

SENATE, No. 724

STATE OF NEW JERSEY

INTRODUCED MAY 6, 1968

By Senator FARLEY

Referred to Committee on Banking and Insurance

AN ACT concerning the transaction of the business of insurance by nonadmitted insurers and supplementing chapter 32 of Title 17 of the Revised Statutes.

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

1 1. This act is deemed and declared to be remedial legislation for  
2 the protection of the health and welfare of persons resident in this  
3 State by subjecting nonadmitted insurers which solicit, insure, or  
4 cause to be solicited such resident persons to the laws which govern  
5 all foreign insurers which do business in the State of New Jersey.  
6 This act shall be liberally construed to effectuate its purpose and  
7 intent.

1 2. The following terms whenever used or referred to in this act  
2 shall have the following respective meanings, except in those  
3 instances where the context clearly indicates otherwise:

4 (a) The term "commissioner" shall mean the Commissioner of  
5 Banking and Insurance.

6 (b) The term "insurer" shall mean any person, association or  
7 corporation engaged in the transaction of the business of insurance,  
8 and shall include, without limitation, interinsurance exchanges and  
9 mutual benefit societies.

1 3. No insurer organized or existing under the law of another  
2 State, or of a foreign country, or any employee, agent or other  
3 representative thereof including, without limitation, promotional  
4 media, shall by mail or otherwise, transact in any manner, directly  
5 or indirectly, the business of insurance within this State unless  
6 and until:

7 (a) Admitted to transact the business of insurance pursuant to  
8 the provisions of this chapter; or

9 (b) Specifically permitted by any other law of this State to  
10 transact the business of insurance within this State.

1 4 Without limiting the generality of the foregoing, an insurer  
2 which performs, causes or suffers to be performed within this State  
3 any of the following acts with reference to persons or property  
4 located or resident in the State of New Jersey, by mail or other-  
5 wise, directly or indirectly, shall be deemed to be transacting the  
6 business of insurance within this State

7 (a) The solicitation of or advertising for any contract of insur-  
8 ance of any kind, including annuities involving life contingencies;

9 (b) The negotiation or effectuation of any contract of insurance  
10 of any kind, including annuities involving life contingencies;

11 (c) The signature, delivery or transmittal of any contract of  
12 insurance of any kind, including annuities involving life contin-  
13 gencies, or any application therefor.

14 (d) The transmittal or receipt of any premium, commission, fee  
15 or other payment for any contract of insurance of any kind in-  
16 cluding annuities involving life contingencies.

17 (e) The maintenance or operation of any office for the trans-  
18 action of the business of insurance;

19 (f) The offering for sale, sale, promotion of, or issuance of any  
20 contract of insurance of any kind, including annuities involving  
21 life contingencies; or

22 (g) Any other acts normally incident to the transaction of the  
23 business of insurance

1 5. Whenever it shall appear to the commissioner that any insurer,  
2 or any employee, agent, promotional medium, or other represent-  
3 ative thereof, has violated, is violating, or is about to violate the  
4 provisions of this act, the Attorney General, upon the request of  
5 the commissioner, shall institute a civil action in the Superior  
6 Court for injunctive relief and for such other relief as may be  
7 appropriate under the circumstances. Process in such action may  
8 be served in accordance with the provisions of chapter 330 of the  
9 laws of 1952 (C. 17-51-1 et seq ) or as provided in the laws of this  
10 State and the rules of the Superior Court. Such action may proceed  
11 in a summary manner or otherwise. Nothing contained in this  
12 section shall limit or abridge the right to serve any process, notice  
13 or demand upon any person or insurer in any other manner now or  
14 hereafter deemed lawful.

1 6. The provisions of this act shall not be construed to apply to:

2 (a) The investigation, settlement or litigation of claims under  
3 any policy of insurance of any kind lawful when written in this  
4 State, or the liquidation of the assets and liabilities of an insurer  
5 (other than the collection of new premiums) resulting from the  
6 operations of an insurer within this State which were lawful when  
7 conducted;

8 (b) Transactions involving any policy of insurance of any kind,  
9 subsequent to the issuance thereof, covering only subjects of in-  
10 surance not resident, located or expressly to be performed in this  
11 State at the time of issuance, and lawfully solicited, written and  
12 delivered outside this State,

13 (c) The continuation and servicing of life insurance or accident  
14 or health insurance policies or annuity contracts remaining in force  
15 as to residents of this State when the insurer has withdrawn from  
16 this State and is not collecting new premiums within or from this  
17 State;

18 (d) The lawful transaction of contracts of reinsurance by  
19 insurers;

20 (e) Transactions involving group life insurance, group or blanket  
21 accident and health insurance, and group annuities where the  
22 master policy for such groups was lawfully issued and delivered  
23 in a State in which the insurer is duly admitted, and such policy  
24 conforms to the laws of the State in which it is delivered;

25 (f) Any life insurance company organized and operated without  
26 profit to any private shareholder or individual and exclusively  
27 for the purpose of aiding educational or scientific institutions  
28 organized and operated without profit to any private shareholder  
29 or individual, which issues to residents of this State directly from  
30 its home office without agents, representatives or other field opera-  
31 tions in this State, contracts of insurance and annuity contracts  
32 only to or for the benefit of such institutions and to individuals  
33 engaged in the service of such institutions, nor shall this subsection  
34 apply to any life, accident and health or annuity contracts issued  
35 by such life insurance company, provided that any such life in-  
36 surance company shall: (1) furnish to the commissioner a copy of  
37 any policy or contract form issued to residents of this State;  
38 (2) furnish to the commissioner a copy of its annual statement  
39 prepared pursuant to the laws of the State of domicile of such life  
40 insurance company, as well as such other reports, documents and  
41 financial material as may be requested by the commissioner; and  
42 (3) designate the commissioner as its true and lawful attorney  
43 upon whom may be served all lawful process in any action or pro-  
44 ceeding against such life insurance company arising under any  
45 contract of insurance or annuity contract it has issued to, or which  
46 is held by, a resident of this State, and process so served against  
47 such life insurance company shall have the same force and validity  
48 as if served upon said life insurance company; and provided  
49 further that the commissioner may, if in his judgment the interest  
50 of the public so requires, promulgate regulations affecting the con-

51 tracts, investments, or other aspects of the operations of companies  
52 covered by this subparagraph (f), which shall be not more re-  
53 strictive than the laws and regulations applicable to admitted life  
54 insurance companies.

1 7. If any section, subsection, paragraph, sentence or other part  
2 of this act is adjudged unconstitutional or invalid, such judgment  
3 shall not affect, impair or invalidate the remainder of this act,  
4 but shall be confined in its effect to the section, subsection, para-  
5 graph, sentence or other part of this act directly involved in the  
6 controversy in which said judgment shall have been rendered.

1 8 This act shall take effect immediately.

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#### STATEMENT

This bill will bring within the purview of the Department of Banking and Insurance certain previously nonadmitted insurance companies which, by newspaper advertising, mail solicitations, and otherwise, have effected insurance from foreign States upon New Jersey residents without being subject to the laws of this State. In consequence, residents of New Jersey have heretofore not received adequate protection when dealing with such companies. This legislation has now been made possible by recent constitutional decisions in State and Federal Courts. The bill is recommended by the Insurance Law Revision Commission.

SENATE COMMITTEE AMENDMENTS TO  
**SENATE, No. 724**

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**STATE OF NEW JERSEY**

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ADOPTED JUNE 3, 1968

Amend page 4, section 6, line 54, after "companies", delete the period and insert a semicolon

Amend page 4, section 6, after line 54, insert a new subsection as follows:

"(g) Insurance of vessels, crafts or hulls, cargoes, marine builders' risks, marine protection and indemnity or other risks including strikes and war risks commonly insured under ocean or wet marine forms of policy."

CHAPTER 234 LAWS OF N. J. 1966  
APPROVED 7-31-66

[OFFICIAL COPY REPRINT]

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4 cause to be solicited such resident persons to the laws which govern  
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4 media, shall by mail or otherwise, transact in any manner, directly  
5 or indirectly, the business of insurance within this State unless  
6 and until:

7 (a) Admitted to transact the business of insurance pursuant to  
8 the provisions of this chapter; or

9 (b) Specifically permitted by any other law of this State to  
10 transact the business of insurance within this State.

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

1 4 Without limiting the generality of the foregoing, an insurer  
2 which performs, causes or suffers to be performed within this State  
3 any of the following acts with reference to persons or property  
4 located or resident in the State of New Jersey, by mail or other-  
5 wise, directly or indirectly, shall be deemed to be transacting the  
6 business of insurance within this State:

7 (a) The solicitation of or advertising for any contract of insur-  
8 ance of any kind, including annuities involving life contingencies;

9 (b) The negotiation or effectuation of any contract of insurance  
10 of any kind, including annuities involving life contingencies;

11 (c) The signature, delivery or transmittal of any contract of  
12 insurance of any kind, including annuities involving life contin-  
13 gencies, or any application therefor.

14 (d) The transmittal or receipt of any premium, commission, fee  
15 or other payment for any contract of insurance of any kind in-  
16 cluding annuities involving life contingencies.

17 (e) The maintenance or operation of any office for the trans-  
18 action of the business of insurance;

19 (f) The offering for sale, sale, promotion of, or issuance of any  
20 contract of insurance of any kind, including annuities involving  
21 life contingencies; or

22 (g) Any other acts normally incident to the transaction of the  
23 business of insurance.

1 5. Whenever it shall appear to the commissioner that any insurer,  
2 or any employee, agent, promotional medium, or other represent-  
3 ative thereof, has violated, is violating, or is about to violate the  
4 provisions of this act, the Attorney General, upon the request of  
5 the commissioner, shall institute a civil action in the Superior  
6 Court for injunctive relief and for such other relief as may be  
7 appropriate under the circumstances. Process in such action may  
8 be served in accordance with the provisions of chapter 330 of the  
9 laws of 1952 (C. 17:51-1 et seq.) or as provided in the laws of this  
10 State and the rules of the Superior Court. Such action may proceed  
11 in a summary manner or otherwise. Nothing contained in this  
12 section shall limit or abridge the right to serve any process, notice  
13 or demand upon any person or insurer in any other manner now or  
14 hereafter deemed lawful.

1 6. The provisions of this act shall not be construed to apply to:

2 (a) The investigation, settlement or litigation of claims under  
3 any policy of insurance of any kind lawful when written in this  
4 State, or the liquidation of the assets and liabilities of an insurer  
5 (other than the collection of new premiums) resulting from the  
6 operations of an insurer within this State which were lawful when  
7 conducted;

8 (b) Transactions involving any policy of insurance of any kind,  
9 subsequent to the issuance thereof, covering only subjects of in-  
10 surance not resident, located or expressly to be performed in this  
11 State at the time of issuance, and lawfully solicited, written and  
12 delivered outside this State;

13 (c) The continuation and servicing of life insurance or accident  
14 or health insurance policies or annuity contracts remaining in force  
15 as to residents of this State when the insurer has withdrawn from  
16 this State and is not collecting new premiums within or from this  
17 State;

18 (d) The lawful transaction of contracts of reinsurance by  
19 insurers;

20 (e) Transactions involving group life insurance, group or blanket  
21 accident and health insurance, and group annuities where the  
22 master policy for such groups was lawfully issued and delivered  
23 in a State in which the insurer is duly admitted, and such policy  
24 conforms to the laws of the State in which it is delivered;

25 (f) Any life insurance company organized and operated without  
26 profit to any private shareholder or individual and exclusively  
27 for the purpose of aiding educational or scientific institutions  
28 organized and operated without profit to any private shareholder  
29 or individual, which issues to residents of this State directly from  
30 its home office without agents, representatives or other field opera-  
31 tions in this State, contracts of insurance and annuity contracts  
32 only to or for the benefit of such institutions and to individuals  
33 engaged in the service of such institutions; nor shall this subsection  
34 apply to any life, accident and health or annuity contracts issued  
35 by such life insurance company, provided that any such life in-  
36 surance company shall: (1) furnish to the commissioner a copy of  
37 any policy or contract form issued to residents of this State;  
38 (2) furnish to the commissioner a copy of its annual statement  
39 prepared pursuant to the laws of the State of domicile of such life  
40 insurance company, as well as such other reports, documents and  
41 financial material as may be requested by the commissioner; and  
42 (3) designate the commissioner as its true and lawful attorney  
43 upon whom may be served all lawful process in any action or pro-  
44 ceeding against such life insurance company arising under any  
45 contract of insurance or annuity contract it has issued to, or which  
46 is held by, a resident of this State, and process so served against  
47 such life insurance company shall have the same force and validity  
48 as if served upon said life insurance company; and provided  
49 further that the commissioner may, if in his judgment the interest  
50 of the public so requires, promulgate regulations affecting the con-



51 tracts, investments, or other aspects of the operations of companies  
52 covered by this subparagraph (f), which shall be not more re-  
53 strictive than the laws and regulations applicable to admitted life  
54 insurance companies \***[.]**\* \*,\*

55 *(g) Insurance of vessels, crafts or hulls, cargoes, marine*  
56 *builders' risks, marine protection and indemnity or other risks in-*  
57 *cluding strikes and war risks commonly insured under ocean or wet*  
58 *marine forms of policy.\**

1 7. If any section, subsection, paragraph, sentence or other part  
2 of this act is adjudged unconstitutional or invalid, such judgment  
3 shall not affect, impair or invalidate the remainder of this act,  
4 but shall be confined in its effect to the section, subsection, para-  
5 graph, sentence or other part of this act directly involved in the  
6 controversy in which said judgment shall have been rendered.

1 8. This act shall take effect immediately.