; provided, however, that neighborhood,  
46 area location, environmental hazards beyond the control of the

47 *applicant*\* or ownership of the property shall not be considered  
48 in determining insurable condition;

49 f. "Commissioner" means the Commissioner of Banking and  
50 Insurance of New Jersey;

51 g. "Net direct premiums" means gross direct premiums \*(ex-  
52 cluding reinsurance assumed and ceded)\* written on property  
53 in this State for fire and extended coverage insurance, including  
54 the fire and extended coverage components of homeowners and  
55 commercial multiple peril package policies, as computed by the  
56 commissioner, less return premiums upon cancelled contracts\*,  
57 dividends paid or credited to policyholders\* or the unused or  
58 unabsorbed portions of premium deposits.

59 \*h. "Urban area" means any municipality or other political sub-  
60 division (1) which the Secretary of the United States Department  
61 of Housing and Urban Development has approved as eligible for  
62 an urban renewal project after a local public agency has been  
63 formed in that community to avail itself of a United States Housing  
64 and Urban Renewal Program or (2) designated by the association  
65 with the approval of the commissioner or (3) which the commis-  
66 sioner may designate.\*

1 3. There is hereby created the \*[[Fire and Extended Coverage]]\*  
2 \*New Jersey\* Insurance Underwriting Association, consisting of  
3 all insurers authorized to write and engaged in writing within  
4 this State, on a direct basis, \*[[fire and extended coverage]]\* \*prop-  
5 erty\* insurance\*[, including insurers covering such perils in home-  
6 owners and commercial multiple peril policies]\*. Every such  
7 insurer shall be a member of the association and shall remain a  
8 member so long as the association is in existence as a condition  
9 of its authority to continue to transact such kinds of insurance  
10 in this State.

1 4. The association shall, pursuant to the provisions of this act  
2 and the plan of operation, and with respect to \*[[fire and extended  
3 coverage]]\* \*essential property\* insurance on insurable property,  
4 have the power, on behalf of its members;

5 a. To cause to be issued policies of insurance to applicants;

6 b. To assume reinsurance from its members;

7 c. To cede reinsurance.

1 5. The association shall be governed by a board of 11 directors,  
2 elected annually by the members of the association, whose votes  
3 in such election shall be weighted in accordance with each mem-  
4 ber's participation in the association pursuant to section 6 of this  
5 act. The first board shall be elected at a meeting of the members,  
6 or their authorized representatives, which shall be held within 30

7 days after the effective date of this act, at a time and place designated by the commissioner.

1 6. All members of the association shall participate in its writings,  
 2 expenses, profits and losses in the proportion that the net direct  
 3 premiums of each such member (but excluding that portion of  
 4 premiums attributable to the operation of the association) written  
 5 in this State during the preceding calendar year bear to the aggregate net direct premiums written in this State by all members of  
 6 the association, as certified to the association by the commissioner  
 7 after review of annual statements, other reports and any other  
 8 statistics the commissioner shall deem necessary to provide the  
 9 information herein required, and which the commissioner is hereby  
 10 authorized and empowered to obtain from any member of the association. Each member's participation in the association shall be  
 11 determined annually in the same manner as the initial determination.  
 12 Any insurer authorized to write and engaged in writing any  
 13 insurance, the writing of which requires such insurer to be a member  
 14 of the association, pursuant to the provisions of section 3 of  
 15 this act, who is authorized to write and engages in writing such  
 16 insurance after the effective date of this act, shall become a member  
 17 of the association on the January 1 immediately following such  
 18 authorization, and the determination of any such insurer's participation  
 19 in the association shall be made as of the date of such  
 20 membership in the same manner as for all other members of the  
 21 association.  
 22  
 23

1 7. a. Within 90 days after the effective date of this act, the directors  
 2 of the association shall submit to the commissioner, for his  
 3 review and approval, a proposed plan of operation. Such proposed  
 4 plan shall provide for economical, fair and non-discriminatory  
 5 administration, and for the prompt and efficient provision of \*fire  
 6 and extended coverage\* *essential property* insurance to promote  
 7 orderly community development. Such proposed plan shall  
 8 include: preliminary assessment of all members for initial expenses  
 9 necessary to commence operations; establishment of necessary  
 10 facilities; management of the association; assessment of members  
 11 to defray losses and expenses; underwriting standards; procedures  
 12 for acceptance and cession of reinsurance; procedures for determining  
 13 amounts of insurance to be provided; \*and\* time limits  
 14 and procedures for processing applications for insurance\*; and  
 15 *such other provisions as may be deemed necessary by the commissioner to carry out the purposes of this act*.\*  
 16

17 b. The proposed plan shall be reviewed by the commissioner and  
 18 approved by him if *he finds that*\* such plan \*conforms with laws

of this State not inconsistent with this act and *fulfills the "de-*  
*claration of purpose" purposes* provided by section 1 of this  
 In his review of the proposed plan the commissioner may,  
 in his discretion, consult with the directors and other members  
 of the association and any other individual or organization. If  
 the commissioner approves the proposed plan he shall certify such  
 approval to the directors and said plan shall take effect 10 days  
 after such certification. If the commissioner disapproves all or  
 any part of the proposed plan of operation he shall return same  
 to the directors with a statement, in writing, of the reasons for  
 his disapproval and any recommendations he may wish to make.  
 The directors may accept the commissioner's recommendations, or  
 may propose a new plan, which accepted recommendations or a  
 new plan shall be submitted to the commissioner within 30 days  
 after the return of a disapproved plan to the directors. If the  
 directors do not submit a proposed plan of operation within 90 days  
 after the effective date of this act, or a new plan *"which is accep-*  
*table to the commissioner"*, or accept the recommendations of the  
 commissioner within 30 days after the disapproval of a proposed  
 plan, the commissioner shall promulgate a plan of operation and  
 certify same to the directors. Any such plan promulgated by the  
 commissioner shall take effect 10 days after certification to the  
 directors; *provided, however, that until a plan of operation is in*  
*effect pursuant to the provisions of this act, any existing temporary*  
*placement facility shall be continued in effect on a mandatory basis*  
*on such terms as the commissioner shall determine*.

c. The directors of the association may, on their own initiative,  
 amend the plan of operation at any time, subject to the approval  
 by the commissioner.

d. The commissioner may review the plan of operation whenever  
 he deems expedient, and shall review same at least once a year, and  
 may amend said plan after consultation with the directors and upon  
 certification to the directors of such amendment.

8. a. Any person having an insurable interest in insurable prop-  
 erty, who has failed to procure *"fire and extended coverage"*  
*essential property* insurance from an authorized insurer in the  
 normal insurance market, shall, on or after the effective date of  
 the plan of operation, be entitled to apply to the association for  
 such coverage *and for an inspection of the property*. Such appli-  
 cation may be made on behalf of an applicant by a broker or agent  
 authorized by him. Every such application shall be submitted on  
 forms prescribed by the commissioner after consultation with the

9 directors of the association and shall contain information sufficient  
10 to indicate:

11 (1) Evidence of failure to procure \*~~fire and extended cover-~~  
12 age~~]~~\* *essential property* insurance from an authorized in-  
13 surer in the normal insurance market;

14 (2) Whether or not the property is insurable;

15 (3) Whether or not there is any unpaid, uncontested pre-  
16 mium due from the applicant for prior insurance on the prop-  
17 erty (as shown by the insured having failed to make written  
18 objection to charges within 30 days after billing). The term  
19 "insurable interest," as used in this section, shall be deemed  
20 to include any lawful and substantial economic interest in the  
21 safety or preservation of property from loss, destruction or  
22 pecuniary damage.

23 b. If the association determines that:

24 (1) The applicant has made a diligent effort to procure \*~~fire~~  
25 and extended coverage~~]~~\* *essential property* insurance from  
26 an authorized insurer in the normal market *\*at manual or*  
26a *tariff rates\**;

27 (2) The property is insurable; and

28 (3) There is no unpaid, uncontested premium due from the  
29 applicant for prior assurance on the property, the association,  
30 upon receipt of the premium, or such portion thereof, as is  
31 prescribed in the plan of operation, shall cause to be issued  
32 a policy of \*~~fire]~~\* *essential property* insurance for a term  
33 of 1 year \*~~which shall also include, upon application therefor,~~  
34 extended coverage insurance~~]~~\*. Any policy issued pursuant  
35 to the provisions of this section shall be renewed annually,  
36 upon application therefor, so long as the information con-  
37 tained in the original application remains valid.

38 c. If the association, for any reason, denies an application and  
39 refuses to cause to be issued an insurance policy to any applicant,  
40 or takes no action on an application within the time prescribed in  
41 the plan of operation, any such applicant may appeal to the com-  
42 missioner, and the commissioner, after a review of the facts may  
43 direct the association to cause to be issued an insurance policy to  
44 the applicant. In carrying out his duties pursuant to this section  
45 the commissioner may request, and the association shall provide,  
46 any information he deems necessary concerning the reasons for the  
47 denial or delay of an application.

1 9. Any member of the association may cede to the association  
2 \*~~fire and extended coverage]~~\* *essential property* insurance;

3 written on insurable property, to the extent, if any, and on the  
4 terms and conditions set forth in the plan of operation.

5 10. a. The rates, rating plans and rating rules applicable to the  
6 insurance written by the association, *and statistics relating*  
7 *thereto,* *shall be in accord with the manual or traff rates in*  
8 *current usage.* *shall be subject to the provisions of chapter 29A*  
9 *of this Title, except as otherwise provided in this section.*

10 b. Rates, rating plans and rating rules applicable to insurance  
11 written by the association shall be in accordance with filings ap-  
12 proved from time to time by the commissioner for risks rated by  
13 the principal fire rating organization in this State, as designated  
14 by the commissioner, and applicable to such insurance; provided,  
15 however, that on or before April 15, 1970, and on or before April  
16 15 of each succeeding year, the rating organization designated by  
17 the association for this purpose shall submit a rate filing in proper  
18 form based on the loss and expense experience of the association,  
19 together with such other information as the commissioner may  
20 require. The commissioner shall review such rate filing in ac-  
21 cordance with the provisions of chapter 29A of this Title, except  
22 that, in reviewing rate filings the commissioner shall not be re-  
23 quired to consider the latest available experience of the fire insur-  
24 ance business during a period of not less than 5 years preceding  
25 the year in which rates are made or revised.

26 c. Filed rating rules or plans may continue to provide standards  
27 for the application of surcharges for risks containing unsafe or  
28 hazardous conditions; provided, however, that such rating rules or  
29 plans shall provide for prompt removal of such condition sur-  
30 charges upon the elimination of such unsafe or hazardous  
31 conditions.

32 11. Any person insured pursuant to this act, or his representative,  
33 or any affected insurer, may appeal to the commissioner within 30  
34 days after any ruling, action or decision by or on behalf of the  
35 association, with respect to those items of the plan of operation  
36 which the commissioner defines as appealable matters.

37 12. All orders of the commissioner made pursuant to this act  
38 shall be subject to review by the Superior Court in a proceeding  
39 in lieu of prerogative writ.

40 13. All reports of inspection performed by or on behalf of the  
41 association shall be made available to members of the association,  
42 applicants and the commissioner.

43 14. There shall be no liability on the part of, and no cause of  
44 action of any nature shall arise against, the association or its  
45 agents or employees, an insurer or the commissioner or his author-  
46 ized deputies, for any statements made in good faith by them in



5 any reports or communications concerning risks insured or to be  
6 insured by the association or at any administrative hearings con-  
7 ducted in connection therewith.

1 15. The association shall file in the office of the commissioner,  
2 annually on or before March 1, a statement which shall contain  
3 information with respect to its transactions, condition, operations  
4 and affairs during the preceding year. Such statement shall con-  
5 tain such matters and information as are prescribed by the com-  
6 missioner, and shall be in such form as is approved by him. The  
7 commissioner may at any time require the association to furnish  
8 him with additional information with respect to its transactions,  
9 condition or any matter connected therewith, which he considers  
10 to be material and which will assist him in evaluating the scope,  
11 operation and experience of the association.

1 16. The commissioner may make an examination into the affairs  
2 of the association whenever he deems it expedient, and in under-  
3 taking any examination he may hold a hearing or hearings pur-  
4 suant to the procedures provided in chapter 1 of this Title. The  
5 expenses of every such examination shall be borne and paid by  
6 the association, but the commissioner may, in his discretion, for  
7 good cause shown, remit such charges.

1 17. In addition to the annual reports of the commissioner pur-  
2 suant to section 17:1-9 of the Revised Statutes, the commissioner  
3 shall submit to the Legislature a special report embracing the  
4 activities, affairs and condition of the association, as of December  
5 31 of each year the association is in existence. Said report may  
6 contain any specific recommendations the commissioner may wish  
7 to make concerning the association, including his evaluation of the  
8 association's effectiveness in fulfilling the purposes of this act, and  
9 his judgement of the likelihood of maintaining the association in existence  
10 indefinitely or for any prescribed period of time.

1 \*18. This act shall take effect September 1, 1968, and shall cease  
2 to be of any force or effect on December 31, 1971, except that policies  
3 issued and other obligations incurred by the Joint Underwriting  
4 Association established pursuant to the provisions of this act shall  
5 not be impaired by the expiration of this act and such association  
6 shall be continued for the purpose of servicing such policies and  
7 performing such obligations.\*

1 \*18. There is hereby created a fund to be known as the 'New  
2 Jersey Insurance Development Fund,' for the purpose of providing  
3 a financial backup for the plan of operation of the association as  
4 approved or issued by the commissioner pursuant to this act. The  
5 fund shall be used to reimburse any insurer or the association es-

6 established pursuant to this act for losses sustained in excess of the  
7 amount of retention of such losses as shall be provided for by the  
8 commissioner; except that in any given calendar year the total  
9 amount of all such reimbursement shall not exceed 5% of the  
10 insurance premiums written on essential property insurance in  
11 this State in the most recent full calendar year. The fund shall  
12 consist of all payments made to the fund by insurers as hereinafter  
13 provided, of securities acquired by and through the use of moneys  
14 belonging to the fund, moneys appropriated to the fund as provided  
15 in this act, together with interest and accretions earned upon such  
16 payments or investments. The fund shall be administered by the  
17 commissioner and the State Treasurer in accordance with the pro-  
18 visions of this act.

1 19. For the privilege of doing property insurance business in this  
2 State, and in addition to all other requirements of law, every in-  
3 surer authorized to write such insurance in this State shall be  
4 obligated to collect from the insured under any policy of basic prop-  
5 erty insurance, a surcharge upon the premium paid for said policy  
6 in an amount which shall be annually determined by the commis-  
7 sioner as hereinafter provided. This surcharge shall be collected  
8 by each insurer and paid over to the fund semiannually as provided  
9 for by the commissioner.

1 20. For the purpose of providing the moneys necessary to estab-  
2 lish the New Jersey Insurance Development Fund in an amount  
3 sufficient to meet the requirements of said fund pursuant to section  
4 21 of this act, the commissioner shall establish a reasonable sur-  
5 charge upon all basic property insurance premiums paid for poli-  
6 cies of insurance written in this State; provided, however, that in  
7 any given calendar year the aggregate amount of such surcharges  
8 shall not exceed a sum equal to 5% of the insurance premiums  
9 written on essential property insurance in this State in the most  
10 recent full calendar year. The surcharge shall be a separate charge  
11 to the insured in addition to the premium to be paid and shall be  
12 reflected as such in the policy and commissions shall not be payable  
13 thereon. The insurer shall be prohibited from absorbing such sur-  
14 charge as an inducement for insurance or for any other reason. In  
15 the event that pursuant to section 23 of this act the Legislature  
16 appropriates any moneys to the credit of such fund, the commis-  
17 sioner is hereby empowered to increase the surcharge so that the  
18 amount so appropriated may be returned to the State Treasury  
19 as provided by section 23 of this act.

1 21. The commissioner, on or before April 1, shall ascertain and  
2 determine the net value of the fund as of the next preceding Decem-

CORRECTED COPY  
SENATE, No. 712

STATE OF NEW JERSEY

By Senators GIULIANO, DELTUFO, WALLWORK, MATTURRI,  
WALDOR and DOWD

Referred to Committee on Banking and Insurance

AN ACT concerning insurance, creating the "Fire and Extended Coverage Insurance Underwriting Association," prescribing the powers, duties and functions thereof and supplementing Title 17 of the Revised Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
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9 use or occupancy resulting from smoke; smudge; lightning; tempest  
10 on land, including windstorm, tornado and cyclone; earthquake,  
11 collapse of buildings; hail; frost or snow; bombardment; invasion;  
12 insurrection; riot; civil war or commotion; military or usurped  
13 power; vandalism or malicious mischief; striking employees;  
14 explosion, whether fire ensues or not, except explosion of steam  
15 boilers and fly wheels; and arising from the use of elevators, air-  
16 craft, automobiles or other vehicles;

17 c. "Association" means the Fire and Extended Coverage In-  
18 surance Underwriting Association established pursuant to the pro-  
19 visions of this act;

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5 administration, and for the prompt and efficient provision of fire  
6 and extended coverage insurance to promote orderly community  
7 development. Such proposed plan shall include: preliminary as-  
8 sessment of all members for initial expenses necessary to commence  
9 operations; establishment of necessary facilities; management of  
10 the association; assessment of members to defray losses and ex-  
11 penses; underwriting standards; procedures for acceptance and  
12 cession of reinsurance; procedures for determining amounts of  
13 insurance to be provided; and time limits and procedures for  
14 processing applications for insurance.

15 b. The proposed plan shall be reviewed by the commissioner and  
16 approved by him if such plan conforms with laws of this State not  
17 inconsistent with this act and fulfills the declaration of purpose  
18 provided by section 1 of this act. In his review of the proposed  
19 plan the commissioner may, in his discretion, consult with the  
20 directors and other members of the association and any other  
21 individual or organization. If the commissioner approves the  
22 proposed plan he shall certify such approval to the directors and  
23 said plan shall take effect 10 days after such certification. If the  
24 commissioner disapproves all or any part of the proposed plan of  
25 operation he shall return same to the directors with a statement,  
26 in writing, of the reasons for his disapproval and any recommenda-  
27 tions he may wish to make. The directors may accept the com-  
28 missioner's recommendations, or may propose a new plan, which  
29 accepted recommendations or a new plan shall be submitted to the  
30 commissioner within 30 days after the return of a disapproved  
31 plan to the directors. If the directors do not submit a proposed  
32 plan of operation within 90 days after the effective date of this act,  
33 or a new plan, or accept the recommendations of the commissioner  
34 within 30 days after the disapproval of a proposed plan, the com-  
35 missioner shall promulgate a plan of operation and certify same  
36 to the directors. Any such plan promulgated by the commissioner  
37 shall take effect 10 days after certification to the directors.

38 c. The directors of the association may, on their own initiative,  
39 amend the plan of operation at any time, subject to the approval  
40 by the commissioner.

41 d. The commissioner may review the plan of operation whenever  
42 he deems expedient, and shall review same at least once a year, and  
43 may amend said plan after consultation with the directors and upon  
44 certification to the directors of such amendment.

1 8. a. Any person having an insurable interest in insurable prop-  
2 erty, who has failed to procure fire and extended coverage insur-

3 ance from an authorized insurer in the normal insurance market,  
 4 shall, on or after the effective date of the plan of operation, be  
 5 entitled to apply to the association for such coverage. Such appli-  
 6 cation may be made on behalf of an applicant by a broker or agent  
 7 authorized by him. Every such application shall be submitted on  
 8 forms prescribed by the commissioner after consultation with the  
 9 directors of the association and shall contain information sufficient  
 10 to indicate:

11 (1) Evidence of failure to procure fire and extended cover-  
 12 age insurance from an authorized insurer in the normal insur-  
 13 ance market;

14 (2) Whether or not the property is insurable;

15 (3) Whether or not there is any unpaid, uncontested pre-  
 16 mium due from the applicant for prior insurance on the prop-  
 17 erty (as shown by the insured having failed to make written  
 18 objection to charges within 30 days after billing). The term  
 19 "insurable interest," as used in this section, shall be deemed  
 20 to include any lawful and substantial economic interest in the  
 21 safety or preservation of property from loss, destruction or  
 22 pecuniary damage.

23 b. If the association determines that:

24 (1) The applicant has made a diligent effort to procure fire  
 25 and extended coverage insurance from an authorized insurer  
 26 in the normal market;

27 (2) The property is insurable; and

28 (3) There is no unpaid, uncontested premium due from the  
 29 applicant for prior insurance on the property, the association,  
 30 upon receipt of the premium, or such portion thereof, as is  
 31 prescribed in the plan of operation, shall cause to be issued  
 32 a policy of fire insurance for a term of 1 year which shall also  
 33 include, upon application therefor, extended coverage insur-  
 34 ance. Any policy issued pursuant to the provisions of this  
 35 section shall be renewed annually, upon application therefor,  
 36 so long as the information contained in the original application  
 37 remains valid.

38 c. If the association, for any reason, denies an application and  
 39 refuses to cause to be issued an insurance policy to any applicant,  
 40 or takes no action on an application within the time prescribed in  
 41 the plan of operation, any such applicant may appeal to the com-  
 42 missioner, and the commissioner, after a review of the facts may  
 43 direct the association to cause to be issued an insurance policy to  
 44 the applicant. In carrying out his duties pursuant to this section  
 45 the commissioner may request, and the association shall provide,

46 any information he deems necessary concerning the reasons for the  
47 denial or delay of an application.

1 9. Any member of the association may cede to the association  
2 fire and extended coverage insurance written on insurable property,  
3 to the extent, if any, and on the terms and conditions set forth in  
4 the plan of operation.

1 10. a. The rates, rating plans and rating rules applicable to the  
2 insurance written by the association, and statistics relating thereto,  
3 shall be subject to the provisions of chapter 29A of this Title,  
4 except as otherwise provided in this section.

5 b. Rates, rating plans and rating rules applicable to insurance  
6 written by the association shall be in accordance with filings ap-  
7 proved from time to time by the commissioner for risks rated by  
8 the principal fire rating organization in this State, as designated  
9 by the commissioner, and applicable to such insurance; provided,  
10 however, that on or before April 15, 1970, and on or before April  
11 15 of each succeeding year, the rating organization designated by  
12 the association for this purpose shall submit a rate filing in proper  
13 form based on the loss and expense experience of the association,  
14 together with such other information as the commissioner may  
15 require. The commissioner shall review such rate filing in ac-  
16 cordance with the provisions of chapter 29A of this Title, except  
17 that, in reviewing rate filings the commissioner shall not be re-  
18 quired to consider the latest available experience of the fire insur-  
19 ance business during a period of not less than 5 years preceding  
20 the year in which rates are made or revised.

21 c. Filed rating rules or plans may continue to provide standards  
22 for the application of surcharges for risks containing unsafe or  
23 hazardous conditions; provided, however, that such rating rules or  
24 plans shall provide for prompt removal of such condition sur-  
25 charges upon the elimination of such unsafe or hazardous  
conditions.

1 11. Any person insured pursuant to this act, or his representative,  
2 or any affected insurer, may appeal to the commissioner within 30  
3 days after any ruling, action or decision by or on behalf of the  
4 association, with respect to those items of the plan of operation  
5 which the commissioner defines as appealable matters.

1 12. All orders of the commissioner made pursuant to this act  
2 shall be subject to review by the Superior Court in a proceeding  
3 in lieu of prerogative writ.

1 13. All reports of inspection performed by or on behalf of the  
2 association shall be made available to members of the association,  
3 applicants and interested insurers.



14. There shall be no liability on the part of, and no cause of action of any nature shall arise against, the association or its agents or employees, an insurer or the commissioner or his authorized deputies, for any statements made in good faith by them in their reports or communications concerning risks insured or to be insured by the association or at any administrative hearings conducted in connection therewith.

15. The association shall file in the office of the commissioner, annually on or before March 1, a statement which shall contain information with respect to its transactions, condition, operations and affairs during the preceding year. Such statement shall contain such matters and information as are prescribed by the commissioner, and shall be in such form as is approved by him. The commissioner may at any time require the association to furnish him with additional information with respect to its transactions, condition or any matter connected therewith, which he considers to be material and which will assist him in evaluating the scope, operation and experience of the association.

16. The commissioner may make an examination into the affairs of the association whenever he deems it expedient, and in undertaking any examination he may hold a hearing or hearings pursuant to the procedures provided in chapter 1 of this Title. The expenses of every such examination shall be borne and paid by the association, but the commissioner may, in his discretion, for good cause shown, remit such charges.

17. In addition to the annual reports of the commissioner pursuant to section 17:1-9 of the Revised Statutes, the commissioner shall submit to the Legislature a special report embracing the activities, affairs and condition of the association, as of December 31 of each year the association is in existence. Said report may contain any specific recommendations the commissioner may wish to make concerning the association, including his evaluation of the association's effectiveness in fulfilling the purposes of this act, and his judgement of the need to maintain the association in existence indefinitely or for any prescribed period of time.

18. This act shall take effect September 1, 1968, and shall cease to be of any force or effect on December 31, 1971, except that policies issued and other obligations incurred by the Joint Underwriting Association established pursuant to the provisions of this act shall not be impaired by the expiration of this act and such association shall be continued for the purpose of servicing such policies and performing such obligations.

ASSEMBLY COMMITTEE AMENDMENTS TO  
SENATE, No. 712

STATE OF NEW JERSEY

ADOPTED JUNE 17, 1968

Amend page 2, section 2, line 5, delete the words "or indirect".

Amend page 2, section 2, lines 5-6, delete the words "including loss of use or occupancy".

Amend page 2, section 2, lines 7-16, delete subparagraph b. in its entirety and in lieu thereof insert the following:

"b. 'Extended coverage' means insurance coverage against direct loss or damage to property resulting from windstorm, hail, explosion, riot, riot attending a strike, civil commotion, aircraft, vehicles and smoke."

Amend page 2, section 2, line 24, delete the word "anywhere", and insert "in urban areas".

Amend page 2, section 2, line 25, after "thereon," insert "but shall not include insurance on automobile, farm and manufacturing risks,".

Amend page 2, section 2, line 34, after "gross direct premiums", insert "(excluding reinsurance assumed and ceded)".

Amend page 2, section 2, line 39, after "tracts", insert "dividends to be credited to policyholders".

Amend page 2, section 2, line 39, insert a subparagraph h. as follows:

"h. 'Urban area' means any community (1) which the Secretary of the United States Department of Housing and Urban Development has approved as eligible for an urban renewal program after a local public agency has been formed in that community to avail itself of a United States Housing and Urban Renewal Program or (2) designated by the association with the approval of the commissioner or (3) which the commissioner has designated."

Amend page 5, section 8, line 1, after "coverage", insert "and for an inspection of the property".

Amend page 7, section 18, lines 1-7, delete section 18 in its entirety and insert the following new section 18 as follows:

"18. The commissioner may, in addition to any powers conferred

upon him by this or any other law, do all things necessary, including, without limitation, the adoption, formulation and promulgation of a plan for the purpose of implementing this act, to enable this State and any insurer participating in any program approved by the commission to fully participate in any Federal program of reinsurance which may hereafter be provided for purposes similar to the purposes of this act, within the limitations of the appropriation provided by the legislature."

Amend page 7, section 18, insert new section 19 as follows:

"19. This act shall take effect September 1, 1968 or upon the passage of the National Insurance Development Corporation Act of 1968 or any other act of Congress of the United States, whichever is sooner, which will similarly provide reinsurance or financial back-up to accomplish the purpose of this act."

ASSEMBLY AMENDMENTS TO  
SENATE, No. 712  
WITH ASSEMBLY COMMITTEE AMENDMENTS

STATE OF NEW JERSEY

ADOPTED JUNE 20, 1968

Amend page 1, title, lines 1 and 2, delete "Fire and Extended Cover-  
age", and insert "New Jersey".

Amend page 2, section 2, delete subparagraphs a and b (added by  
Assembly committee amendments), in their entirety and insert the  
following:

a. 'Essential property insurance' means insurance against direct  
loss to property as defined and limited in the standard fire policy and  
extended coverage endorsement thereon, as approved by the commis-  
sioner, and insurance for such types, classes, and locations of property  
against the perils of vandalism, malicious mischief, burglary, or theft,  
and other classes of insurance as the commissioner may designate  
in order to comply with Federal legislation and obtain Federal rein-  
surance;

b. 'Basic property insurance' means insurance against loss to prop-  
erty as defined and limited in: (1) standard fire policy and extended  
coverage endorsement thereon, the allied line policy or endorsement,  
the homeowners multiple peril policy, the commercial multiple peril  
policy, the burglary or theft coverage policy and other like policies."

Amend page 2, section 2, line 17, delete "Fire and Extended Cover-  
age", and insert "New Jersey".

Amend page 2, section 2, line 21, after "approved", insert "or pro-  
hibited"

Amend page 2, section 2, line 30, after "location", insert ", environ-  
mental hazards beyond the control of the applicant".

Amend page 2, section 2 h, delete subparagraph h (added by Assem-  
bly committee amendments), and insert new subparagraph h as follows:

h. 'Urban area' means any municipality or other political sub-  
division (1) which the Secretary of the United States Department of  
Housing and Urban Development has approved as eligible for an urban

renewal project after a local public agency has been formed in that community to avail itself of a United States Housing and Urban Renewal Program or (2) designated by the association with the approval of the commissioner or (3) which the commissioner may designate.”

Amend page 2, section 3, line 1, delete “Fire and Extended Coverage”, and insert “New Jersey”.

Amend page 2, section 4, line 4, delete “fire and extended coverage”, and insert “property”; delete “, including insurers”.

Amend page 2, section 3, line 5, delete line in its entirety.

Amend page 2, section 3, line 6, delete “policies”.

Amend page 3, section 4, lines 2-3, delete “fire and extended coverage”, and insert “essential property”.

Amend page 4, section 7, lines 5-6, delete “fire and extended coverage”, and insert “essential property”.

Amend page 4, section 7, line 13, after “provided;”, delete “and”.

Amend page 4, section 7, line 14, after “insurance”, insert “; and such other provisions as may be deemed necessary by the commissioner to carry out the purposes of this act”.

Amend page 4, section 7, line 16, after “if”, insert “he finds that”; delete “conforms with laws of this State not”.

Amend page 4, section 7, line 17, delete “inconsistent with this act and”; delete “declaration of”; delete “purpose”, and insert “purposes”.

Amend page 4, section 7, line 33, after “plan”, insert “which is acceptable to the commissioner”.

Amend page 4, section 7, line 37, after “directors”, insert “; provided, however, that until a plan of operation is in effect pursuant to the provisions of this act, any existing temporary placement facility shall be continued in effect on a mandatory basis on such terms as the commissioner shall determine”.

Amend page 4, section 8, line 2, delete “fire and extended coverage”, and insert “essential property”.

Amend page 5, section 8, lines 11-12, delete “fire and extended coverage”, and insert “essential property”.

Amend page 5, section 8, lines 24-25, delete “fire and extended coverage”, and insert “essential property”.

Amend page 5, section 8, line 26, after “market”, insert “at manual or tariff rates”.

Amend page 5, section 8, line 32, delete “fire”, and insert “essential property”; delete “which shall also”.

Amend page 5, section 8, line 33, delete line in its entirety.

Amend page 5, section 8, line 34, delete “and”.

Amend page 6, section 9, line 2, delete “fire and extended coverage”, and insert “essential property”.

Amend page 6, section 10, line 2, delete "association," delete "and articles relating thereto," and insert "shall be in accord with the actual or tariff rates in current usage."

Amend page 6, section 16, lines 3-23, delete these lines in their entirety.

Amend page 7, sections 18 and 19, delete sections 18 and 19 in their entirety, and insert following new sections as follows:

18. There is hereby created a fund to be known as the 'New Jersey Insurance Development Fund,' for the purpose of providing a financial backup for the plan of operation of the association as approved or issued by the commissioner pursuant to this act. The fund shall be used to reimburse any insurer or one association established pursuant to this act for losses sustained in excess of the amount of retention of such policy as shall be provided for by the commissioner; except that in any one calendar year the total amount of all such reimbursement shall not exceed 5% of the insurance premiums written on essential property insurance in this State in the most recent full calendar year. The fund shall consist of all payments made to the fund by insurers as hereinafter provided, of securities acquired by and through the use of moneys belonging to the fund, moneys appropriated to the fund as provided in this act, together with interest and accretions earned upon such payments or investments. The fund shall be administered by the commissioner and the State Treasurer in accordance with the provisions of this act.

19. For the privilege of doing property insurance business in this State, and in addition to all other requirements of law, every insurer authorized to write such insurance in this State shall be obligated to collect from the insured under any policy of basic property insurance, a surcharge upon the premium paid for said policy in an amount which shall be annually determined by the commissioner as hereinafter provided. This surcharge shall be collected by each insurer and paid over to the fund semiannually as provided for by the commissioner.

20. For the purpose of providing the moneys necessary to establish the New Jersey Insurance Development Fund in an amount sufficient to meet the requirements of said fund pursuant to section 21 of this act, the commissioner shall establish a reasonable surcharge upon all basic property insurance premiums paid for policies of insurance written in this State; provided, however, that in any given calendar year the aggregate amount of such surcharges shall not exceed a sum equal to 5% of the insurance premiums written on essential property insurance in this State in the most recent full calendar year. The surcharge shall be a separate charge to the insured in addition to the premium to be paid and shall be reflected on the policy and conditions and not be payable thereon. The insurer shall be prohibited from absorbing such

surecharge as an inducement for insurance or for any other reason. In the event that pursuant to section 23 of this act the Legislature appropriates any moneys to the credit of such fund, the commissioner is hereby empowered to increase the surcharge so that the amount so appropriated may be returned to the State Treasury as provided by section 23 of this act.

"21. The commissioner, on or before April 1, shall ascertain and determine the net value of the fund as of the next preceding December 31. The net value of the fund shall be determined by deducting from the value of the assets of the fund, the aggregate, actual, and estimated liabilities of the fund as determined by the commissioner. When the net value of the fund, as thus determined, reaches an amount equal to 5% of the premiums written on essential property insurance in this State in the most recent full calendar year, no further surcharge on said premiums and no further payments to said fund shall be made, provided, however, that whenever, thereafter, the net value of said fund shall be reduced below the aforesaid amount, by reason of payments from and known and estimated liabilities of such fund, then such surcharge and payments to said fund shall be received in the manner provided in section 19 of this act, and shall continue in such manner until said fund, over and above its sum and estimated liabilities, shall reach the aforesaid amount.

"22. The fund created by this act shall be separate and apart from any other fund and from all other State moneys. The State Treasurer shall be the custodian of said fund; and all disbursements from said fund shall be made by the treasurer upon vouchers signed by the commissioner, as in this act provided. The moneys of said fund shall be invested and reinvested by the Director of the Division of Investment as other trust funds in the custody of the State Treasurer in the manner provided by law.

"23. If in any year or at any time the fund as hereinabove established is insufficient to pay claims chargeable to the fund to the extent of 5% of the most recent full calendar year essential property insurance premiums written by authorized insurers in this State, the commissioner shall certify to the Governor the amount of such insufficiency and such amount shall be appropriated and paid to the fund, which said amount so paid shall be returned to the treasury of this State from proceeds of the surcharge collected pursuant to this act.

"24. The agents and employees of any insurer of this State participating in a plan established pursuant to this act may enter upon any lands and premises in the State for the purpose of making such examination as is necessary or convenient for the purposes of this act

## STATEMENT BY GOVERNOR RICHARD J. HUGHES

During the past few days at least one large insurance company has made efforts to cancel substantial amounts of property insurance in some of our larger cities. Like those who have felt these cancellations directly and those who fear similar actions, I am deeply concerned with this situation. As I stated in my special message to the Legislature of April 25:

"Without insurance, no prudent businessman can establish, expand or continue his business, and no bank loans or mortgage financing can be made available for the construction, repair, or improvement of property. Property insurance is therefore one of the lifebloods of our city and a factor necessary to its growth."

My concern for this serious state of affairs, which I have felt for some months, prompted me to request the Legislature to pass three bills that together would do much to prevent in some cases, and greatly reduce in others, the danger of mass property insurance cancellations. The Legislature passed these bills, and I signed them into law on July 3. I think that it is now extremely important for the public-at-large to understand what we have done in order to ensure that those persons who are, or who could be, directly affected by these insurance problems will be fully aware of the powerful remedies available to them.

The bills to which I refer are:

Assembly Bill No. 933 -- which empowers the Commissioner of Banking and Insurance to prohibit cancellation of insurance policies except upon 30 days written notice;

Assembly Bill No. 935 -- which imposes a 4 month moratorium on the cancellation of municipal liability insurance policies.

Senate Bill No. 712 -- which substantially enacts the recommendations of the President's National Advisory Panel on Insurance in Riot-Affected Areas and provides both the means and mechanism for insuring that those properties which are intrinsically sound but are bereft of needed casualty protection because of environmental factors beyond the owner's control -- such as location or the condition of surrounding properties -- are provided with adequate coverage and at annual rates.



The first two bills -- A933 and A939 -- do not of themselves solve the problem. But they do mitigate its serious effects. By increasing the former 5-day notice of cancellation period to 30 days, as was done by the Commissioner upon the signing of A933, we have provided the property owner with a breathing period during which he will in many cases be able to obtain substitute insurance without suffering an unprotected hiatus. Hopefully he will be able to obtain this from another carrier -- but should he be unable to do so, he will be aided by the benefits of S712, provided his property ought to be entitled to insurance by virtue of its sound condition. In the case of municipal liability policies, a 4-month moratorium retroactive to June 1 should provide the needed breathing space to municipalities.

The third bill -- S712 -- is more far-reaching. I believe time will prove it to be landmark legislation both in the field of insurance and in the rebirth of our deteriorating neighborhoods, within and without the cities.

In my "Moral Commitment" message, I described these insurance problems based on my experience as Chairman of the President's National Advisory Panel on Insurance: "As our urban problems grow, loss ratios for insurance companies increase, until it becomes difficult, if not impossible, for the homeowner and small businessman to obtain adequate coverage at reasonable cost." These pressures are being felt today in many parts of New Jersey, not only in our larger cities but also in certain more affluent communities. Whenever deterioration occurs, insurance becomes a problem.

In supportive testimony before a Congressional committee earlier this year, I expressed the view that there can be no meaningful renewal of any deteriorated area unless insurance is made available at reasonable rates. Property owners must be encouraged to repair and properly maintain their properties. To do this they must be assured that once the property is improved -- once made intrinsically sound -- it will be protected with adequate, reasonably priced insurance. And the bank which may be called upon to finance such improvements requires the same assurance. Yet note that the property owner can do only with respect to the property under his control. He may be faced with an environment which spells risk to his insurance company: a littered alley, a run-down building, or other conditions which in insurance

to make the intrinsically sound but "uninsurable" -- a bad risk -- and understandably so.

Therefore the Advisory Panel sought a means of compromising these two conflicting principles: reasonably priced insurance despite environmental risk and sound insurance practices. Three levels of federal, state, and local government working with the insurance industry arrived at what I believe to be a sound solution. The Panel numbered among its members former Governor Scranton, Mayor Washington, the heads of three of our large insurance companies, and an Assistant Attorney General.

In broad outline the Panel recommendations -- and S712, the first State implementing legislation -- provide:

---an inspection plan whereby any owner who has sought and been denied property insurance can obtain an inspection of his property and a report advising him of the specific condition which renders his property uninsurable.

---a risk sharing arrangement of insurance companies whereby properties which are unable to obtain insurance despite correction of deficiencies will receive adequate insurance at manual rates. This means there will be no surcharges or special rates because of environmental conditions beyond the owner's control. I want to make it clear, however, that this provision is not intended -- nor should it be -- to provide such insurance to properties which are and ought to be uninsured or specially rated because of the intrinsic condition of the property or the special use to which it is being put.

---governmental financial back-up to protect the insurance industry from catastrophic losses resulting from the extra risks they are being required to assume. Under S712 the State has undertaken to meet Pool losses up to 5 percent of the annual premium volume of essential property insurance in the State, after the Industry has absorbed an amount to be fixed by the Commissioner, which might, for example, be about 3 percent of the same annual premium volume. Under pending federal legislation, which is expected to become law during this session of Congress, the federal government will undertake to meet the losses in excess of that portion met by the insurance companies and the State. I want to make it clear that this is protection not solely for those to whom the insurance is made available under the plan, but to all of us who carry insurance. For the dependability of our insurance is basically a question of the

financial soundness of the company. Protecting the companies from catastrophe is in the measure protecting ourselves.

---properly reporting to the State of environmental conditions, listed by city, which but for the S712 arrangement would have rendered insured properties uninsurable. With such data steps can be taken to lessen the hazards. With such an inventory of defects our cities can be improved.

Thus the State has already taken some important steps to protect the homeowner and businessman who is threatened with cancellation. And beyond these measures the State has undertaken to provide insurance for those who until now could not obtain adequate insurance in the first instance. The Commissioner of Banking and Insurance will observe with great care both cancellation practices and the operation of S712. If further steps are required, either administratively or by legislation, my administration will move firmly and promptly to take them.

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