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LAW/RWH

[First Reprint]

ASSEMBLY, No. 1878

STATE OF NEW JERSEY
213th LEGISLATURE

INTRODUCED JANUARY 24, 2008

Sponsored by:

Assemblyman JACK CONNERS

District 7 (Burlington and Camden)

Assemblyman GARY R. CHIUSANO

District 24 (Sussex, Hunterdon and Morris)

Assemblywoman DENISE M. COYLE

District 16 (Morris and Somerset)

Co-Sponsored by:

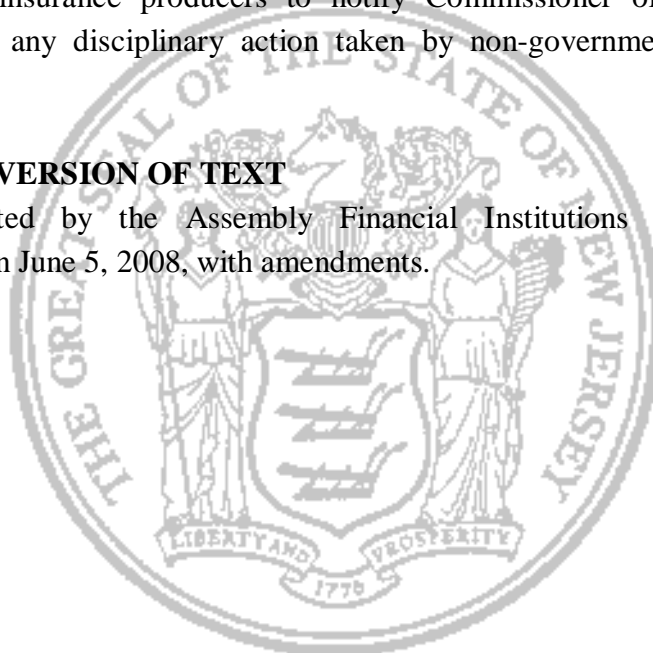
Senator Bateman

SYNOPSIS

Requires insurance producers to notify Commissioner of Banking and Insurance of any disciplinary action taken by non-governmental regulatory authority.

CURRENT VERSION OF TEXT

As reported by the Assembly Financial Institutions and Insurance Committee on June 5, 2008, with amendments.



(Sponsorship Updated As Of: 1/12/2010)

1 AN ACT concerning insurance producers and amending and
2 supplementing P.L.2001, c.210.

3

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

6

7 1. Section 15 of P.L.2001, c.210 (C. 17:22A-40) is amended to
8 read as follows:

9 15. a. The commissioner may place on probation, suspend,
10 revoke or refuse to issue or renew an insurance producer's license or
11 may levy a civil penalty in accordance with subsection c. of section
12 20 of this act or any combination of actions, for any one or more of
13 the following causes:

14 (1) Providing incorrect, misleading, incomplete or materially
15 untrue information in the license application;

16 (2) Violating any insurance laws, or violating any regulation,
17 subpoena or order of the commissioner or of another state's
18 insurance regulator;

19 (3) Obtaining or attempting to obtain a license through
20 misrepresentation or fraud;

21 (4) Improperly withholding, misappropriating or converting any
22 monies or properties received in the course of doing insurance
23 business;

24 (5) Intentionally misrepresenting the terms of an actual or
25 proposed insurance contract, policy or application for insurance;

26 (6) Having been convicted of a felony or crime of the fourth
27 degree or higher;

28 (7) Having admitted or been found to have committed any
29 insurance unfair trade practice or fraud;

30 (8) Using fraudulent, coercive or dishonest practices, or
31 demonstrating incompetence, untrustworthiness or financial
32 irresponsibility in the conduct of insurance business in this State or
33 elsewhere;

34 (9) Having an insurance producer license, or its equivalent,
35 denied, suspended or revoked in any other state, province, district
36 or territory;

37 (10) Forging another's name to an application for insurance or to
38 any document related to an insurance transaction;

39 (11) Improperly using notes or any other reference material to
40 complete an examination for an insurance producer license;

41 (12) Knowingly accepting insurance business from an unlicensed
42 insurance producer;

43 (13) Failing to comply with an administrative or court order
44 imposing a child support obligation;

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:

¹Assembly AFI committee amendments adopted June 5, 2008.

1 (14) Failing to pay income tax or comply with any administrative
2 or court order directing payment of income tax pursuant to Title
3 54A of the New Jersey Statutes;

4 (15) Intentionally withholding material information or making a
5 material misstatement in an application for a license;

6 (16) Committing any fraudulent act;

7 (17) Knowingly facilitating or assisting another person in
8 violating any insurance laws; **[or]**

9 (18) Failing to notify the commissioner within 30 days of his
10 conviction of any crime, indictment or the filing of any formal
11 criminal charges, or the suspension or revocation of any insurance
12 license or authority by a state, other than this State, or the initiation
13 of formal disciplinary proceedings in a state, other than this State,
14 affecting the producer's insurance license; or failing to obtain the
15 written consent pursuant to **[18U.S.C.]** sections 1033 and 1034 of
16 Title 18, United States Code (18U.S.C. ss.1033 and 1034); or
17 failing to supply any documentation that the commissioner may
18 request in connection therewith ; or

19 (19) Failing to notify the commissioner within 30 days of 'the
20 final disposition of' any 'formal' disciplinary '[action taken]
21 proceedings initiated' against the insurance producer, or '[the
22 initiation of formal]' disciplinary '[proceedings] action taken'
23 against the producer, by the Financial Industry Regulatory
24 Authority (FINRA), any successor organization, or '[any]' other
25 'similar' non-governmental regulatory authority 'with statutory
26 authority to create and enforce industry standards of conduct' , or of
27 any other administrative actions or criminal prosecutions, as
28 required by sections 15 and 22 of P.L.2001, c. 210 (C.17:22A-40
29 and 17:22A-47), or failing to supply any documentation the
30 commissioner may request in connection therewith.

31 b. If the action by the commissioner is to nonrenew or to deny
32 an application for an insurance producer license, the commissioner
33 shall notify the applicant or licensee and advise, in writing, the
34 applicant or licensee of the reason for the denial or nonrenewal of
35 the license. The applicant or licensee may make written demand
36 upon the commissioner for a hearing before the commissioner, or
37 his designee, to determine the reasonableness of the commissioner's
38 action. The hearing shall be held pursuant to the "Administrative
39 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

40 c. The insurance producer license of a business entity may be
41 suspended, revoked or refused if the commissioner finds, after
42 hearing, that an individual licensee's violation was known or should
43 have been known by one or more of the partners, officers or
44 managers acting on behalf of the business entity and the violation
45 was neither reported to the commissioner nor corrective action
46 taken.

1 d. The commissioner shall retain the authority to enforce the
2 provisions of and impose any penalty or remedy authorized by this
3 act and Title 17 of the Revised Statutes or Title 17B of the New
4 Jersey Statutes against any person who is under investigation for or
5 charged with a violation of this act or Title 17 of the Revised
6 Statutes or Title 17B of the New Jersey Statutes even if the person's
7 license or registration has been surrendered or has lapsed by
8 operation of law.

9 (cf: P.L.2001, c.210, s.15)

10
11 2. Section 22 of P.L.2001, c.210 (C.17:22A-47) is amended to
12 read as follows:

13 22. a. An insurance producer shall report to the commissioner
14 any administrative action taken against the insurance producer in
15 another jurisdiction or by another governmental agency in this State
16 within 30 days of the final disposition of the matter. This report
17 shall include a copy of the order, consent order or other relevant
18 legal documents.

19 b. Within 30 days of the initial pretrial hearing date, an insurance
20 producer shall report to the commissioner any criminal prosecution
21 of the producer taken in any jurisdiction. The report shall include a
22 copy of the initial complaint filed, the order resulting from the
23 hearing and any other relevant legal documents.

24 c. An insurance producer shall report to the commissioner any
25 disciplinary action taken against the insurance producer, or ¹the
26 initiation of ¹any ¹formal disciplinary proceedings ¹initiated
27 against the producer, by the Financial Industry Regulatory
28 Authority (FINRA), any successor organization, or ¹any ¹other
29 ¹similar ¹non-governmental regulatory authority ¹with statutory
30 authority to create and enforce industry standards of conduct,
31 within 30 days of the final disposition of the matter. The report
32 shall include a copy of the order, consent order or other relevant
33 legal documents.

34 (cf: P.L.2001, c.210, s.22)

35
36 3. (New section) a. Upon receipt of information that a
37 producer has failed to report to the commissioner any administrative
38 action, criminal prosecution or any disciplinary action taken against
39 the producer, as required by sections 15 and 22 of P.L.2001, c.210
40 (C.17:22A-40 and 17:22A-47), the commissioner may notify the
41 producer that its authority to sell, solicit or negotiate insurance, or
42 be affiliated in any manner with the sale, solicitation or negotiation
43 of insurance in this State shall be temporarily suspended.

44 b. In addition to any temporary suspension imposed pursuant to
45 subsection a. of this section, and in addition to any other penalties
46 that may be imposed under subsection c. of section 20 of P.L.2001,
47 c.210 (C.17:22A-45) the commissioner, after notice and an

1 opportunity for a hearing, may impose a **['fine] penalty**¹ against an
2 insurance producer in the amount of up to \$10,000 for a first
3 violation, up to \$25,000 for a second violation and up to \$100,000
4 for a third or subsequent violation for failure to provide full,
5 accurate and truthful information to the commissioner in accordance
6 with sections 15 and 22 of P.L.2001, c.210 (C.17:22A-40 and
7 17:22A-47). ¹A civil penalty imposed pursuant to this section shall
8 be collected by the Commissioner of Banking and Insurance in a
9 summary proceeding in the Superior Court in accordance with the
10 “Penalty Enforcement Law of 1999,” P.L.1999, c.274 (C.2A:58-10
11 et seq.).¹

12 c. The commissioner shall continue the temporary suspension
13 imposed pursuant to subsection a. of this section until the
14 commissioner is satisfied that the producer has provided
15 information in accordance with sections 15 and 22 of P.L.2001,
16 c.210 (C.17:22A-40 and 17:22A-47) and in the case of any
17 administrative or disciplinary action, has satisfied all the conditions,
18 judgments or orders related to that action which are required to
19 reinstate the producer’s good standing with the agency or authority
20 imposing that action, and has paid all fines imposed pursuant to this
21 section.

22

23 4. This act shall take effect immediately.

ASSEMBLY, No. 1878

STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED JANUARY 24, 2008

Sponsored by:

Assemblyman JACK CONNERS

District 7 (Burlington and Camden)

Assemblyman NEIL M. COHEN

District 20 (Union)

Assemblyman GARY R. CHIUSANO

District 24 (Sussex, Hunterdon and Morris)

Assemblywoman DENISE M. COYLE

District 16 (Morris and Somerset)

SYNOPSIS

Requires insurance producers to notify Commissioner of Banking and Insurance of any disciplinary action taken by non-governmental regulatory authority.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/6/2008)

1 AN ACT concerning insurance producers and amending and
2 supplementing P.L.2001, c.210.

3

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

6

7 1. Section 15 of P.L.2001, c.210 (C. 17:22A-40) is amended to
8 read as follows:

9 15. a. The commissioner may place on probation, suspend,
10 revoke or refuse to issue or renew an insurance producer's license or
11 may levy a civil penalty in accordance with subsection c. of section
12 20 of this act or any combination of actions, for any one or more of
13 the following causes:

14 (1) Providing incorrect, misleading, incomplete or materially
15 untrue information in the license application;

16 (2) Violating any insurance laws, or violating any regulation,
17 subpoena or order of the commissioner or of another state's
18 insurance regulator;

19 (3) Obtaining or attempting to obtain a license through
20 misrepresentation or fraud;

21 (4) Improperly withholding, misappropriating or converting any
22 monies or properties received in the course of doing insurance
23 business;

24 (5) Intentionally misrepresenting the terms of an actual or
25 proposed insurance contract, policy or application for insurance;

26 (6) Having been convicted of a felony or crime of the fourth
27 degree or higher;

28 (7) Having admitted or been found to have committed any
29 insurance unfair trade practice or fraud;

30 (8) Using fraudulent, coercive or dishonest practices, or
31 demonstrating incompetence, untrustworthiness or financial
32 irresponsibility in the conduct of insurance business in this State or
33 elsewhere;

34 (9) Having an insurance producer license, or its equivalent,
35 denied, suspended or revoked in any other state, province, district
36 or territory;

37 (10) Forging another's name to an application for insurance or to
38 any document related to an insurance transaction;

39 (11) Improperly using notes or any other reference material to
40 complete an examination for an insurance producer license;

41 (12) Knowingly accepting insurance business from an unlicensed
42 insurance producer;

43 (13) Failing to comply with an administrative or court order
44 imposing a child support obligation;

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 (14) Failing to pay income tax or comply with any administrative
2 or court order directing payment of income tax pursuant to Title
3 54A of the New Jersey Statutes;

4 (15) Intentionally withholding material information or making a
5 material misstatement in an application for a license;

6 (16) Committing any fraudulent act;

7 (17) Knowingly facilitating or assisting another person in
8 violating any insurance laws; **[or]**

9 (18) Failing to notify the commissioner within 30 days of his
10 conviction of any crime, indictment or the filing of any formal
11 criminal charges, or the suspension or revocation of any insurance
12 license or authority by a state, other than this State, or the initiation
13 of formal disciplinary proceedings in a state, other than this State,
14 affecting the producer's insurance license; or failing to obtain the
15 written consent pursuant to **[18 U.S.C.]** sections 1033 and 1034 of
16 Title 18, United States Code (18U.S.C. ss.1033 and 1034); or
17 failing to supply any documentation that the commissioner may
18 request in connection therewith ; or

19 (19) Failing to notify the commissioner within 30 days of any
20 disciplinary action taken against the insurance producer, or the
21 initiation of formal disciplinary proceedings against the producer,
22 by the Financial Industry Regulatory Authority (FINRA), any
23 successor organization, or any other non-governmental regulatory
24 authority, or of any other administrative actions or criminal
25 prosecutions, as required by sections 15 and 22 of P.L.2001, c. 210
26 (C.17:22A-40 and 17:22A-47), or failing to supply any
27 documentation the commissioner may request in connection
28 therewith.

29 b. If the action by the commissioner is to nonrenew or to deny
30 an application for an insurance producer license, the commissioner
31 shall notify the applicant or licensee and advise, in writing, the
32 applicant or licensee of the reason for the denial or nonrenewal of
33 the license. The applicant or licensee may make written demand
34 upon the commissioner for a hearing before the commissioner, or
35 his designee, to determine the reasonableness of the commissioner's
36 action. The hearing shall be held pursuant to the "Administrative
37 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

38 c. The insurance producer license of a business entity may be
39 suspended, revoked or refused if the commissioner finds, after
40 hearing, that an individual licensee's violation was known or should
41 have been known by one or more of the partners, officers or
42 managers acting on behalf of the business entity and the violation
43 was neither reported to the commissioner nor corrective action
44 taken.

45 d. The commissioner shall retain the authority to enforce the
46 provisions of and impose any penalty or remedy authorized by this
47 act and Title 17 of the Revised Statutes or Title 17B of the New
48 Jersey Statutes against any person who is under investigation for or

1 charged with a violation of this act or Title 17 of the Revised
2 Statutes or Title 17B of the New Jersey Statutes even if the person's
3 license or registration has been surrendered or has lapsed by
4 operation of law.

5 (cf: P.L.2001, c.210, s.15)

6

7 2. Section 22 of P.L.2001, c.210 (C.17:22A-47) is amended to
8 read as follows:

9 22. a. An insurance producer shall report to the commissioner
10 any administrative action taken against the insurance producer in
11 another jurisdiction or by another governmental agency in this State
12 within 30 days of the final disposition of the matter. This report
13 shall include a copy of the order, consent order or other relevant
14 legal documents.

15 b. Within 30 days of the initial pretrial hearing date, an
16 insurance producer shall report to the commissioner any criminal
17 prosecution of the producer taken in any jurisdiction. The report
18 shall include a copy of the initial complaint filed, the order resulting
19 from the hearing and any other relevant legal documents.

20 c. An insurance producer shall report to the commissioner any
21 disciplinary action taken against the insurance producer, or the
22 initiation of formal disciplinary proceedings against the producer,
23 by the Financial Industry Regulatory Authority (FINRA), any
24 successor organization, or any other non-governmental regulatory
25 authority, within 30 days of the final disposition of the matter. The
26 report shall include a copy of the order, consent order or other
27 relevant legal documents.

28 (cf: P.L.2001, c.210, s.22)

29

30 3. (New section) a. Upon receipt of information that a
31 producer has failed to report to the commissioner any administrative
32 action, criminal prosecution or any disciplinary action taken against
33 the producer, as required by sections 15 and 22 of P.L.2001, c.210
34 (C.17:22A-40 and 17:22A-47), the commissioner may notify the
35 producer that its authority to sell, solicit or negotiate insurance, or
36 be affiliated in any manner with the sale, solicitation or negotiation
37 of insurance in this State shall be temporarily suspended.

38 b. In addition to any temporary suspension imposed pursuant to
39 subsection a. of this section, and in addition to any other penalties
40 that may be imposed under subsection c. of section 20 of P.L. 2001,
41 c. 210 (C.17:22A-45) the commissioner, after notice and an
42 opportunity for a hearing, may impose a fine against an insurance
43 producer in the amount of up to \$10,000 for a first violation, up to
44 \$25,000 for a second violation and up to \$100,000 for a third or
45 subsequent violation for failure to provide full, accurate and truthful
46 information to the commissioner in accordance with sections 15 and
47 22 of P.L.2001, c.210 (C. 17:22A-40 and 17:22A-47).

1 c. The commissioner shall continue the temporary suspension
2 imposed pursuant to subsection a. of this section until the
3 commissioner is satisfied that the producer has provided
4 information in accordance with sections 15 and 22 of P.L.2001,
5 c.210 (C.17:22A-40 and 17:22A-47) and in the case of any
6 administrative or disciplinary action, has satisfied all the conditions,
7 judgments or orders related to that action which are required to
8 reinstate the producer's good standing with the agency or authority
9 imposing that action, and has paid all fines imposed pursuant to this
10 section.

11

12 4. This act shall take effect immediately.

13

14

15

STATEMENT

16

17 This bill strengthens the authority of the Commissioner of
18 Banking and Insurance to be informed of, and take any necessary
19 administrative enforcement action with respect to, any sanctions
20 imposed on licensed insurance producers by a non-governmental
21 regulatory authority. Specifically, the bill requires producers
22 licensed in this State to report to the commissioner any disciplinary
23 action taken against the insurance producer, or the initiation of
24 formal disciplinary proceedings against the producer by the
25 Financial Industry Regulatory Authority (FINRA), any successor
26 organization, or any other non-governmental regulatory authority,
27 within 30 days of the final disposition of the matter. The report
28 shall include a copy of the order, consent order or other relevant
29 legal documents.

30 If the producer fails to report any such action, or any other
31 administrative action, criminal prosecution or any disciplinary
32 action taken against the producer, the commissioner may suspend
33 the producer's authority to sell, solicit or negotiate insurance, or be
34 affiliated in any manner with the sale, solicitation or negotiation of
35 insurance in this State. In addition, the commissioner, after notice
36 and an opportunity for a hearing, may impose a fine against an
37 insurance producer in the amount of up to \$10,000 for a first
38 violation, up to \$25,000 for a second violation and up to \$100,000
39 for a third or subsequent violation for failure to provide full,
40 accurate and truthful information to the commissioner.

41 The temporary suspension shall continue until the commissioner
42 is satisfied that the producer has provided the necessary
43 information, and in the case of any administrative or disciplinary
44 action, has satisfied all the conditions, judgments or orders related
45 to that action which are required to reinstate the producer's good
46 standing with the agency or authority imposing that action and has
47 paid all fines imposed pursuant to the bill.

1 Currently, insurance producers are required by law to report any
2 administrative action taken against the insurance producer in
3 another jurisdiction or by another governmental agency in this State
4 within 30 days of the final disposition of the matter. The report
5 must include a copy of the order, consent order or other relevant
6 legal documents. A producer is also required to report any criminal
7 prosecution of the producer taken in any jurisdiction within 30 days
8 of the initial pretrial hearing date. However, while State regulators
9 expect that such actions will be reported, the reporting of
10 administrative actions by non-governmental regulators, such as
11 FINRA, is not required. This bill extends that responsibility to
12 disciplinary actions taken by non-governmental regulatory bodies to
13 which the individual producer may belong, or otherwise be subject,
14 and gives the commissioner additional remedies in the event of
15 noncompliance.

ASSEMBLY FINANCIAL INSTITUTIONS AND INSURANCE
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1878

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 5, 2008

The Assembly Financial Institutions and Insurance Committee reports favorably and with committee amendments Assembly Bill No. 1878.

This bill, as amended, strengthens the authority of the Commissioner of Banking and Insurance to be informed of, and take any necessary administrative enforcement action with respect to, any sanctions imposed on licensed insurance producers by a non-governmental regulatory authority. Specifically, the bill requires insurance producers licensed in this State to report to the commissioner any disciplinary action taken against the producer, or the initiation of formal disciplinary proceedings against the producer by the Financial Industry Regulatory Authority (FINRA), any successor organization, or any similar non-governmental regulatory authority with statutory authority to create and enforce industry standards of conduct, within 30 days of the final disposition of the matter. The report shall include a copy of the order, consent order or other relevant legal documents.

If the producer fails to report any such action, or any other administrative action, criminal prosecution or any disciplinary action taken against the producer, the commissioner may suspend the producer's authority to sell, solicit or negotiate insurance, or be affiliated in any manner with the sale, solicitation or negotiation of insurance in this State. In addition, the commissioner, after notice and an opportunity for a hearing, may impose a fine against an insurance producer in the amount of up to \$10,000 for a first violation, up to \$25,000 for a second violation, and up to \$100,000 for a third or subsequent violation for failure to provide full, accurate and truthful information to the commissioner. The commissioner shall collect the civil penalty in a summary proceeding in the Superior Court in accordance with the "Penalty Enforcement Law of 1999," P.L.1999, c.174 (C.2A:58-10 et seq.).

The temporary suspension shall continue until the commissioner is satisfied that the producer has provided the necessary information, and

in the case of any administrative or disciplinary action, has satisfied all the conditions, judgments or orders related to that action which are required to reinstate the producer's good standing with the agency or authority imposing that action and has paid all fines imposed pursuant to the bill.

Currently, insurance producers are required by law to report any administrative action taken against the insurance producer in another jurisdiction or by another governmental agency in this State within 30 days of the final disposition of the matter. The report must include a copy of the order, consent order or other relevant legal documents. A producer is also required to report any criminal prosecution of the producer taken in any jurisdiction within 30 days of the initial pretrial hearing date. However, while State regulators expect that such actions will be reported, the reporting of administrative actions by non-governmental regulators, such as FINRA, is not required. This bill extends that responsibility to disciplinary actions taken by non-governmental regulatory bodies, with statutory authority to create and enforce industry standards of conduct, to which the individual producer may belong, or otherwise be subject, and gives the commissioner additional remedies in the event of noncompliance.

COMMITTEE AMENDMENTS

The committee amended the bill to provide that:

(1) insurance producers are required to notify the commissioner as to disciplinary actions or the initiation of formal disciplinary proceedings by the Financial Industry Regulatory Authority or similar non-governmental regulatory authorities that have statutory authority to create and enforce industry standards of conduct, within 30 days of the final disposition of the matter; and

(2) the commissioner shall collect civil penalties for violations of the bill's provisions in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.174 (C.2A:58-10 et seq.).

SENATE COMMERCE COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 1878

STATE OF NEW JERSEY

DATED: DECEMBER 14, 2009

The Senate Commerce Committee reports favorably Assembly Bill No. 1878 (1R).

This bill strengthens the authority of the Commissioner of Banking and Insurance to be informed of, and take any necessary administrative enforcement action with respect to, any sanctions imposed on licensed insurance producers by a non-governmental regulatory authority. Specifically, the bill requires insurance producers licensed in this State to report to the commissioner any disciplinary action taken against the producer, or the initiation of formal disciplinary proceedings against the producer, by the Financial Industry Regulatory Authority (FINRA), any successor organization, or any similar non-governmental regulatory authority with statutory authority to create and enforce industry standards of conduct, within 30 days of the final disposition of the matter. The report shall include a copy of the order, consent order or other relevant legal documents.

If the producer fails to report any such action, or any other administrative action, criminal prosecution or any disciplinary action taken against the producer, the commissioner may suspend the producer's authority to sell, solicit or negotiate insurance, or be affiliated in any manner with the sale, solicitation or negotiation of insurance in this State. In addition, the commissioner, after notice and an opportunity for a hearing, may impose a fine against an insurance producer in the amount of up to \$10,000 for a first violation, up to \$25,000 for a second violation, and up to \$100,000 for a third or subsequent violation for failure to provide full, accurate and truthful information to the commissioner. The commissioner shall collect the civil penalty in a summary proceeding in the Superior Court in accordance with the "Penalty Enforcement Law of 1999," P.L.1999, c.174 (C.2A:58-10 et seq.).

The temporary suspension shall continue until the commissioner is satisfied that the producer has provided the necessary information, and in the case of any administrative or disciplinary action, has satisfied all the conditions, judgments or orders related to that action which are required to reinstate the producer's good standing with the agency or

authority imposing that action and has paid all fines imposed pursuant to the bill.

Currently, insurance producers are required by law to report any administrative action taken against the insurance producer in another jurisdiction or by another governmental agency in this State within 30 days of the final disposition of the matter. The report shall include a copy of the order, consent order or other relevant legal documents. A producer is also required to report any criminal prosecution of the producer taken in any jurisdiction within 30 days of the initial pretrial hearing date. However, while State regulators expect that such actions will be reported, the reporting of administrative actions by non-governmental regulators, such as FINRA, is not required. This bill extends that responsibility to disciplinary actions taken by non-governmental regulatory bodies, with statutory authority to create and enforce industry standards of conduct, to which the individual producer may belong, or otherwise be subject, and gives the commissioner additional remedies in the event of noncompliance.

This bill is identical to Senate Bill No. 2431, which is also reported by the committee today.

SENATE, No. 2431

STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED DECEMBER 11, 2008

Sponsored by:

Senator CHRISTOPHER "KIP" BATEMAN

District 16 (Morris and Somerset)

SYNOPSIS

Requires insurance producers to notify Commissioner of Banking and Insurance of any disciplinary action taken by non-governmental regulatory authority.

CURRENT VERSION OF TEXT

As introduced.



S2431 BATEMAN

2

1 AN ACT concerning insurance producers and amending and
2 supplementing P.L.2001, c.210.

3

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

6

7 1. Section 15 of P.L.2001, c.210 (C. 17:22A-40) is amended to
8 read as follows:

9 15. a. The commissioner may place on probation, suspend,
10 revoke or refuse to issue or renew an insurance producer's license or
11 may levy a civil penalty in accordance with subsection c. of section
12 20 of this act or any combination of actions, for any one or more of
13 the following causes:

14 (1) Providing incorrect, misleading, incomplete or materially
15 untrue information in the license application;

16 (2) Violating any insurance laws, or violating any regulation,
17 subpoena or order of the commissioner or of another state's
18 insurance regulator;

19 (3) Obtaining or attempting to obtain a license through
20 misrepresentation or fraud;

21 (4) Improperly withholding, misappropriating or converting any
22 monies or properties received in the course of doing insurance
23 business;

24 (5) Intentionally misrepresenting the terms of an actual or
25 proposed insurance contract, policy or application for insurance;

26 (6) Having been convicted of a felony or crime of the fourth
27 degree or higher;

28 (7) Having admitted or been found to have committed any
29 insurance unfair trade practice or fraud;

30 (8) Using fraudulent, coercive or dishonest practices, or
31 demonstrating incompetence, untrustworthiness or financial
32 irresponsibility in the conduct of insurance business in this State or
33 elsewhere;

34 (9) Having an insurance producer license, or its equivalent,
35 denied, suspended or revoked in any other state, province, district
36 or territory;

37 (10) Forging another's name to an application for insurance or to
38 any document related to an insurance transaction;

39 (11) Improperly using notes or any other reference material to
40 complete an examination for an insurance producer license;

41 (12) Knowingly accepting insurance business from an unlicensed
42 insurance producer;

43 (13) Failing to comply with an administrative or court order
44 imposing a child support obligation;

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.

S2431 BATEMAN

1 (14)Failing to pay income tax or comply with any administrative
2 or court order directing payment of income tax pursuant to Title
3 54A of the New Jersey Statutes;

4 (15)Intentionally withholding material information or making a
5 material misstatement in an application for a license;

6 (16)Committing any fraudulent act;

7 (17)Knowingly facilitating or assisting another person in
8 violating any insurance laws; **[or]**

9 (18)Failing to notify the commissioner within 30 days of his
10 conviction of any crime, indictment or the filing of any formal
11 criminal charges, or the suspension or revocation of any insurance
12 license or authority by a state, other than this State, or the initiation
13 of formal disciplinary proceedings in a state, other than this State,
14 affecting the producer's insurance license; or failing to obtain the
15 written consent pursuant to **[18U.S.C.]** sections 1033 and 1034 of
16 Title 18, United States Code (18U.S.C. ss.1033 and 1034); or
17 failing to supply any documentation that the commissioner may
18 request in connection therewith ; or

19 (19)Failing to notify the commissioner within 30 days of the
20 final disposition of any formal disciplinary proceedings initiated
21 against the insurance producer, or disciplinary action taken against
22 the producer, by the Financial Industry Regulatory Authority
23 (FINRA), any successor organization, or other similar non-
24 governmental regulatory authority with statutory authority to create
25 and enforce industry standards of conduct, or of any other
26 administrative actions or criminal prosecutions, as required by
27 sections 15 and 22 of P.L.2001, c. 210 (C.17:22A-40 and 17:22A-
28 47), or failing to supply any documentation the commissioner may
29 request in connection therewith.

30 b. If the action by the commissioner is to nonrenew or to deny
31 an application for an insurance producer license, the commissioner
32 shall notify the applicant or licensee and advise, in writing, the
33 applicant or licensee of the reason for the denial or nonrenewal of
34 the license. The applicant or licensee may make written demand
35 upon the commissioner for a hearing before the commissioner, or
36 his designee, to determine the reasonableness of the commissioner's
37 action. The hearing shall be held pursuant to the "Administrative
38 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

39 c. The insurance producer license of a business entity may be
40 suspended, revoked or refused if the commissioner finds, after
41 hearing, that an individual licensee's violation was known or should
42 have been known by one or more of the partners, officers or
43 managers acting on behalf of the business entity and the violation
44 was neither reported to the commissioner nor corrective action
45 taken.

46 d. The commissioner shall retain the authority to enforce the
47 provisions of and impose any penalty or remedy authorized by this
48 act and Title 17 of the Revised Statutes or Title 17B of the New

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1 Jersey Statutes against any person who is under investigation for or
2 charged with a violation of this act or Title 17 of the Revised
3 Statutes or Title 17B of the New Jersey Statutes even if the person's
4 license or registration has been surrendered or has lapsed by
5 operation of law.

6 (cf: P.L.2001, c.210, s.15)

7

8 2. Section 22 of P.L.2001, c.210 (C.17:22A-47) is amended to
9 read as follows:

10 22. a. An insurance producer shall report to the commissioner
11 any administrative action taken against the insurance producer in
12 another jurisdiction or by another governmental agency in this State
13 within 30 days of the final disposition of the matter. This report
14 shall include a copy of the order, consent order or other relevant
15 legal documents.

16 b. Within 30 days of the initial pretrial hearing date, an
17 insurance producer shall report to the commissioner any criminal
18 prosecution of the producer taken in any jurisdiction. The report
19 shall include a copy of the initial complaint filed, the order resulting
20 from the hearing and any other relevant legal documents.

21 c. An insurance producer shall report to the commissioner any
22 disciplinary action taken against the insurance producer, or any
23 formal disciplinary proceedings initiated against the producer, by
24 the Financial Industry Regulatory Authority (FINRA), any
25 successor organization, or other similar non-governmental
26 regulatory authority with statutory authority to create and enforce
27 industry standards of conduct, within 30 days of the final
28 disposition of the matter. The report shall include a copy of the
29 order, consent order or other relevant legal documents.

30 (cf: P.L.2001, c.210, s.22)

31

32 3. (New section) a. Upon receipt of information that a
33 producer has failed to report to the commissioner any administrative
34 action, criminal prosecution or any disciplinary action taken against
35 the producer, as required by sections 15 and 22 of P.L.2001, c.210
36 (C.17:22A-40 and 17:22A-47), the commissioner may notify the
37 producer that its authority to sell, solicit or negotiate insurance, or
38 be affiliated in any manner with the sale, solicitation or negotiation
39 of insurance in this State shall be temporarily suspended.

40 b. In addition to any temporary suspension imposed pursuant to
41 subsection a. of this section, and in addition to any other penalties
42 that may be imposed under subsection c. of section 20 of P.L.2001,
43 c.210 (C.17:22A-45) the commissioner, after notice and an
44 opportunity for a hearing, may impose a penalty against an
45 insurance producer in the amount of up to \$10,000 for a first
46 violation, up to \$25,000 for a second violation and up to \$100,000
47 for a third or subsequent violation for failure to provide full,
48 accurate and truthful information to the commissioner in accordance

1 with sections 15 and 22 of P.L.2001, c.210 (C.17:22A-40 and
2 17:22A-47). A civil penalty imposed pursuant to this section shall
3 be collected by the Commissioner of Banking and Insurance in a
4 summary proceeding in the Superior Court in accordance with the
5 “Penalty Enforcement Law of 1999,” P.L.1999, c.274 (C.2A:58-10
6 et seq.).

7 c. The commissioner shall continue the temporary suspension
8 imposed pursuant to subsection a. of this section until the
9 commissioner is satisfied that the producer has provided
10 information in accordance with sections 15 and 22 of P.L.2001,
11 c.210 (C.17:22A-40 and 17:22A-47) and in the case of any
12 administrative or disciplinary action, has satisfied all the conditions,
13 judgments or orders related to that action which are required to
14 reinstate the producer’s good standing with the agency or authority
15 imposing that action, and has paid all fines imposed pursuant to this
16 section.

17

18 4. This act shall take effect immediately.

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20

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STATEMENT

22

23 This bill strengthens the authority of the Commissioner of
24 Banking and Insurance to be informed of, and take any necessary
25 administrative enforcement action with respect to, any sanctions
26 imposed on licensed insurance producers by a non-governmental
27 regulatory authority. Specifically, the bill requires insurance
28 producers licensed in this State to report to the commissioner any
29 disciplinary action taken against the producer, or the initiation of
30 formal disciplinary proceedings against the producer by the
31 Financial Industry Regulatory Authority (FINRA), any successor
32 organization, or any similar non-governmental regulatory authority
33 with statutory authority to create and enforce industry standards of
34 conduct, within 30 days of the final disposition of the matter. The
35 report shall include a copy of the order, consent order or other
36 relevant legal documents.

37 If the producer fails to report any such action, or any other
38 administrative action, criminal prosecution or any disciplinary
39 action taken against the producer, the commissioner may suspend
40 the producer’s authority to sell, solicit or negotiate insurance, or be
41 affiliated in any manner with the sale, solicitation or negotiation of
42 insurance in this State. In addition, the commissioner, after notice
43 and an opportunity for a hearing, may impose a fine against an
44 insurance producer in the amount of up to \$10,000 for a first
45 violation, up to \$25,000 for a second violation, and up to \$100,000
46 for a third or subsequent violation for failure to provide full,
47 accurate and truthful information to the commissioner. The
48 commissioner shall collect the civil penalty in a summary

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1 proceeding in the Superior Court in accordance with the “Penalty
2 Enforcement Law of 1999,” P.L.1999, c.174 (C.2A:58-10 et seq.).

3 The temporary suspension shall continue until the commissioner
4 is satisfied that the producer has provided the necessary
5 information, and in the case of any administrative or disciplinary
6 action, has satisfied all the conditions, judgments or orders related
7 to that action which are required to reinstate the producer’s good
8 standing with the agency or authority imposing that action and has
9 paid all fines imposed pursuant to the bill.

10 Currently, insurance producers are required by law to report any
11 administrative action taken against the insurance producer in
12 another jurisdiction or by another governmental agency in this State
13 within 30 days of the final disposition of the matter. The report
14 must include a copy of the order, consent order or other relevant
15 legal documents. A producer is also required to report any criminal
16 prosecution of the producer taken in any jurisdiction within 30 days
17 of the initial pretrial hearing date. However, while State regulators
18 expect that such actions will be reported, the reporting of
19 administrative actions by non-governmental regulators, such as
20 FINRA, is not required. This bill extends that responsibility to
21 disciplinary actions taken by non-governmental regulatory bodies,
22 with statutory authority to create and enforce industry standards of
23 conduct, to which the individual producer may belong, or otherwise
24 be subject, and gives the commissioner additional remedies in the
25 event of noncompliance.

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 2431

STATE OF NEW JERSEY

DATED: DECEMBER 14, 2009

The Senate Commerce Committee reports favorably Senate Bill No. 2431.

This bill strengthens the authority of the Commissioner of Banking and Insurance to be informed of, and take any necessary administrative enforcement action with respect to, any sanctions imposed on licensed insurance producers by a non-governmental regulatory authority. Specifically, the bill requires insurance producers licensed in this State to report to the commissioner any disciplinary action taken against the producer, or the initiation of formal disciplinary proceedings against the producer, by the Financial Industry Regulatory Authority (FINRA), any successor organization, or any similar non-governmental regulatory authority with statutory authority to create and enforce industry standards of conduct, within 30 days of the final disposition of the matter. The report shall include a copy of the order, consent order or other relevant legal documents.

If the producer fails to report any such action, or any other administrative action, criminal prosecution or any disciplinary action taken against the producer, the commissioner may suspend the producer's authority to sell, solicit or negotiate insurance, or be affiliated in any manner with the sale, solicitation or negotiation of insurance in this State. In addition, the commissioner, after notice and an opportunity for a hearing, may impose a fine against an insurance producer in the amount of up to \$10,000 for a first violation, up to \$25,000 for a second violation, and up to \$100,000 for a third or subsequent violation for failure to provide full, accurate and truthful information to the commissioner. The commissioner shall collect the civil penalty in a summary proceeding in the Superior Court in accordance with the "Penalty Enforcement Law of 1999," P.L.1999, c.174 (C.2A:58-10 et seq.).

The temporary suspension shall continue until the commissioner is satisfied that the producer has provided the necessary information, and in the case of any administrative or disciplinary action, has satisfied all the conditions, judgments or orders related to that action which are required to reinstate the producer's good standing with the agency or authority imposing that action and has paid all fines imposed pursuant to the bill.

Currently, insurance producers are required by law to report any administrative action taken against the insurance producer in another jurisdiction or by another governmental agency in this State within 30 days of the final disposition of the matter. The report shall include a copy of the order, consent order or other relevant legal documents. A producer is also required to report any criminal prosecution of the producer taken in any jurisdiction within 30 days of the initial pretrial hearing date. However, while State regulators expect that such actions will be reported, the reporting of administrative actions by non-governmental regulators, such as FINRA, is not required. This bill extends that responsibility to disciplinary actions taken by non-governmental regulatory bodies, with statutory authority to create and enforce industry standards of conduct, to which the individual producer may belong, or otherwise be subject, and gives the commissioner additional remedies in the event of noncompliance.

This bill is identical to Assembly Bill No. 1878 (1R), which is also reported by the committee today.