

17:46B-1062

LEGISLATIVE FACT SHEET

on "The Title Insurance Act"

N.J.R.S. 17:46B-1 to 62

(Amendment)

LAWS OF 1975

CHAPTER 106 May 29, 1975

SENATE BILL

ASSEMBLY BILL 1661

INTRODUCED May 2, 1974

BY Newman et al.

SPONSOR'S STATEMENT

YES NO

ASSEMBLY COMMITTEE STATEMENT

YES NO

SENATE COMMITTEE STATEMENT

YES NO

FISCAL NOTE

YES NO

AMENDED DURING PASSAGE

YES ^{both} _{houses} NO

HEARING / REPORTS 974.90

N.J. Real Estate Title Insurance Study Commission.

VETO

R288

1974

Report to the Legislature (pursuant to ACR 77 of 1972). [Introduction contains background

Background:

974.90
R288
1973a

N.J. Real Estate Title Insurance Study Commission.
Public Hearing, held May 10, 1973.

GOVERNOR'S STATEMENT ON SIGNING (ENCL.)

STATEMENT to A 1661 (1974-75)

This bill would supplement Title 17 of the Revised Statutes by adding to the insurance laws of this State—for the first time—a comprehensive body of law which makes the State Department of Insurance responsible for regulating the title insurance industry in New Jersey. The proposed "Title Insurance Act of 1974" provides for—among other things: the licensing, qualification, regulation, examination, suspension and dissolution of title insur-

continued

JA/PC
11/7/75

5021-824:71

ance companies; the examination and regulation of rates and rating organizations for title insurance; the regulation of agents and applicants for title insurance; a prohibition on the payment of commissions for procuring title insurance; prescribing the terms and conditions upon which foreign title insurance companies may be admitted or may continue to do title insurance business within the State; a prohibition against the practice of law; a prohibition against personal and controlled insurance—as defined in this bill; and the imposition of penalties for violating the aforesaid provisions.

Among the major provisions of this bill—recommended by the New Jersey Legislative Real Estate Title Insurance Study Commission—are: a prohibition on the payment of commissions to attorneys at law or licensed real estate brokers for procuring title insurance for a client with a particular title company. The title insurance industry is now one of the last insurance industries to pay cash commissions for the procurement of insurance with a particular title company; a prohibition against the practice of law as contained in section 13 of this bill. Section 13 is patterned after “Formal Opinion Number 11 of the Unauthorized Practice of Law Committee,” appointed by the New Jersey Supreme Court. This opinion states—among other things—that a title or abstract company is guilty of the unlawful practice of law when it conducts real estate settlements on its premises without the presence of an attorney for any of the parties of this transaction; to prohibit attorneys or brokers from avoiding or circumventing the prohibition of the payment of a commission, consideration or thing of value in any form, for procuring title insurance, and from being placed within conflict of interest situations—both of which can arise where an attorney or broker acts as an agent with respect to his own customers or clients, section 39 of this bill prohibits personal or controlled insurance—as defined in this bill; the establishment of a “prior approval” rating system for the title insurance industry, by the State Department of Insurance, for determining title insurance rates. Other provisions of this bill are set forth in the recommendations found in the Real Estate Title Insurance Study Commission’s Report.

ASSEMBLY, No. 1661

STATE OF NEW JERSEY

INTRODUCED MAY 2, 1974

By Assemblymen NEWMAN, HAMILTON, DOYLE, McMANIMON,
VAN WAGNER, FROUDE, LeFANTE, KLEIN, BAER, Assem-
blywoman WILSON, Assemblymen DEVERIN, GEWERTZ,
BURSTEIN, BARBOUR, FITZPATRICK and MacINNES

Referred to Committee on Banking and Insurance

AN Act providing for the licensing, qualification, regulation, ex-
amination, suspension and dissolution of title insurance com-
panies, the examination and regulation of rates and rating
organizations for title insurance, the regulation of agents and
applicants for title insurance, prohibiting the payment of com-
missions for procuring title insurance, prescribing the terms
and conditions upon which foreign title insurance companies
may be admitted or may continue to do title insurance business
within the State, a prohibition against the practice of law, a
prohibition on personal or controlled insurance imposing pen-
alties, repealing inconsistent laws ***[and]*** *,* supplementing
Title 17 of the Revised Statutes *and making an appropriation
therefor*.

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

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EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
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A. PRELIMINARY PROVISIONS

1 1. Certain words defined. As used in this act:

2 a. "Title insurance" means insuring, guaranteeing or indemnify-
3 ing owners of real property or others interested therein against
4 loss or damage suffered by reason of liens, encumbrances upon,
5 defects in or the unmarketability of the title to said property,
6 guaranteeing, warranting, or otherwise insuring by a title insur-
7 ance company the correctness of searches relating to the title to
8 real property, or doing any business in substance equivalent to
9 any of the foregoing in a manner designed to evade the provisions
10 of this act.

11 b. The "business of title insurance" shall be deemed to be (1)
12 the making as insurer, guarantor or surety, or proposing to make
13 as insurer, guarantor or surety, of any contract or policy of title
14 insurance; (2) the transacting or proposing to transact, any phase
15 of the title insurance, including abstracting, examination of title,
16 solicitation, negotiation preliminary to execution of a contract of
17 title insurance, and execution of a contract of title insurance,
18 insuring and transacting matters subsequent to the execution of
19 the contract and arising out of it, including reinsurance; or (3) the
20 doing, or proposing to do, any business in substance equivalent to
21 any of the foregoing in a manner designed to evade the provisions
22 of this act.

23 c. "Title insurance company" means any domestic company
24 organized under the provisions of this act for the purpose of
25 insuring titles to real estate, any title insurance company organized
26 under the laws of another state or foreign government and licensed
27 to insure titles to real estate within this State pursuant to section
28 25 of this act, and any domestic or foreign company having the
29 power and authorized to insure title to real estate within this State
30 as of the effective date of this act and which meets the requirements
31 of this act.

32 d. "Applicants for insurance" shall be deemed to include all
33 those, whether or not a prospective insured, who from time to
34 time apply to a title insurance company, or to its agent, for title
35 insurance, and who at the time of such application are not agents
36 for a title insurance company.

37 e. "Premium" for title insurance means that portion of the fee
38 charged by a title insurance company, agent of a title insurance
39 company or approved attorney of a title insurance company, or
40 any of them, to an insured or to an applicant for insurance, for
41 the assumption by the title insurance company of the risk created
42 by the issuance of the title insurance policy.

43 f. "Fee" for title insurance means and includes the premium for
44 the assumption of the insurance risk, charges for abstracting or
45 searching, examination, determining insurability, and every other
46 charge, whether denominated premium or otherwise, made by any
47 of them, but the term "fee" shall not include any charges paid
48 to and retained by an attorney at law whether or not he is acting
49 as an agent of a title insurance company or an approved attorney.

50 g. "Commissioner" means the Commissioner of Insurance of the
51 State of New Jersey.

52 h. "Approved attorney" means an attorney at law **admitted to*
53 *practice in the State of New Jersey**, who is not an employee of a
54 title insurance company or of a title insurance agent, upon whose
55 examination of title and report thereon a title insurance company
55A may issue a policy of title insurance.

56 i. "Title insurance agent" means a person, firm, **partnership,**
57 association, corporation, cooperative or joint-stock company
58 authorized in writing by a title insurance company to solicit in-
59 surance risks and collect fees in its behalf and who in the regular
60 course of business as such agent **shall perform all of the following*
61 *functions:** ***[examines]*** **examine** title to real estate, ***[deter-**
62 **mines]*** **determine** insurability in accordance with underwriting
63 rules and standards prescribed by such title insurance company,
64 and ***[issues]*** **issue** a title report, binder, or commitment to
65 insure, and policy based upon the examination performed by such
66 agent and determination of insurability as aforesaid. Provided,
67 however, the term "title insurance agent" shall not include officers
68 and salaried employees of any title insurance company authorized
68A to do a title insurance business within this State.

69 j. "Single insurance risk" means the insured amount of any
70 policy or contract of title insurance issued by a title insurance com-
71 pany unless two or more policies or contracts are simultaneously
72 issued on different estates in identical real property, in which event,
73 it means the sum of the insured amounts of all such policies or
74 contracts. However, any such policy or contract that insures a
75 mortgage interest that is excepted in a fee or leasehold policy or
76 contract, and which does not exceed the insured amount of such
77 fee or leasehold policy or contract, shall be excluded in computing
78 the amount of a single insurance risk.

79 k. "Net retained liability" means the total liability retained by
80 a title insurance company under any policy or contract of insurance,
81 or under a single insurance risk as defined in or computed in

82 accordance with paragraph j. of this section, after the purchase of
83 reinsurance.

84 l. "Foreign title insurance company" means a title insurance
85 company organized under the laws of any other state of the United
86 States.

87 m. "Alien title insurance company" means any title insurance
88 company incorporated or organized under the laws of any foreign
89 nation or of any province or territory thereof, not included under
90 the definition of "foreign title insurance company."

91 n. "Personal or controlled insurance" means a policy of title
92 insurance where the source or origination of the application for
93 insurance or where the insured or one of the insureds under such
94 policy is, or the loss thereunder is payable to:

95 (1) The title insurance company issuing such policy, or (a) any
96 person or corporation directly or indirectly owning or controlling
97 a majority of the voting stock or controlling interest in such title
98 insurance company, or (b) any corporation which is directly or
99 indirectly controlled by a person or corporation which also controls
100 the title insurance company as described in paragraph (1) (a) of
101 this subsection, or (c) any corporation making consolidated returns
102 for United States income tax purposes with such title insurance
103 company or any corporation described in paragraphs (1) (a) and
104 (1) (b) of this subsection; or

105 (2) The title insurance agent issuing such policy, or

106 (a) If such title insurance agent is a natural person:

107 (i) his spouse, his employer or his employer's spouse; or

108 (ii) any person related to him or the persons mentioned
109 in subparagraph (i) of paragraph (2) (a) of this subsection
110 within the second degree by blood or marriage; or

111 (iii) if his employer is a corporation, any person directly
112 or indirectly owning or controlling a majority of the voting
113 stock or controlling interest in such corporation; or

114 (iv) if his employer is a partnership or association, any
115 person owning an interest in such partnership or association.

116 (b) If such title insurance agent is a corporation,

117 (i) any person directly or indirectly owning or controlling
118 a majority of the voting stock or controlling interest in such
119 corporation; or

120 (ii) any corporation which is directly or indirectly con-
121 trolled by a person who also controls the title insurance
122 agent as described in subparagraph (i) of paragraph (2) (b)
123 of this subsection; or

124 (iii) any corporation making consolidated returns for
 125 United States income tax purposes with any corporation
 126 described in subparagraph (i) or (ii) of paragraph (2) (b)
 127 of this subsection.

128 o. "Source" as used in this act means and includes clients and
 129 customers of attorneys at law and real estate brokers, where such
 130 attorney or broker acts as a title insurance agent in an individual,
 131 partnership or corporate capacity.

132 *p. "Person" as used in this act means a firm, partnership,
 133 association, corporation, cooperative or joint-stock company as well
 134 as individuals, unless restricted by the context to an individual as
 135 distinguished from some other entity.*

1 2. Short title. This act shall be known and may be cited as
 2 "The Title Insurance Act of 1974."

1 3. Application of act. The provisions of this act shall apply
 2 to all title insurance companies, title insurance rating organiza-
 3 tions, title insurance agents, applicants for title insurance, policy-
 4 holders and to all persons and business entities engaged in the
 5 business of title insurance.

1 4. Severability. The provisions of this act shall be severable,
 2 and, if any of its provisions shall be held to be unconstitutional,
 3 the decision of the court shall not affect the validity of the remain-
 4 ing provisions of this act.

1 5. Compliance with act required. On and after the effective
 2 date of this act, only a title insurance company shall underwrite or
 3 issue a policy of title insurance. No person, firm, *partnership,*
 4 association, corporation, cooperative, joint-stock company or trust
 5 shall engage in the business of title insurance in this State unless
 6 authorized to transact such a business by the provisions of this act.

B. TITLE INSURANCE COMPANY

1 6. Corporate form required. A title insurance company shall
 2 be organized as a stock corporation as provided in R. S. 17:17-2
 3 except as hereinafter specified in this act.

1 7. Financial requirement:

2 a. Every title insurance company shall have a minimum capital,
 3 which shall be paid in and maintained, of not less than
 4 *~~[\$250,000.00]~~* *\$500,000.00* and, in addition, paid-in surplus of
 4A at least *~~[\$125,000.00]~~* *\$250,000.00*.

5 b. Every title insurance company shall, prior to the issuance of
 6 any policy of title insurance in this State, have on deposit with the
 7 Commissioner of Insurance of the state of its domicile or in segre-
 8 gated funds if permitted by the company's state of domicile the sum

9 of \$100,000.00 as a ***[guarantee]*** fund for the security and protec-
10 tion of its policyholders wherever situated, or beneficiaries under
11 such policies. The amount of such deposit shall be increased by the
12 sum of \$50,000.00 for each state or territorial subdivision of the
13 United States, other than the state of its domicile, in which it shall
14 be or become qualified to engage in the business of title insurance,
15 less the amount required by and deposited in such other states
16 or territorial subdivisions. When the aggregate of amounts so
17 deposited in this or such other states or territorial subdivisions
18 has reached the sum of \$250,000.00 no further deposit shall be
19 required of such title insurance company as a condition of its quali-
20 fication to engage in the business of title insurance in this State.

21 In the event any company is unable to make the deposits herein
22 required in the state of its domicile by reason of a lack of statutory
23 authority for such deposits, then such deposits may be made with
24 the commissioner of this State.

25 c. The deposit required to be made by subsection b. of this
26 section may be made in lawful money of the United States or in the
27 classes of investments authorized by section 21 of this act for the
28 investment of the capital of title insurance companies.

29 d. Assets deposited pursuant to subsection b. of this section
30 may, with the approval of the commissioner, be exchanged from
31 time to time for other assets of like value.

32 e. As long as the capital of the depositing title insurance com-
33 pany remains unimpaired, it shall receive the income, interest and
34 dividends on any assets deposited.

35 f. Any title insurance company which has deposited assets
36 pursuant to subsection b. of this section may, with the approval
37 of the commissioner, withdraw any part of the assets so deposited;
38 provided, however, that should said title insurance company con-
39 tinue to engage in the business of title insurance, it shall not be
40 permitted to withdraw assets that would reduce the amount of its
41 deposit below the amount required by subsection b. of this section.

42 g. Deposits made pursuant to subsection b. of this section shall
43 be used solely for the security and protection of the insureds under
44 the policies and contracts of insurance issued or reinsurance
45 assumed by such title insurance company. In the event of insol-
46 vency or dissolution of such title insurance company, such deposits
47 shall continue to be retained by the commissioner until such time as
48 all outstanding liabilities created by such policies, contracts, or
49 reinsurance agreements have been discharged by reinsurance or

50 otherwise. Such deposits, or so much thereof as shall be necessary,
51 may be used by or with the written approval of the commissioner
52 in the payment of claims arising under such policies, contracts or
53 reinsurance agreements or to purchase reinsurance thereof. Any
54 amounts then remaining with the commissioner shall be applied
55 first to the payment of other obligations of such title insurance
56 company, and second shall be distributed to the stockholders of
57 such title insurance company. The actions of the commissioner shall
58 be subject to judicial review as provided in section 58 of this act.

59 h. If, with respect to any title insurance company as defined in
60 subsection c. of section 1 of this act, this section 7 requires a
61 greater amount of capital or surplus or deposit than required of
62 such title insurance company immediately prior to the effective
63 date of this act, such title insurance company shall have the period
64 ending July 1, 5 years after the effective date of this act within
65 which to comply with any such increase requirement.

1 8. Procedure when capital impaired:

2 a. If, for any reason, the capital of a domestic title insurance
3 company becomes impaired and such impairment shall not be
4 eliminated within 30 days from its inception, the company shall
5 forthwith give written notice thereof to the commissioner. The
6 commissioner, upon receipt of such notice or upon otherwise dis-
7 covering an impairment of capital, shall determine the amount of
8 such impairment and issue a written requisition to the company
9 to eliminate the impairment within such period as he shall designate
10 not more than 60 days from the service of the requisition. He
11 may also by official order prohibit the company from issuing any
12 policies or contracts of title insurance while such impairment exists.

13 b. Such title insurance company, with the consent and approval
14 of the commissioner, may authorize new or additional shares of
15 stock, and issue certificates therefor, and dispose of the same at
16 not less than their par value for an amount sufficient, at least, to
17 make up the capital impairment, or the commissioner may, in his
18 discretion permit such company to reduce its capital and the par
19 value of its shares, but the capital shall at no time be reduced to
20 an amount less than that required by law for the organization of
21 any such company, after making due allowance for the number
22 of states or territorial subdivisions of the United States in which
23 said company shall retain its qualification to engage in the business
24 of title insurance. In fixing such reduced capital, not less than
25 *~~[\$125,000.00]~~* *\$250,000.00* nor more than 33 $\frac{1}{3}$ % of the net
26 assets existing at the time of such capital reduction shall be

27 designated as surplus; nor shall any part of such assets be dis-
28 tributed to stockholders. When the amount of capital prescribed by
29 the commissioner has been established, such title insurance com-
30 pany shall so notify the commissioner, who, upon being satisfied
31 that the impairment no longer exists and is not likely to recur, shall
32 give written approval authorizing such title insurance company to
33 resume issuance of policies or contracts of title insurance, in the
34 state of its domicile, and reinsurance agreements with respect
34A thereto.

35 c. If the capital of any title insurance company other than a
36 domestic company authorized to do business in this State is found
37 so impaired, the commissioner, may after notice and hearing,
38 revoke its license to transact business in this State.

1 9. Determination of insurability required. No policy or contract
2 of title insurance shall be written unless and until the title in-
3 surance company has caused to be conducted a reasonable examina-
4 tion of the title and has caused to be made a determination of
5 insurability of title in accordance with sound underwriting practices
6 for title insurance companies. Evidence thereof shall be preserved
7 and retained in the files of the title insurance company or its
8 agent for a period of not less than 15 years after the policy or
9 contract of title insurance has been issued. In lieu of retaining
10 the original copy, the title insurance company or the agent of the
11 title insurance company may, in the regular course of business,
12 establish a system whereby all or part of these writings are re-
13 corded, copied or reproduced by any photographic, photostatic,
14 microfilm, microcard, miniature photographic, or other process
15 which accurately reproduces or forms a durable medium for re-
16 producing the original. **On every application for a commitment for*
17 *title insurance the name and address of the applicant and the pro-*
18 *posed insured shall be set forth in full. Except where the applicant*
19 *is an attorney at law of the State of New Jersey representing the*
20 *proposed insured, or where the proposed insured is the United*
21 *States of America or the State of New Jersey, or any political sub-*
22 *division thereof, or other governmental authority, the title company*
23 *shall mail a notice, either separate from or as part of the commit-*
24 *ment to insure, to the address of the insured, notifying the insured*
25 *that there may be conditions, exceptions, and limitations of the in-*
26 *surance liability of the title company, contained in the commitment*
27 *to insure, and that the proposed insured is entitled to review the*
28 *commitment to insure, before transfer of title, with an attorney at*
29 *law of the insured's own choosing. Such notice shall be sent at least*

30 *5 days before the closing of title.** This section shall not apply to a
 31 company assuming no primary liability in a contract of reinsur-
 32 ance, or a company acting as a coinsurer if one of the other coinsur-
 33 ing companies has complied with this section.

1 10. Power to insure titles to real estate. Every title insurance
 2 company shall have the power to do the kinds of business defined
 3 in subsections a. and b. of section 1 of this act, and to make searches,
 4 abstracts, examine titles to real property and chattels, procure and
 5 furnish information in relation thereto, and to provide any other
 6 services related to the land title business.

1 11. Prohibition upon guaranteeing mortgages and completion.
 2 A title insurance company shall not, in any manner whatsoever,
 3 guarantee the payment of the principal or the interest of bonds
 4 or other obligations secured by mortgages upon real property; nor
 5 shall a title insurance company, in any manner whatsoever guaran-
 6 tee the completion of any building, structure or project.

1 12. Prohibition against transacting other kinds of insurance;
 2 prohibition against other kinds of insurance companies transacting
 3 title insurance. A title insurance company shall not transact,
 4 underwrite or issue any kind of insurance other than title in-
 5 surance; nor shall title insurance be transacted, underwritten or
 6 issued by any company transacting any other kinds of insurance.

1 13. Prohibition against the practice of law.

2 ****[a.]**** No title insurance company and no title insurance agent
 3 shall engage in the practice of law or render legal services, legal
 4 advice or legal opinions ****[*]**, *except through an approved*
 5 *attorney, and at no time shall the title company charge for such*
 6 *services**; prepare or participate in the preparation of instruments
 7 of conveyance or other instruments connected with or incident to
 8 the creation, conveyance, discharge, release, modification or
 9 acknowledgment of an interest in real property or any pledge
 10 thereof or lien thereon; or conduct or manage a closing, transaction,
 11 settlement or proceeding pursuant to which any interest in real
 11A property, or any pledge thereof or lien thereon, is created,
 11B conveyed, discharged, released, modified or acknowledged**]****.

12 ****[b.** Nothing herein contained shall be construed so as to pro-
 13 hibit the use of the premises occupied by a title insurance company
 14 or a title insurance agent for (1) a closing, transaction, settlement
 15 or proceeding pursuant to which an interest in real property, or
 16 any pledge thereof or lien thereon, is created, discharged, released,
 17 modified or acknowledged; (2) the preparation of a contract of
 18 title insurance or title reinsurance**;**** *, *or** (3) the use of said

19 premises as a depository for funds which are to be held, transferred
 20 or disbursed as an incident to such a closing, transaction, settlement
 21 or proceeding***]**; or (4) the preparation by the title insurance com-
 22 pany or a title insurance agent of a closing statement or settlement
 23 sheet setting forth and evidencing the receipt and disbursement
 24 of the funds which are to be held, transferred, or disbursed as an
 25 incident to such a closing, transaction, settlement or proceeding,
 26 provided such closing statement or settlement sheet is approved in
 27 writing by all the parties to such closing, transaction, settlement
 28 or proceeding***].****

29 ****[c.]**** Nothing ****[herein contained]**** ***in this act*** shall
 30 be construed ****[so as]**** to permit or authorize acts by a title
 31 insurance company or title insurance agent which may now or
 32 hereafter be ****[otherwise]**** prohibited by the Supreme Court
 33 of the State of New Jersey ****[and statutes in such case enacted**
 34 **and provided or applicable law]****.

C. RESERVES

1 14. ***[Unearned]*** **Statutory** premium reserve.

2 a. Every domestic insurance company shall, in addition to other
 3 reserves, establish and maintain a reserve to be known as the
 4 “***[unearned]*** **statutory** premium reserve” for title insurance,
 5 which shall, at all times for all purposes, be deemed and shall con-
 6 stitute the unearned portions of premiums due or received and shall
 7 be charged as a reserve liability of such title insurance company in
 8 determining its financial condition.

9 b. The ***[unearned]*** **statutory** premium reserve shall be re-
 10 tained and held by such title insurance company for the protection
 11 of the policyholders’ interest until released as prescribed in section
 12 15 f. of this act in policies which have not expired. Except as pro-
 13 vided in section 17 of this act, assets equal to the amount of such
 14 reserve shall not be subject to distribution among creditors or
 15 stockholders of such title insurance company until all claims of
 16 policyholders or holders of other title insurance contracts or agree-
 17 ments of such title insurance company have been paid in full and all
 18 liability on the policies or other title insurance contracts or agree-
 19 ments, whether contingent or actual, has been discharged or law-
 20 fully reinsured. ***[Income from the investment of the amount of**
 21 **such reserve shall be the property of the title insurance company.]***

1 15. Amount of ***[unearned]*** **statutory** premium reserve; re-
 2 lease thereof.

3 a. The ***[unearned]*** **statutory** premium reserve of every
 3A domestic title insurance company shall consist of:

4 (1) The amount of the reserve held as of the effective date of
 5 this act, pursuant to or under permission granted by P. L. 1938,
 6 c. 289, s. 6, as amended by P. L. 1949, c. 180, s. 1 (C. 17:18-13); and

7 (2) The amount of all additions required to be made to such
 8 reserve by this section, less the withdrawals therefrom as required
 9 by this section.

10 b. After the effective date of this act, every domestic title
 11 insurance company shall add to its ***[unearned]*** **statutory**
 12 premium reserve, in respect to each policy or reinsurance agree-
 13 ment issued by it, a sum of money out of the fees due or received
 14 for such title insurance made by it and deemed to be unearned
 15 portions of such fees, a sum equal to \$1.50 for each such policy or
 16 contract or agreement, plus \$0.12½ for each \$1,000.00 face amount
 17 of net retained liability, as defined in subparagraph k. of section 1,
 18 of this act, and shall separately record the aggregate amounts so
 19 set aside and reserved in respect to such policies, contracts or agree-
 20 ments written in each calendar year.

21 c. No such reserves shall be required for a policy or contract
 22 that insures a mortgage interest which is excepted in a simul-
 23 taneously issued owner's policy or contract covering the same
 24 estate in land and which does not exceed the insured amount of
 25 such owner's policy or contract.

26 d. The amounts set aside ***[as]*** **initially to establish the*
 27 *statutory premium reserve as referred to in subparagraph a. (1)*
 28 *of section 15 of this act, and** additions to the ***[unearned]***
 28A **statutory** reserve **as referred to in paragraph b. of section 15 of*
 28B *this act** shall be deducted in determining net profits of any title
 28C insurance company.

29 e. For the purpose of determining the amounts of the ***[un-**
 30 **earned]*** **statutory** premium reserve that shall be withdrawn
 31 pursuant to paragraph f. of this section, and the interest of the
 32 policyholders therein under section 17 of this act, all policies,
 33 contracts of title insurance or reinsurance agreements of title in-
 34 surance shall be considered as dated on July 1 of the year of issue.

35 f. The aggregate of the amounts set aside in ***[unearned]***
 36 **statutory** premium reserve in any calendar year pursuant to sub-
 37 paragraph b. of this section shall be released from said reserve and
 38 restored to net income in years of release pursuant to the following
 38A formula:

39 one-twentieth of such aggregate sum on July 1 of each
 40 of the years next succeeding the year of addition to the

41 reserve for a period of 20 years until the entire sum shall
42 have been so released and restored to net profits.

43 The reserve held at the effective date of this act referred to
44 in subsection a. (1) of this section shall *~~continue to be released~~
45 as provided in this section; provided, however, that the aggregate
46 of the reserve created by said statutes shall continue to be pre-
47 sumed to have been established out of income in 20 equal annual
48 additions over the 20 years preceding the year in which this act
49 becomes effective, whether or not such title insurance company
50 had been in existence for that period]* **also be released according*
50A *to the foregoing formula**.

51 g. If substantially the entire outstanding liability under all
52 policies, contracts of title insurance or reinsurance agreements of
53 any title insurance company shall be reinsured, the value of the
54 consideration received by a reinsuring title insurance company
55 authorized to transact the business of title insurance in this State,
56 shall constitute, in its entirety, unearned portions of original
57 premiums and be added to its *~~unearned~~* **statutory** reserve
58 and deemed, for recovery purposes, to have been provided for
59 liabilities assumed during the year of such reinsurance. The
60 amount of such addition to the *~~unearned~~* **statutory** premium
61 reserve of such assuming title insurance company shall be *~~not~~
62 less, however, than two-thirds of the amount]* **of** **equal to**
63 the *~~unearned~~* **statutory** premium reserve required to be main-
64 tained by the ceding title insurance company at the time of such
65 reinsurance.

1 16. Maintenance of the *~~unearned~~* **statutory** premium
2 reserve. If by reason of any cause, other than depreciation in the
3 market value of investments, the amount of the assets of a title in-
4 surance company held as investments of its *~~unearned~~*
5 **statutory** premium reserve should on any date be less than the
6 amount required to be maintained by law in such reserve, and the
7 deficiency shall not be promptly cured, such title insurance com-
8 pany shall forthwith give written notice thereof to the commis-
9 sioner and shall make no further policies, contracts of title in-
10 surance or reinsurance agreements of title insurance until the
11 deficiency shall have been eliminated and until it shall have received
12 written approval from the commissioner authorizing it to again
13 issue such policies, contracts of title insurance or agreements.

1 17. Use of the *~~unearned~~* **statutory** premium reserve on
2 liquidation, dissolution or insolvency.

3 a. If a title insurance company becomes insolvent, or is in the
4 process of liquidation or dissolution, or in the possession of the
5 commissioner:

6 (1) Such amount of the assets of such title insurance company
7 equal to the ***[unearned]*** *statutory* premium reserve then re-
8 maining as is necessary may be used by or with the written approval
9 of the commissioner, to pay for reinsurance of the liability of such
10 title insurance company upon all outstanding policies or contracts
11 or reinsurance agreements of title insurance, as to which claims for
12 losses by the holders are not then pending, the balance, if any, of
13 assets equal to the ***[unearned]*** *statutory* premium reserve
14 fund then remaining, then to be transferred to the general assets
15 of the title insurance company;

16 (2) The assets other than the ***[unearned]*** *statutory* pre-
17 mium reserve shall be available to pay claims for losses sustained
18 by holders of policies then pending or arising up to the time re-
19 insurance is effected. In the event that claims for losses are in
20 excess of such other assets of the title insurance company, such
21 claims, when established, shall be paid pro rata out of the surplus
22 assets attributable to the ***[unearned]*** *statutory* premium
23 reserve, to the extent of such surplus, if any

24 b. In the event that reinsurance is not obtained, the ***[un-**
25 **earned]*** *statutory* premium reserve and assets constituting
26 minimum capital, or so much as remains thereof after outstanding
27 claims have been paid, shall constitute a trust fund to be held by
28 the commissioner for 20 years, out of which claims of policyholders
29 shall be paid as they arise. The balance, if any, of such fund shall,
30 at expiration of 20 years, revert to the general assets of the title
31 insurance company.

1 18. Reserve for unpaid losses and loss expense.

2 a. Each domestic title insurance company shall at all times
3 establish and maintain, in addition to other reserves, a reserve:

4 (1) Against unpaid losses, and (2) against loss expense, and
5 shall calculate such reserves by making a careful estimate in each
6 case of the loss and loss expense likely to be incurred, by reason
7 of every claim presented, pursuant to notice from or on behalf of
8 the insured, of a title defect in or lien or adverse claim against the
9 title insured, that may result in a loss or cause expense to be in-
10 curred for the proper disposition of the claim. The sums of the
11 items so estimated shall be the total amounts of the reserves against
12 unpaid losses and loss expenses of such title insurance company.

13 b. The amounts so estimated may be revised from time to time
 14 as circumstances warrant, but shall be redetermined at least once
 15 each year.

16 c. The amounts set aside in such reserves in any year shall be
 17 deducted in determining the net profits for such year of any title
 18 insurance company.

D. LIMIT ON NET RETENTION

1 19. Net retained liability. The net retained liability of any title
 2 insurance company under any single insurance risk as defined in
 3 subsections j. and k. of section 1 of this act shall not exceed the
 4 net amount remaining after deducting from the sum of its capital,
 5 surplus, *~~unearned~~* *statutory* premium reserve and voluntary
 6 reserves, the value, if any, assigned in such summation to its title
 7 plants, all as shown in its most recent report on file with the com-
 8 missioner. The same limitation shall apply to any secondary risk
 9 assumed by means of reinsurance or to any policy of excess coin-
 9A surance.

10 Nothing in this section is intended to limit the amount of a
 11 single insurance risk, as defined in subsection j. of section 1 of this
 12 act, that may be written or assumed by a title insurance company,
 13 provided it shall cede to one or more other title insurance com-
 14 panies, on or before the effective date of such writing or assump-
 15 tion, such portion, or portions, of the said risk as shall be sufficient
 16 to bring its net retained liability thereunder within the limits here-
 17 inabove set forth; and provided, further, that each such cession
 18 of risk shall also be within the limits of this section as applied to
 19 the sum of the capital, surplus, *~~unearned~~* *statutory* premium
 20 reserve and voluntary reserves, less the value, if any, assigned in
 21 such summation to the title plants of the assuming and reinsuring
 22 title insurance company, as shown by its most recent report on file
 23 with the supervisory agency in the state of its domicile.

E. REINSURANCE

1 20. Power to reinsure. Any title insurance company authorized
 2 to engage in the business of title insurance in this State may cede
 3 reinsurance of all or any part of its liability under one or more of
 4 its policies or contracts or reinsurance agreements to any title
 5 insurance company authorized to engage in the business of title
 6 insurance in this or any other state*, *if such reinsuring company*
 7 *is and remains of the same standard of solvency and complies with*
 8 *all other requirements fixed by the laws of this State for title in-*
 9 *surance companies authorized to insure titles to real estate within*

10 *the State**; provided, however, that no larger amount of rein-
 11 surance shall be ceded to any title insurance company on a single
 12 policy, or contract of title insurance, or on any single title insurance
 13 risk as defined in subsection j. of section 1 of this act, than such
 14 title insurance company would be permitted to retain if authorized
 15 to engage in the business of title insurance in this State. It may
 16 also reinsure policies of title insurance issued by other companies
 17 on risks whether located in this State or elsewhere. ***[**Any domestic
 18 title insurance company or any foreign title insurance company
 19 authorized to transact business in this State shall pay to this State
 20 taxes required on all business taxable within this State and rein-
 21 sured, as provided in this section, with any foreign company not
 22 authorized to do business within this State.**]*** Issuance of contracts
 23 of reinsurance by a title insurance company not authorized to
 24 engage in the business of title insurance in this State, but autho-
 25 rized to engage in the business of title insurance in any of the
 26 United States, reinsuring a title insurance company authorized to
 27 engage in the business of title insurance in this State on real prop-
 28 erty located in this State, shall not of itself constitute the doing of
 29 business in this State **for the purpose of this act** by such reinsur-
 30 ing company*; *provided, however, that the issuance of such a con-*
 31 *tract or reinsurance is equivalent to and shall constitute an appoint-*
 32 *ment by such reinsurer of the Commissioner of Insurance to be its*
 33 *true and lawful agent, upon whom may be served all lawful process*
 34 *and complaints in any actions or proceedings arising out of con-*
 35 *tracts of reinsurance with a title insurance company authorized to*
 36 *engage in the business of title insurance in this State on real prop-*
 37 *erty located in this State, and the issuance of any such reinsurance*
 38 *contract shall be signification of its agreement that such service of*
 39 *process and complaints is of the same legal force and validity as*
 40 *personal service of the same upon the insurer*.*

F. INVESTMENTS

1 21. Minimum capital. An amount equivalent to the minimum
 2 capital requirements as defined in subsection a. of section 7 shall
 3 be retained as cash on hand or on deposit in banks, or shall be
 4 invested in the following classes of investments; provided, however,
 5 that the aggregate invested at any time in those classes of invest-
 6 ments set forth in subsections g., h., i. and p. of this section shall
 7 not, without written approval of the commissioner, exceed 50%
 8 of the sum of the capital and surplus of such title insurance com-

9 pany as shown by its most recent statement on file with said
10 commissioner:

11 a. Government obligations. Bonds, notes or obligations issued,
12 assumed or guaranteed by the United States, or by any state,
13 district or territory of the United States, or the Commonwealth
14 of Puerto Rico.

15 b. Governmental subdivisions or public instrumentality obliga-
16 tions. Valid and legally authorized bonds, notes or obligations
17 issued, assumed or guaranteed by:

18 (1) Any city, town, county, borough, township, municipality,
19 school district, poor district, water, sewer, drainage, road or other
20 governmental district or division located in the United States or
21 any state, district or territory thereof and the Commonwealth of
22 Puerto Rico; or by

23 (2) Any public instrumentality other than a municipal authority
24 of one or more of the foregoing, if, by statutory or other legal
25 requirements applicable thereto, such bonds or other evidences of
26 indebtedness of such instrumentality are payable, as to principal
27 and interest, from taxes levied or by law required to be levied,
28 upon all taxable property or all taxable income within the juris-
29 diction of the governmental unit or units of which it is an
30 instrumentality, or from revenue pledged or otherwise appro-
31 priated or by law required to be provided for the purpose of such
32 payment;

33 (3) Any municipal authority issued pursuant to the laws of
34 the State relating to the creation or operation of municipal
35 authorities, if the obligations are not in default as to principal or
36 interest and if the project for which the obligations were issued
37 is under lease to a school district or school districts or if the
38 obligations are not in default as to principal or interest and if the
39 project for which the obligations were issued is under lease
40 to a municipality or municipalities or subject to a service con-
41 tract with a municipality or municipalities, pursuant to which
42 the municipal authority will receive lease rentals or service charges
43 available for fixed charges on the obligations, which will average
44 not less than one and one-fifth times the average annual fixed
45 charges of such obligations over the life thereof, or if the obliga-
46 tions are not in default as to principal or interest and if for a
47 period of 5 fiscal years next preceding the date of acquisition,
48 the income of such authority available for fixed charges has
49 averaged not less than one and one-fifth times average annual
50 fixed charges of such obligations over the life of such obligations.

51 As used in this clause, the term "income available for fixed
52 charges" shall mean income after deducting operating and main-
53 tenance expenses, and, unless the obligations are payable in serial,
54 annual maturities, or are supported by annual sinking fund pay-
55 ments, depreciation, but excluding extraordinary nonrecurring
56 items of income or expenses; and the term "fixed charges" shall
57 include principal, both maturity and sinking fund, and interest
58 on bonded debt. In computing such income available for fixed
59 charges for the purposes of this section, the income so available
60 of any corporation acquired by any municipal authority may be
61 included, such income to be calculated as though such corporation
62 had been operated by a municipal authority and an equivalent
63 amount of bonded debt were outstanding.

64 The eligibility for investment purposes of obligations of each
65 project of a municipal authority shall be separately considered
66 hereunder.

67 c. Public utility obligations. Bonds, notes or obligations issued,
68 assumed or guaranteed by any solvent public utility corporation or
69 public utility business trust, incorporated or existing under the
70 laws of the United States or of any state, district or territory
71 thereof.

72 d. Other corporate obligations. Bonds, notes or obligations
73 issued, assumed or guaranteed by any other corporation, including
74 railroads, or business trust, incorporated or existing under the
75 laws of the United States, or of any state, district or territory
76 thereof, whose income available for fixed charges for the period
77 of 5 fiscal years next preceding the date of investment shall have
78 averaged not less than one and one-half times its average annual
79 fixed charges applicable to such period. As used in this sub-
80 section, the term "income available for fixed charges" shall mean
81 income, after deducting operating and maintenance expenses,
82 depreciation and depletion, and taxes other than Federal or
83 State income taxes, but excluding extraordinary nonrecurring
84 items of income or expense appearing in the regular financial state-
85 ments of the corporation or business trust, and the term "fixed
86 charges" shall include interest on funded or unfunded debt and
87 amortization of debt discount and expense. If income is de-
88 termined in reliance upon consolidated income statements of parent
89 and subsidiary corporations or business trusts, such income shall
90 be determined after provision for Federal and State income taxes
91 of subsidiaries, and after proper allowance for minority stock
92 interest, if any, and the required coverage of fixed charges, shall

93 be computed on a basis including fixed charges and preferred
94 dividends of subsidiaries, other than those payable by subsidiaries
95 to the parent corporation or business trust, or to any other such
96 subsidiaries. In applying an income test under this section to
97 any issuing, assuming or guaranteeing corporation or business
98 trust, whether or not in legal existence during the whole or the
99 5-year period next preceding the date of the investment, which has
100 at any time or times after the beginning of such period acquired
101 the assets or the outstanding shares of capital stock of any other
102 corporation or business trust by purchase, merger, consolidation
103 or otherwise, substantially as an entirety, or has been reorganized
104 pursuant to the bankruptcy law, the income of such other prede-
105 cessor or constituent corporation or business trust or of the
106 corporation or business trust so reorganized, available for interest
107 and dividends for such portion of such period as shall have pre-
108 ceded acquisition or reorganization may be included in the income
109 of such issuing, assuming or guaranteeing corporation or business
110 trust for such portion of such period as may be determined in
111 accordance with adjusted or pro forma consolidated income state-
112 ments covering such portion of such period, and giving effect to
113 all stock or shares outstanding and all fixed charges existing im-
114 mediately after acquisition or reorganization.

115 e. Trustees', receivers' or equipment trust obligations.

116 (1) Certificates, notes or obligations issued by trustees or re-
117 ceivers of any corporation or business trust created or existing
118 under the laws of the United States or of any state, district or
119 territory thereof which, or the assets of which, are being admin-
120 istered under the direction of any court having jurisdiction, if
121 such obligation is adequately secured as to principal and interest.

122 (2) Equipment trust obligations or certificates, which are ade-
123 quately secured, or other adequately secured instruments, evi-
124 dencing an interest in transportation equipment, wholly or in part
125 within the United States, and a right to receive determined por-
126 tions of rental, purchase or other fixed obligatory payments for
127 the use or purchase of such transportation equipment.

128 f. Acceptances and bills of exchange. Bank and bankers ac-
129 ceptances, and other bills of exchange of the kind and maturities
130 made eligible pursuant to law for purchase in the open market
131 by Federal Reserve Banks.

132 g. Real estate loans. Ground rents and bonds, notes or other
133 evidences of indebtedness, secured by first mortgages or trust

134 deeds upon unencumbered and improved real property located in
135 any state, district or territory of the United States, and in invest-
136 ments in the equity of the seller under contracts for deeds cover-
137 ing the entire balance due on bona fide sales of such real property;
138 provided that a loan guaranteed or insured in full by the Ad-
139 ministrator of Veterans' Affairs pursuant to the provisions of the
140 Servicemen's Readjustment Act of 1944, c. 268, Title II, 58 Stat.
141 284, as heretofore or hereafter amended may be subject to a prior
142 encumbrance. Real property shall not be considered to be en-
143 cumbered within the meaning of this section by reason of the
144 existence of instruments reserving mineral, oil, water or timber
145 rights, rights-of-way, sewer rights, rights in walls or driveways,
146 by reason of liens inferior to the lien securing the loan of the
147 insurance company, or liens for taxes or assessments not yet
148 delinquent, or by reason of building restrictions or other restric-
149 tive covenants or by reason of any lease under which rents or
150 profits are reserved to the owner, if, in any event, the security for
151 such loan is a first lien upon such real property, and if there is
152 no condition or right of reentry or forfeiture under which such
153 lien can be cut off, subordinated or otherwise disturbed. No mort-
154 gage or trust deed, loan or investment in a seller's equity under
155 a contract for deed made or acquired by the insurance company
156 on any one property shall at the date of investment exceed two-
157 thirds of the value of the real property securing the loan, or sub-
158 ject to such contract; provided that such limitation in respect to
159 value shall not apply to a loan which is:

160 (1) Insured by, or for which a commitment to insure has been
161 made by, the Federal Housing Administrator or commissioner
162 pursuant to the provisions of the National Housing Act, 12 U.S.C.
163 § 1702 et seq. (1934), as heretofore or hereafter amended;

164 (2) Guaranteed by the Administrator of Veterans' Affairs pur-
165 suant to the provisions of the Servicemen's Readjustment Act of
166 1944, c. 288, Title II, 58 Stat. 284, as heretofore or hereafter
167 amended, except, that if only a portion of a loan is so guaranteed,
168 such limitation shall apply to the portion not so guaranteed;

169 (3) Insured by the administrator pursuant to the provisions of
170 the Servicemen's Readjustment Act, c. 288, Title II, 58 Stat. 284,
171 of 1944, as heretofore or hereafter amended;

172 (4) Upon real estate under lease to a corporation or business
173 trust, incorporated or existing under the laws of the United States
174 or any state, district or territory thereof, whose income available
175 for fixed charges for the period of 5 fiscal years next preceding

176 the date of investment, shall have averaged not less than one and
177 one-half times its average annual fixed charges applicable to such
178 period, if there is pledged and assigned, as additional security
179 for the loan, and for application thereon, sufficient of the rentals
180 payable under the lease to provide for repayment of the loan
181 within the unexpired term of the lease;

182 (5) Upon such terms that the principal thereof will be amortized
183 by repayments of principal at least once in each year in amounts
184 sufficient to repay the loan within a period of not more than 30
185 years, and such loan is upon improved real estate, and at the date
186 of investment does not exceed three-fourths of the value of the
187 real estate securing the loan.

188 h. Purchase money securities. Purchase money mortgages or
189 like securities received by it upon the sale or exchange of real
190 property, acquired pursuant to subsection p. of this section.

191 i. Federal Housing Administrators debentures. Debentures is-
192 sued by the Federal Housing Administrator or commissioner in
193 settlement of claims pursuant to the National Housing Act, 12
194 U.S.C. § 1701 et seq. (1934), as heretofore or hereafter amended.

195 j. National mortgage association securities. Securities of na-
196 tional mortgage associations or similar national mortgage credit
197 institutions organized under the Federal Housing Act, as hereto-
198 fore or hereafter amended.

199 k. Federal Land Bank, Federal Intermediate Credit Bank and
200 Bank for Cooperatives Securities. Bonds, debentures and other
201 obligations of Federal Land Banks or Federal Intermediate Credit
202 Banks issued pursuant to the Federal Farm Loan Act, 12 U.S.C.
203 § 642 et seq. (1916), as heretofore or hereafter amended, or of
204 Banks for Cooperatives issued pursuant to the Farm Credit Act
205 of 1933, c. 98, Title VIII, 48 Stat. 257, as heretofore or hereafter
206 amended.

207 l. Loans upon leaseholds. Loans upon leasehold estates on
208 unencumbered real estate located in any state, district or terri-
209 tory of the United States; provided that no such loan shall exceed
210 two-thirds of the value of the leasehold at the date of investment,
211 unless:

212 (1) Such loan is guaranteed or insured by, or for which a com-
213 mitment to guarantee or insure such loan has been made by, the
214 Federal Housing Administrator or commissioner, pursuant to the
215 provisions of the Federal National Housing Act, 12 U.S.C. § 1701
216 et seq. (1934), as heretofore or hereafter amended; or

217 (2) Such leasehold is of improved real estate and such loan
218 provides for amortization by repayments of principal at least
219 once in each year in amounts sufficient to repay the loan within a
220 period of four-fifths of the unexpired term of the leasehold, but
221 within a period of not more than 30 years, and does not exceed
222 three-fourths of the value of the leasehold at the date of invest-
223 ment; or

224 (3) Such real estate is under lease to a corporation or business
225 trust, incorporated or existing under the laws of the United States
226 or any state, district or territory thereof, whose income available
227 for the fixed charges for the period of 5 fiscal years next preceding
228 the date of investment shall have averaged not less than one and
229 one-half times its average annual fixed charges applicable to such
230 period, if there is pledged and assigned as additional security for
231 the loan and for application thereon sufficient of the rentals pay-
232 able under such lease to provide for repayment of the loan within
233 the unexpired term of the lease. Provided further, that the terms
234 of any such loan shall require repayments of principal at least
235 once in each year in amounts sufficient to repay the loan within
236 the term of the leasehold, unexpired at the date of investment,
237 unless a shorter period is required under subparagraph (2).

238 m. Savings and loan shares. Shares of any Federal savings
239 and loan association, or of any building and loan or savings and
240 loan association, to the extent that the withdrawal or repurchasable
241 value of such shares is insured by the Federal Savings and Loan
242 Insurance Corporation, under the National Housing Act, 12 U.S.C.
243 § 1701 et seq. (1934), as heretofore or hereafter amended, and
244 shares of any building and loan or savings association to the extent
245 that the withdrawal or repurchasable value of such shares is in-
246 sured by a State regulated and supervised savings and loan insur-
247 ance corporation.

248 n. Federal Savings and Loan Insurance Corporation obligations.
249 Bonds, notes or obligations issued, assumed or guaranteed by the
250 Federal Savings and Loan Insurance Corporation, under the pro-
251 visions of the National Housing Act, 12 U.S.C. § 1701 et seq.
252 (1934), as heretofore or hereafter amended.

253 o. Federal Home Loan Bank obligations. Bonds, notes or
254 obligations issued, assumed or guaranteed by the Federal Home
255 Loan Bank or issued, assumed or guaranteed by the Federal Home
256 Loan Bank Board under the provisions of the Federal Home Loan
257 Bank Act, 12 U.S.C. § 1421 et seq. (1932), as heretofore or here-
258 after amended.

259 p. Real estate; right to acquire. It shall be lawful for any title
 260 insurance company organized under the laws of this State to pur-
 261 chase, receive, hold and convey real estate or any interest therein:

262 (1) Required for its convenient accommodation in the transaction
 263 of its business with reasonable regard to future needs;

264 (2) Acquired in connection with a claim under a policy of title
 265 insurance;

266 (3) Acquired in satisfaction or on account of loans, mortgages,
 267 liens, judgments or decrees, previously owing to it in the course
 268 of its business;

269 (4) Acquired in part payment of the consideration of the sale
 270 of real property owned by it if the transaction shall result in a net
 271 reduction in the company's investment in real estate;

272 (5) Reasonably necessary for the purpose of maintaining or
 273 enhancing the sale value of real property previously acquired or
 274 held by it under subparagraphs (1), (2), (3), or (4) of this sub-
 275 section.

276 Provided, however, that no title insurance company shall con-
 277 tinue to hold any real estate acquired by it under subparagraph
 278 (2), (3), or (4) for more than 5 years from the date of acquisition
 279 thereof, unless it shall obtain the written approval of the com-
 280 missioner to hold such real estate for a longer period of time.

1 22. Funds in excess of minimum capital, other than ***[un-**
 2 earned]* **statutory** premium reserve. Funds over and above
 3 minimum capital, other than the ***[unearned]*** **statutory** pre-
 4 mium reserve, may be retained as cash on hand or on deposit in
 5 banks, or may be invested in the following classes of investments:

6 a. Any of the classes of investments authorized in section 21 of
 7 this act; provided, however, that the amount invested at any time
 8 in those classes of investments set forth in subsections g., h., l. and
 9 p. of section 21, when valued at cost, shall not, without written
 10 approval of the commissioner, exceed 50% of the sum of the
 11 capital and surplus of such title insurance company as shown by
 12 its most recent statement on file with said commissioner.

13 b. Corporate stock or shares of any solvent corporation incor-
 14 porated under the laws of the United States or any state, district
 15 or territory thereof, the Commonwealth of Puerto Rico, or of the
 16 Dominion of Canada or any province thereof, including the stock
 17 of another title insurance company.

18 c. Corporate obligations. Bonds, notes or obligations issued,
 19 assumed or guaranteed by any solvent corporation or business
 20 trust, incorporated or existing under the laws of the United States

21 or any state, district or territory thereof, the Commonwealth of
 22 Puerto Rico, or of the Dominion of Canada or any province thereof.

23 d. Canadian governmental subdivision obligations. Valid and
 24 legally authorized bonds, notes or obligations issued, assumed or
 25 guaranteed by any province, county, city, town, village, municipi-
 26 pality or political subdivision of the Dominion of Canada.

27 e. Other loans and investments. Loans or investments not
 28 qualifying or permitted under the preceding subsections of this
 29 section to an amount not exceeding 25% of the amount of the
 30 surplus of a title insurance company as shown by its most recent
 31 statement on file with the commissioner.

32 f. Title plant. Provided it shall at all times comply with the
 33 minimum capital investment requirements of section 21, a title
 34 insurance company may invest in title plants. The title plants
 35 shall be considered assets at the fair value thereof. In determining
 36 the fair value of a title plant, no value shall be attributed to furni-
 37 ture and fixtures, and the real estate in which the title plant is
 38 housed shall be carried as real estate. The value of title abstracts,
 39 title briefs, copies of conveyances or other documents, indices and
 40 other records comprising the title plant shall be determined by
 41 considering the expenses incurring in obtaining them, the age
 42 thereof, the cost of replacements ***less depreciation***, and all other
 43 relevant factors. Once the value of a title plant shall have been
 44 determined, hereunder, such value may be increased only by the
 45 acquisition of another title plant by purchase, consolidation or
 46 merger; in no event shall the value of the title plant be increased
 47 by additions made thereto as part of the normal course of abstract-
 48 ing and insuring titles to real estate. Subject to the above limita-
 49 tions and with the approval of the commissioner, a title insurance
 50 company may enter into agreements with one or more title insur-
 51 ance companies authorized to do business in this State, whereby
 52 such companies shall participate in the ownership, management
 53 and control of a title plant to service the needs of all such companies
 54 or such companies may hold stock of a corporation owning and
 55 operating a title plant for such purposes.

1 23. ***Unearned*** *Statutory* premium reserve. The ***un-**
 2 **earned*** *statutory* premium reserve of a title insurance com-
 3 pany may be held as cash on hand or on deposit in banks, or shall
 4 be invested only in those classes of investments authorized by sub-
 5 sections a. through f., i., j., k., m., n. and o. of section 21 of this act,
 6 except that not more than 25% of such reserve may be invested in
 7 preferred or guaranteed stock or shares of any solvent corporation

8 or business trust, incorporated or existing under the laws of the
 9 United States, or of any state, district or territory thereof, whose
 10 net earnings available for its fixed charges during each of the 2
 11 years next preceding the date of such investment have been, and
 12 during the 5 years next preceding such date shall have averaged,
 13 not less than one and one-half times the sum of its average annual
 14 fixed charges, if any, as such fixed charges are defined in subsection
 15 d. of section 21 of this act and its average annual preferred dividend
 16 requirements. For the purpose of this section such computation
 17 shall refer to the calendar or other fiscal year or years of such
 18 solvent corporation and the term "preferred dividend require-
 19 ments" shall include cumulative and noncumulative dividends.

1 24. Investments acquired before effective date. Any investment
 2 of a title insurance company lawfully acquired before the effective
 3 date of this act and which but for this section would be considered
 4 ineligible as an investment on such effective date shall be disposed
 5 of within 5 years from such effective date. The commissioner, upon
 6 application and proof that forced sale of any such investment would
 7 be contrary to the best interests of the title insurance company
 8 and its policyholders, may extend the period for sale or disposal
 9 of such investment for a further reasonable time, in no event to
 10 exceed 3 years.

G. FOREIGN AND ALIEN COMPANIES

1 25. Requisites for foreign and alien title insurance companies
 2 to do business. Any title insurance company organized under the
 3 laws of another state or foreign government shall be licensed to
 4 transact a title insurance business within this State only if such
 5 company is and remains of the same standard of solvency and
 6 complies with other requirements fixed by the laws of this State
 7 for **domestic** title insurance companies organized and authorized
 8 to transact the business of title insurance pursuant to the laws of
 9 this State. No title insurance company shall be admitted and
 10 authorized to do business until:

11 a. It has filed with the commissioner a certified copy of its
 12 charter, a statement of its financial condition and business, signed
 13 and sworn to by its proper officers, and copies of forms of all
 14 policies it proposes to issue in this State, with such other informa-
 15 tion as the commissioner may require; and

16 b. It has satisfied the commissioner that it is fully and legally
 17 organized under the laws of its state or government to do the busi-

18 ness it proposes to transact. That it has the requisite amount of
19 capital, fully paid up and unimpaired; and

20 c. It shall, by a duly executed instrument filed in his office, consti-
21 tute and appoint the commissioner or his successor its true lawful
22 attorney, upon whom all lawful processes in any action, rule, order
23 or legal proceeding against it may be served; and therein shall
24 agree that any lawful process against it which may be served upon
25 him as its said attorney shall be of the same force and validity as if
26 served on the company, and that the authority thereof shall con-
27 tinue in force irrevocably so long as any liability of the company
28 remains outstanding in this State.

1 26. Foreign and alien title insurance companies. No title insur-
2 ance company not incorporated or organized under the laws of this
3 State, but authorized to transact business herein, shall make, write,
4 place or cause to be made, written or placed any policy or contract
5 of insurance covering real property in this State except:

6 a. Through a title insurance agent as defined in section 1 of this
7 act who or which is a resident of this State or maintains his, her or
8 its principal place of business in this State; or

9 b. Through a bona fide branch office located in this State and
10 under the direction and control of such title insurance company,
11 all expenses of which branch office, including compensation of all
12 employees, are paid by such title insurance company; or

13 c. Through a subsidiary title insurance company having its
14 principal place of business in this State. This section shall not be
15 applicable to contracts of reinsurance, or to policies of excess
16 coinsurance.

H. MERGERS, CONSOLIDATIONS AND ACQUISITIONS

1 27. Mergers and consolidations of title insurance companies.

2 a. A title insurance company organized and incorporated under
3 the laws of this State may merge, be merged by or consolidate with,
4 one or more title insurance companies whether or not so incorpo-
5 rated, by complying with chapter 27 of Title 17 of the Revised
6 Statutes as amended and supplemented but subject to the
7 following:

8 (1) No such merger or consolidation shall be effectuated unless
9 in advance thereof, the plans and agreement therefor have been
10 filed with the commissioner. The commissioner shall examine the
11 terms and conditions of such merger or consolidation, and of any
12 exchange of shares or securities pursuant thereto, after holding a
13 hearing at which all persons or parties to whom it is proposed to

14 issue shares or securities in such exchange shall have the right to
 15 appear. After such hearing, the commissioner shall either approve
 16 or disapprove the fairness of such terms and conditions of
 17 exchange. The commissioner shall give such approval within a
 18 reasonable time after filing of a plan or agreement unless he finds
 19 such plan or agreement:

20 (a) Is contrary to law; or

21 (b) Inequitable to the stockholders of such title insurance
 22 company; or

23 (c) Would substantially reduce the security of and services
 24 to be rendered to policyholders of the domestic title insurance
 25 company in this State or elsewhere.

26 (2) Where such merger or consolidation involves a parent com-
 27 pany absorbing a wholly-owned subsidiary, the commissioner may,
 28 in his discretion, dispense with the holding of a hearing.

29 b. No director, officer, agent or employee of any title insurance
 30 company party to such acquisition shall receive any fee, commis-
 31 sion, compensation or other valuable consideration whatsoever for
 32 in any manner aiding, promoting or assisting therein except as set
 33 forth in such plan or agreement.

34 c. If the commissioner does not approve any such plan or agree-
 35 ment he shall notify the title insurance company in writing specify-
 36 ing in detail his reasons therefor.

1 28. Corporate acquisitions other than by merger or consolidation.

2 a. A title insurance company organized and incorporated under
 3 the laws of this State may issue stock in exchange for all or any
 4 part of the assets or stock of a domestic or foreign title insurance
 5 company, abstract company or title insurance agent if, in advance
 6 thereof, a plan or agreement of acquisition shall have been filed
 7 with the commissioner. The commissioner shall examine the
 8 terms and conditions of such plan or agreement of acquisition,
 9 and of any exchange or shares or securities pursuant thereto, after
 10 holding a hearing at which all persons or parties to whom it is
 11 proposed to issue shares or securities in such exchange shall have
 12 the right to appear. After such hearing, the commissioner shall
 13 either approve or disapprove the fairness of such terms and con-
 14 ditions of such acquisition and exchange. The commissioner shall
 15 give such approval within a reasonable time after filing of a plan
 16 or agreement unless he finds such plan or agreement:

17 (1) Is contrary to law; or

18 (2) Inequitable to the stockholders or any title insurance or
 19 abstract company involved; or

20 (3) Would substantially reduce the security of and services to
21 be rendered to policyholders of the domestic title insurance com-
22 pany in this State or elsewhere.

23 b. No director, officer, agent or employee of any title insurance
24 company or abstract company party to such acquisition shall re-
25 ceive any fee, commission, compensation or other valuable con-
26 sideration whatsoever for in any manner aiding, promoting or
27 assisting therein except as set forth in such plan or agreement.

28 c. If the commissioner does not approve any such plan or agree-
29 ment, he shall notify the title insurance company in writing
30 specifying in detail his reasons therefor.

1 29. Purchase or acquisition of controlling stock.

2 a. In the event any person or persons, corporation or corpora-
3 tions propose to purchase or acquire the controlling capital stock
4 of any domestic title insurance company, such person or persons,
5 corporation or corporations, shall first make application to the
6 commissioner for approval of such purchase or acquisition. The
7 application shall contain the name and address of the proposed
8 new owner or owners of the controlling stock, and the commissioner
9 shall approve the proposed purchase or acquisition only after he
10 has become satisfied that such purchase or acquisition will not
11 result in violation of the antirebate provisions as defined herein
12 by section 35 of this act, and that the proposed new owner or
13 owners of the controlling stock are qualified by character, experi-
14 ence and financial responsibility to control and operate the title
15 insurance company in a lawful and proper manner; and that the
16 interest of the title insurance company stockholders and policy-
17 holders and the interest of the public generally will not be
18 jeopardized by the proposed change in ownership and management.
19 If the commissioner does not, by affirmative action, approve or
20 disapprove the proposed purchase or acquisition within 30 days
21 after the date on which such application was so filed with him, the
22 proposed purchase or acquisition shall be deemed to be approved
23 at the expiration of such 30-day period.

24 b. No such purchase or acquisition of a domestic title insurance
25 company shall be effectuated unless approved as provided in sub-
26 section a. above.

27 c. In event the commissioner disapproves the proposed purchase
28 or acquisition, he shall give written notice thereof to the person or
29 persons, corporation or corporations, so applying for approval,
30 setting forth in detail the reasons for disapproval.

I. AGENTS

1 30. Title insurance agents ; names to be certified to commissioner ;
2 application and examination for a license.

3 a. Every title insurance company authorized to transact business
4 within this State shall certify annually to the commissioner the
5 names of all title insurance agents representing it in this State.
5A **No person shall function as a title insurance agent and no title in-*
5B *surance company shall authorize any person to function as its*
5C *agent unless such person shall hold a valid title insurance agent's*
5D *license as provided herein.**

6 b. Title insurance agents shall be licensed in the manner provided
7 for agents of insurance companies in section 6 of P. L. 1944, c. 175
8 (C. 17:22-6.6) ; provided, however, that :

9 (1) All applicants for a title insurance agent's license*, *except*
10 *attorneys licensed to practice law in this State,** shall be required
11 to qualify for such license by taking an examination of sufficient
12 scope to satisfy the commissioner that the applicant has sufficient
13 knowledge of, and is reasonably familiar with, the title insurance
14 laws of this State and with the provisions, terms and conditions of
15 title insurance, including a knowledge of the examination and
16 evaluation of titles, and has an adequate understanding of the
16A duties and obligations of a title insurance agent ***[**; and**]*** *.*

17 (2) If the applicant for a title insurance agent's license is a firm,
18 association, **partnership,** corporation, cooperative or joint stock
19 company, **[***the members, officers and employees of the applicant*
20 *who intend to exercise the power and perform the duties of the*
21 *agency, shall be required to take the examination required of*
22 *applicants by subsection b. (1) of this section]* **the application*
23 *for a license shall name all members or officers thereof who intend*
24 *to exercise the power and perform the duties of title insurance*
25 *agents, and no such license shall be issued unless the members or*
25A *officers so named in the application hold individual licenses as pro-*
25B *vided by this act** ; provided, however, those employees performing
25C only clerical functions not requiring the knowledge and under-
25D standing of title insurance agents shall not be required to **[***take*
25E *said examination; and]* **obtain such a license.****

26 (3) Any applicant for a title insurance agent's license who has
27 had at least 2 years experience as a title insurance agent, prior to
28 the effective date of this act, shall not be required to take an
29 examination for such license if application for the issuance of such
30 license is filed with the commissioner within a period of 6 months
31 immediately following the effective date of this act.

31A **(4) Applicants for a title insurance agent's license shall not be*
 31B *required to comply with the educational program requirements set*
 31C *forth in P. L. 1944, c. 175 (C. 17:22-6.6), as amended, unless and*
 31D *until the commissioner of insurance shall, by regulation, make said*
 31E *requirements applicable to applicants for a title insurance agent's*
 31F *license.**

32 c. Licenses of title insurance agents shall expire ***[annually]***
 33 **biennially** at midnight of June 30 unless sooner terminated as a
 34 result of business relations between the company and the agent, or
 35 unless revoked by the commissioner.

36 d. Title insurance agents' licenses shall be renewed ***[annually]***
 37 **biennially** on the filing of an application containing such informa-
 38 tion as the commissioner deems necessary.

38A **e. (1) At the time of application for a title insurance agent's*
 38B *license and for every renewal thereof, there shall be paid to the*
 38C *commissioner by each applicant for a license an annual fee of*
 38D *\$25.00.*

38E *(2) An examination fee of \$20.00 shall be paid to the commis-*
 38F *sioner at the time of the original application for each examination*
 38G *scheduled, which fee shall be nonrefundable.**

39 ***[e.** The commissioner may, upon application to him by a person,
 40 firm, association, corporation, cooperative or joint stock company,
 41 grant to such applicant a temporary license as title insurance agent.
 42 Such license shall remain in force and effect for a period of 6
 43 months or until the expiration of 60 days after the next regularly
 44 scheduled examination for applicants for a title insurance agents
 45 license, whichever period is the longer]***** **f. In the event of the*
 46 *death or the inability further to act, of a licensed title insurance*
 47 *agent, where no other agent in the agency, copartnership, associa-*
 48 *tion or corporation is authorized to represent such insurance com-*
 48A *pany the commissioner may issue a temporary license to another*
 48B *person enabling such other person to represent any such insurance*
 48C *company, upon the filing of an appropriate application for a title*
 48D *insurance agent's license containing the additional information re-*
 48E *quired by this section. Such temporary license shall continue only*
 48F *until the licensee is afforded an opportunity of taking the examina-*
 48G *tion provided in subsection b. (1) hereof and receiving the results,*
 48H *but not to exceed a period of 6 months*. In the event of the failure*
 48I *of the applicant to qualify for a regular title insurance* ***[agents']***
 48J **agent's** license as provided in this section, no renewal or exten-
 48K sion may be granted to any temporary license held by said
 48L applicant.

49 ***[f.]*** *g.* No bank, trust company, bank and trust company or
 50 other lending institution, mortgage service, mortgage brokerage or
 51 mortgage guaranty company **or any service company of or for any*
 52 *lending institution** or any officer or employee of any of the fore-
 53 going shall be licensed as or permitted to act as an agent for a title
 54 insurance company. ***No bank, trust company, bank and trust*
 55 *company, or other lending institution, mortgage service, mortgage*
 56 *brokerage or mortgage guaranty company, or any service company*
 57 *of or for any lending institution shall make the selection of a par-*
 58 *ticular title insurance company or agent a condition precedent to*
 59 *the granting of any mortgage loan.***

1 31. Title insurance agents; books and records.

2 a. Every title insurance agent shall keep his, her or its books
 3 of account and record and vouchers pertaining to the business of
 4 title insurance **in a bona fide office in this State** in such a manner
 5 that the commissioner, or his authorized representatives, may
 6 readily ascertain from time to time whether the agent has complied
 7 with all the provisions of this act.

8 b. Every title insurance agent shall maintain a separate record
 9 of all receipts and disbursements as a depository for funds as
 10 permitted in section 13 b. of this act and shall not commingle any
 11 such funds with agent's own funds or with funds held by agent in
 12 any other capacity.

13 ***[c.]** Every title insurance agent shall obtain and maintain a
 14 fidelity bond, in the form and amount required by the commissioner,
 15 for said agent and for each officer or employee of said agent where
 16 such agent may act as a depository for funds as permitted in section
 17 13 b. of this act.*

18 ***[d.]*** *c.* If at any time the commissioner shall determine that
 19 an agent has failed to comply with any of the provisions of this
 20 section, the commissioner may direct that such agent cease writing
 21 new insurance until such provisions are complied with.

1 32. Title insurance agents; replies to inquiries by commissioner.
 2 Every title insurance agent shall reply, in writing, promptly, with
 3 a copy thereof to each title insurance company for which said agent
 4 is acting, to any inquiry of the commissioner relative to the busi-
 5 ness of title insurance. A copy of any inquiry sent by the com-
 6 missioner to any agent relative to said agent's conduct of the
 7 business of title insurance shall also be sent by the commissioner
 8 to each title insurance company for which said agent is acting.

1 33. Title insurance agents; certain names prohibited. After the
 2 effective date of this act no agent for a title insurance company
 3 shall adopt *****[or use]***** a firm name containing the words

4 “title,” “title company,” “title insurance company,” “guar-
 5 anty,” “guarantee,” “guaranty company,” or “guarantee com-
 6 pany” or similar combination thereof; except that the word title
 7 may be used in combination with the word “agent or agency” in
 8 letters of the same size and character.

J. COMMISSIONS AND REBATES

1 34. Commissions; no right to pay. ***[A title insurance company**
 2 **or agent of a title insurance company may not pay a commission,**
 3 **consideration or thing of value in any form, for procuring title**
 4 **insurance in a real estate transaction]** **No title insurance com-*
 5 *pany and no title insurance agent shall pay, allow or give, or offer*
 6 *to pay, allow or give, directly or indirectly, any commission or part*
 7 *of its fee or charge or any other consideration as an inducement or*
 8 *compensation for the placing or procuring of any order for title*
 9 *insurance**; provided, however, that nothing herein contained shall
 10 be construed to prohibit the payment of a commission or other
 11 compensation to a regular full-time employee of a title insurance
 12 company or agent of a title insurance company as part of the
 13 regular compensation of such employee *or agent*.

1 35. Rebates or reduced fees. *a.* No title insurance company
 2 and no title insurance agent shall ***[make any rebate of any portion**
 3 **of the fee or charge established pursuant to section 41 of this act]***
 3A **pay, allow or give, or offer to pay, allow or give, directly or in-*
 3B *directly, as an inducement to insure, or after insurance has been*
 3C *affected, any rebate, discount, abatement, credit or reduction of*
 3D *premium or special favor, advantage, or other benefit to accrue*
 3E *thereon or any valuable consideration or inducement whatever, not*
 3F *specified or provided for in the policy, except to the extent provided*
 3G *for in an applicable filing with the commissioner as provided by*
 3H *this act*.*

4 *b.* No title insurance company and no title insurance agent shall
 5 quote any fee or make any charge ***[for a title insurance policy]*** to
 6 any person which is less than that currently available to others
 7 ***[for the same type of title insurance policy]*** in a like amount and
 8 involving the same factors as set forth in the schedule of fees
 9 and charges established pursuant to section 41 of this act*, or other-
 10 wise make or permit any unfair discrimination in the premium or
 11 rates charged for insurance or in other fees and charges or in other
 12 benefits, or in any other of the terms and conditions of the insurance
 13 policy, except to the extent provided for in an applicable filing with
 14 the commissioner as provided by this act*. The amount by which

15 any fee or charge is less than that prescribed by the schedule of
 16 fees and charges established pursuant to section 41 of this act is an
 17 unlawful rebate.

18 **c. No applicant for insurance, nor any insured, nor any owner,*
 19 *lessee, mortgagee, existing or prospective, of the real property or*
 20 *interest therein which is the subject matter of the application for*
 21 *insurance, nor any person acting as agent, representative, attorney,*
 22 *broker or employee of such applicant, insured, or such owner, lessee*
 23 *or mortgagee, shall knowingly receive or accept, directly or in-*
 24 *directly, any commission, rebate, discount, abatement, credit or re-*
 25 *duction of premium, or any special favor or advantage or valuable*
 26 *consideration or inducement prohibited by this act**.* *** **[** *nor*
 27 *shall such person participate, directly or indirectly, in the income,*
 28 *fees, commissions or charges generated by the issuance of a policy*
 29 *of title insurance to said applicant.*]***

1 36. Examination of records. The commissioner, if he has reason
 2 to believe that any title insurance agent has violated or is violating
 3 any of the provisions of sections 34 and 35 of this act, shall forth-
 4 with examine said title insurance agent's books of account and
 5 record and vouchers pertaining to the business of title insurance,
 6 and any said title insurance agent so examined shall pay to the
 7 commissioner the cost of such examination on demand.

1 37. Additional penalty. **[**Every title insurance company and
 2 every title insurance agent which pays any commission, considera-
 3 tion or thing of value in any form for procuring title insurance
 4 in a real estate transaction in violation of section 34 of this act, or
 5 makes any unlawful rebate, in violation of section 35 of this act
 6 may**]*** **Any person who pays, allows or gives, or offers to pay,*
 7 *allow or give, or who receives or offers to receive any commission,*
 8 *rebate, discount, abatement, credit or reduction of premium or any*
 9 *special favor or advantage or valuable consideration or inducement*
 10 *whatever in violation of sections 34 and 35 of this act shall** be
 11 liable to the State of New Jersey for a penalty not exceeding five
 12 times the amount of such commission, **[**consideration or thing of
 13 value in any form,**]*** or unlawful rebate*, *discount, abatement,*
 14 *credit or reduction of premium or any special favor or advantage or*
 15 *valuable consideration or inducement whatever** in addition to any
 16 other penalty imposed by law.

1 38. Permitted division of fees. Nothing in this act prohibits
 2 the division of fees and charges between or among two or more
 3 title insurance companies or between or among one or more title
 4 insurance companies and one or more title insurance agents **repre-*

5 *senting the same title insurance company**, or between or among
6 two or more title insurance agents **representing the same title in-*
7 *surance company**.

1 39. Personal or controlled insurance.

2 ***[a.]*** If the rates and charges for personal or controlled in-
3 surance from any one source so issued in any 1 calendar year
4 received by a title insurance company or by a title insurance agent
5 shall exceed 25%, or from all such sources shall exceed 50% of the
6 total rates and charges received by such title insurance company or
7 by such title insurance agent for title insurance issued in the same
8 year, the excess shall be deemed to be unlawful rebate.

9 ***[b.** The commissioner shall have full power and authority and
10 it shall be his duty, to enforce and carry out by regulations, orders
11 or otherwise, the provisions of this section and the full intent
12 thereof. The commissioner may make such reasonable rules and
13 regulations not inconsistent with this act, as may be necessary or
14 proper in the exercise of his powers or for the performance of
15 his duties under this section.]*

1 **39A. Enforcement.*

2 *The commissioner shall have the full authority, and it shall be*
3 *his duty, to enforce the provisions of sections 34 through 39 of this*
4 *act and to carry out the full intent thereof through the adoption of*
5 *appropriate rules and regulations and the issuance of orders.**

K. RATES, RATING ORGANIZATIONS AND RATE-MAKING PROCEDURE

1 40. General provisions. The purposes of sections 41 to 52, in-
2 clusive, of this act are to promote the public welfare by regulating
3 title insurance rates to the end that they shall not be excessive,
4 inadequate or unfairly discriminatory and to authorize cooperative
5 action between or among title insurance companies in rate making
6 and other matters within the scope of said sections. Nothing herein
7 is intended to prohibit or discourage reasonable competition, or
8 to **require,** prohibit or discourage, except to the extent necessary
9 to accomplish the purposes stated above, uniformity in title in-
10 surance rates, rating systems and rating plans and practices. The
11 provisions of sections 41 to 52, inclusive, shall be ***[literally]***
12 **liberally** interpreted to make effective the purposes thereof as
13 outlined in this section.

1 41. Rate filing.

2 a. Every title insurance company shall file with the commissioner
3 its schedule of fees, every manual of classifications, rules and
4 plans pertaining thereto, and every modification of any of the
5 foregoing which it proposes to use in this State. Every such filing

6 shall state the proposed effective date thereof, and shall indicate
7 the character and extent of the coverage contemplated.

8 b. A title insurance company may satisfy its obligations to make
9 such filings by becoming a member of, or a subscriber to, a licensed
10 title insurance rating organization which makes such filings, and
11 by authorizing the commissioner to accept such filings on its behalf.

12 c. The commissioner shall make such review of the filing as may
13 be necessary to carry out the provisions of this act.

14 d. Beginning 90 days after the effective date of this act, no
15 title insurance company or agent of a title insurance company shall
16 charge any fee for any policy or contract of title insurance except
17 in accordance with filings or rates which are in effect for said title
18 insurance company as provided in this act.

19 e. The commissioner shall not ***[have the power to regulate, or]***
20 require the filing of ***[,]*** rates or fees for reinsurance contracts or
21 agreements, or policies of excess coinsurance.

1 42. Justification for rates. A rate filing shall be accompanied
2 by a statement of the title insurance company or title insurance
3 rating organization making the filing, setting forth the basis upon
4 which the rate was fixed and the fees are to be computed. Any filing
5 may be justified by:

6 (1) The experience or judgment of the title insurance company
7 or title insurance rating organization making the filing;

8 (2) Its interpretation of any statistical data relied upon;

9 (3) The experience of other title insurance companies or title
10 insurance rating organizations; or

11 (4) Any other factors which the title insurance company or title
12 insurance rating organization *or the commissioner* deem relevant.

13 ***[The statement and justification shall be open to public inspec-**
14 **tion after the rate to which it applies becomes effective.]***

1 43. Proposing of rates.

2 a. Every title insurance company that shall propose its own
3 rates, and every title insurance rating organization, shall propose
4 rates that are not excessive nor inadequate for the safety and
5 soundness of any title insurer, which do not unfairly discriminate
6 between risks in this State which involve essentially the same ex-
7 posure to loss and expense elements, and which shall give due con-
8 sideration to the following matters:

9 (1) The desirability for stability *and responsiveness* of rate
9A structures;

10 (2) The necessity***[,]** by encouraging growth in assets of title
11 insurance companies in periods of high business activity,***[]** of

12 assuring the financial solvency of title insurance companies in
13 periods of economic depression; ***[and]***

14 (3) The necessity for paying dividends on the capital stock
15 of title insurance companies sufficient to induce capital to be in-
16 vested therein***[.]*** *; *and**

16A *(4) *A reasonable level of profit for the insurer.**

17 b. Every title insurance company that shall propose its own
18 rates, and every title insurance rating organization, ***[shall]***

19 **may** adopt basic classifications of policies or contracts of title
20 insurance which shall be used as the basis for rates.

21 ***[c.** Rates within each rate classification may, at the discretion
22 of the title insurance company that files its own rates, or at the
23 discretion of the title insurance rating organization, be less than
24 the cost of the expense elements in the case of smaller insurances,
25 and the excess may be charged against the larger insurances with-
26 out rendering the rates unfairly discriminatory.]*

1 44. Approval or disapproval of filings.

2 a. If the commissioner shall find in his review of rate filings
3 that said filings provide for, result in, or produce rates that are
4 not unreasonably high, and are not inadequate for the safeness
5 and soundness of the insurer, and are not unfairly discriminatory
6 between risks in this State involving essentially the same hazards
7 and expense elements, he shall approve such rates***[, and such]*** *.
8 *Prior to such approval the commissioner may conduct a public*
9 *hearing with respect to a rate filing. An** approval shall continue
10 in effect until the commissioner shall issue an order of disapproval
10A pursuant to the requirements and procedure provided for in sub-
10B sections b. and c. of this section.

11 b. Upon the review at any time by the commissioner of a rate
12 filing, he shall, before issuing an order of disapproval, hold a
13 hearing upon not less than 10 days' written notice, specifying in
14 reasonable detail the matters to be considered at such hearing,
15 to every title insurance company and title insurance rating orga-
16 nization which made such filing, and if, after such hearing, he finds
17 that such filing or a part thereof does not meet the requirements
18 of this act, he shall issue an order specifying in what respects he
19 finds that it so fails, and stating when, within a reasonable period
20 thereafter, such filing or a part thereof shall be deemed no longer
21 effective ***[if the filing or a part thereof has become effective under**
22 **the provisions of section 41 of this act]***. A title insurance company
23 or title insurance rating organization shall have the right at any
24 time to withdraw a filing or a part thereof, subject to the provisions

25 of section 46 of this act in the case of deviation filing. Copies of
 26 said order shall be sent to every title insurance company and title
 27 insurance rating organization affected. Said order shall not affect
 28 any contract or policy made or issued prior to the expiration of
 29 the period set forth in said order.

30 c. Any person or organization aggrieved with respect to any
 31 filing which is in effect, may make written application to the com-
 32 missioner for a hearing thereon. The title insurance company or
 33 title insurance rating organization that made the filing shall not
 34 be authorized to proceed under this subsection. Such application
 35 shall specify in reasonable detail the grounds to be relied upon by
 36 the applicant. If the commissioner shall find that the application
 37 is made in good faith, that the applicant would be so aggrieved if
 38 his grounds are established, and that such grounds otherwise
 39 justify holding such a hearing, he shall, within 30 days after re-
 40 ceipt of such application, hold a hearing upon not less than 10
 41 days written notice to the applicant and to every title insurance
 42 company and title insurance rating organization which made such
 43 a filing. If, after such hearing, the commissioner finds that the
 44 filing or a part thereof does not meet the requirements of this act,
 45 he shall issue an order specifying in what respects he finds that
 46 such filing or a part thereof fails to meet the requirements of this
 47 act, stating when within a reasonable period thereafter, such filing
 48 or a part thereof shall be deemed no longer effective. Copies of
 49 said order shall be sent to the applicant and to every such title
 50 insurance company and title insurance rating organization. Said
 51 order shall not affect any contract or policy made or issued prior
 52 to the expiration of the period set forth in said order.

53 ***[d. No filing nor any modification thereof shall be disapproved**
 54 **if the rates in connection therewith meet the requirements of this**
 55 **act.]***

1 45. Title insurance rating organizations.

2 a. A corporation, an unincorporated association, a partnership
 3 or an individual, whether located within or outside this
 4 State, may make application to the commissioner for license as a
 5 rating organization for title insurance companies, and shall file
 6 therewith:

- 7 (1) A copy of its constitution, its articles of agreement or as-
 8 sociation or its certificate of incorporation, and of its bylaws, rules
 9 and regulations governing the conduct of its business;
 10 (2) A list of its members and subscribers;
 11 (3) The name and address of a resident of this State upon whom

12 notices or orders of the commissioner or process affecting such
13 rating organization may be served; and

14 (4) A statement of its qualifications as a title insurance rating
15 organization.

16 If the commissioner finds that the applicant is competent, trust-
17 worthy and otherwise qualified to act as a rating organization, and
18 that its constitution, articles of agreement or association or cer-
19 tificate of incorporation, and its bylaws, rules and regulations
20 governing the conduct of its business, conform to the requirements
21 of law, he shall issue a license authorizing the applicant to act as
22 a rating organization for title insurance. *~~Every~~ such application
23 shall be granted or denied in whole or in part by the commissioner
24 within 60 days of the date of its filing with him.* Licenses issued
25 pursuant to this section shall remain in effect for 3 years unless
26 sooner suspended or revoked by the commissioner or withdrawn
27 by the licensee. The fee for said license shall be *~~\$25.00~~*
28 *\$1,500.00*. Licenses issued pursuant to this section may be sus-
29 pended or revoked by the commissioner, after hearing upon notice,
30 in the event the rating organization ceases to meet the requirement
31 of this subsection. Every rating organization shall notify the com-
32 missioner promptly of every change in:

33 (1) Its constitution, its articles of agreement or association or
34 its certificate of incorporation, and its bylaws, rules and regula-
35 tions governing the conduct of its business;

36 (2) Its list of members and subscribers; and

37 (3) The name and address of the resident of this State desig-
38 nated by it upon whom notices or orders of the commissioner or
39 process affecting such rating organization may be served.

40 b. Subject to rules and regulations which have been approved
41 by the commissioner as reasonable, each title insurance rating
42 organization shall permit any title insurance company not a mem-
43 ber to be a subscriber to its rating services. Notices of proposed
44 changes in such rules and regulations shall be given to subscribers.
45 Each such rating organization shall furnish its rating services
46 without discrimination to its members and subscribers. The rea-
47 sonableness of any rule or regulation in its application to sub-
48 scribers, or the refusal of any such rating organization to admit
49 a title insurance company as a subscriber, shall at the request of
50 any subscriber or any such title insurance company, be reviewed
51 by the commissioner at a hearing held upon at least 10 days written
52 notice to such rating organization and to such subscriber. If the
53 commissioner finds that such rule or regulation is unreasonable
54 in its application to subscribers, he shall order that such rule or

55 regulation shall not be applicable to subscribers. If the rating
56 organization fails to grant or reject an application of a title in-
57 surance company for subscribership within 30 days after it was
58 made, the title insurance company may request a review by the
59 commissioner as if the application had been rejected. If the com-
60 missioner finds that the title insurance company has been refused
61 admittance to the title insurance rating organization as a sub-
62 scriber without justification, he shall order said rating organization
63 to admit the title insurance company as a subscriber. If he finds
64 that the action of the title insurance rating organization was justi-
65 fied, he shall make an order affirming its action.

66 ***[c.** Cooperation among title insurance rating organizations, or
67 among such rating organizations and title insurance companies,
68 and concert of action among title insurance companies under the
69 same general management and control in rate making or in
70 other matters within the scope of this act is hereby authorized,
71 provided the filings resulting therefrom are subject to all the pro-
72 visions of this act which are applicable to filing generally. The
73 commissioner may review such activities and practices and if, after
74 a hearing, he finds that any such activity or practice is unfair or
75 unreasonable or otherwise inconsistent with the provisions of this
76 act, he may issue a written order specifying in what respects such
77 activity or practice is unfair or unreasonable or otherwise incon-
78 sistent with the provisions of this act and requiring the discontinu-
79 ance of such activity or practice.]*

1 46. Deviations. Every member of or subscriber to a title in-
2 surance rating organization shall adhere to the filings made on its
3 behalf by such organization, except that any title insurance com-
4 pany which is a member of or subscriber to such a rating organi-
5 zation may file with the commissioner a uniform percentage of
6 decrease or increase to be applied to any or all elements of the fees
7 produced by the rating system so filed for a class of title insurance
8 which is found by the commissioner to be a proper rating unit for
9 the application of such uniform decrease or increase, or to be ap-
10 plied to the rates for a particular area*, *or otherwise deviate from*
11 *the rating plans, policy, forms or other matters which are the*
12 *subject of filings under this act**. Such deviation filing shall specify
13 the basis for the modification and shall be accompanied by the data
14 or historical pattern upon which the applicant relies. A copy of the
15 deviation filing and data shall be sent simultaneously to such rating
16 organization. ***[Any such deviation filing shall be on file for a wait-**
17 **ing period of 15 days before it becomes effective. Extension of such**

18 waiting period may be made in the same manner that such period
 19 is extended in the case of rate filings. The commissioner may
 20 authorize a deviation filing or any part thereof to become effective
 21 before the expiration of the waiting period or any extension
 22 thereof.]* Deviation filings shall be subject to the provisions of
 23 section 44 of this act. *【Each deviation shall be effective for at least
 24 1 year unless terminated sooner with the approval of the com-
 25 missioner, or in accordance with the provisions of section 44 of
 26 this act.】*

1 47. Appeal by minority. Any member of or subscriber to a title
 2 insurance rating organization may appeal to the commissioner
 3 from any action or decision of such rating organization in approv-
 4 ing or rejecting any proposed change in or addition to the filings
 5 of such rating organization, and the commissioner shall, after a
 6 hearing held upon not less than 10 days' written notice to the
 7 appellant and to such rating organization, issue an order approving
 8 the action or decision of such rating organization or directing it
 9 to give further consideration to such proposal and to take action
 10 or make a decision upon it within 30 days. If such appeal is from
 11 the action or decision of the title insurance rating organization
 12 in rejecting a proposed addition to its filings, he may, in the event
 13 he finds that such action or decision was unreasonable, issue an
 14 order directing said rating organization to make an addition to its
 15 filings, on behalf of its members and subscribers, in a manner
 16 consistent with his findings, within a reasonable time after the
 17 issuance of such order. If the appeal is from the action of the
 18 title insurance rating organization with regard to a rate or a
 19 proposed change in or addition to its filings relating to the
 20 character and extent of coverage, he shall approve the action of
 21 said rating organization or such modification thereof as shall have
 22 been suggested by the appellant if either be made in accordance
 23 with this act.

24 The failure of a title insurance rating organization to take action
 25 or make a decision within 30 days after submission to it of a
 26 proposal under this section shall constitute a rejection of such
 27 proposal within the meaning of this section. If such appeal is based
 28 upon the failure of said rating organization to make a filing on
 29 behalf of such member of subscriber which is based on a system of
 30 expense allocation which differs**【, in accordance with the right
 31 granted in subsection c. of section 43 of this act】** from the system
 32 of expense allocation included in a filing made by said rating
 33 organization, the commissioner shall, if he grants the appeal,

34 order the rating organization to make the requested filing for use
35 by the appellant. In deciding such appeal, the commissioner shall
36 apply the standards set forth in section 43 of this act.

1 48. Rate administration; authority and duties of commissioner;
2 rules and regulations.

3 a. The commissioner shall promulgate reasonable rules and
4 statistical plans, reasonably adapted to each of the rating systems
5 on file with him, which may be modified from time to time, and
6 which shall be used thereafter by each title insurance company, in
7 the recording and reporting of the composition of its business, its
8 loss and countrywide expense experience and those of its title
9 insurance underwriters in order that the experience of all title
10 insurance companies may be made available, at least annually, in
11 such form and detail as may be necessary to aid him in determining
12 whether rating systems comply with the standards set forth in this
13 article. Such rules and plans may also provide for the recording
14 of expense experience items which are specially applicable to this
15 State and are not susceptible of determination by a prorating of
16 countrywide expense experience. In promulgating such rules and
17 plans, the commissioner shall give due consideration to the rating
18 systems on file with him, and in order that such rules and plans
19 may be as uniform as is practicable among the several states, to
20 the rules and to the form of the plans used for such rating systems
21 in other states. Such rules and plans shall not place an unreason-
22 able burden of expense on any title insurance company. No title
23 insurance company shall be required to record or report its expense
24 and loss experience on a classification basis that is inconsistent with
25 the rating system filed by it, nor shall any title insurance company
26 be required to report its experience to any agency of which it is
27 not a member or subscriber. The commissioner may designate one
28 or more rating organizations or other agencies to assist him in
29 gathering such experience and making compilations thereof, and
30 such compilations shall be made available, subject to reasonable
31 rules promulgated by the commissioner, to title insurance com-
32 panies and rating organizations. **The commissioner shall give*
32A *preference in such designation to entities organized by and func-*
32B *tioning on behalf of title insurance companies operating in this*
32C *State. If the commissioner, in his judgment, determines that one*
32D *or more of such organizations designated as statistical agent is*
32E *unable or unwillingly to perform its statistical functions according*
32F *to reasonable requirements established from time to time by him,*
32G *he may, after consultation with such statistical agent and upon 20*

32H days notice to any affected companies, designate another person to
 32I act on his behalf in the gathering of statistical experience. The
 32J commissioner shall in such case establish the fee to be paid to such
 32K designated person by the affected companies in order to pay the
 32L total cost of gathering and compiling such experience. Agencies
 32M designated by the commissioner shall assist him in making com-
 32N pilations of the reported data and such compilations shall be made
 32O available, subject to reasonable rules and regulations promulgated
 32P by the commissioner, to insurers, rating organizations and any
 32Q other interested parties.*

33 b. Reasonable rules and plans may be promulgated by the com-
 34 missioner for the interchange of data necessary for the application
 35 of rating plans.

36 c. In order to further uniform administration of rate regulatory
 37 laws, the commissioner and every title insurance company and
 38 rating organization may exchange information and experience data
 39 with insurance supervisory officials, title insurance companies and
 40 rating organizations in other states, and may consult with them
 41 with respect to rate making and the application of rating systems.

42 d. In addition to any powers hereinbefore expressly enumerated
 43 in this act, the commissioner shall have full power and authority,
 44 and it shall be his duty, to enforce and carry out by regulations,
 45 orders or otherwise, all and singular the provisions of this article
 46 and the full intent thereof. The commissioner may make such
 47 reasonable rules and regulations not inconsistent with this act, as
 48 may be necessary or proper in the exercise of his powers or for the
 49 performance of his duties under this article.

1 49. False or misleading information. No title insurance company
 2 or title insurance agent shall willfully withhold information from,
 3 or knowingly give false or misleading information to the commis-
 4 sioner, or to any title insurance rating organization, of which the
 5 title insurance company is a member or subscriber, which will affect
 6 the rates or fees chargeable under this act.

1 50. Penalties. The commissioner may, if he finds that any title in-
 2 surance rating organization, title insurance company or title insur-
 3 ance agent has violated any provision of this act, impose a penalty
 4 of not more than *~~[\$50.00]~~* *\$1,000.00* for each such violation,
 5 but if he finds such violation to be willful, he may impose a penalty
 6 of not more than *~~[\$500.00]~~* *\$5,000.00* for each such violation.
 7 Such penalties may be in addition to any other penalty provided
 7A by law.

8 The commissioner may suspend the license of any title insurance
 9 rating organization, title insurance company, or title insurance

10 agent that fails to comply with an order of the commissioner within
 11 the time limited by such order, or any extension thereof, which
 12 the commissioner may grant. The commissioner shall not suspend
 13 the license of any such rating organization, company or agent for
 14 failure to comply with an order until the time prescribed for an
 15 appeal therefrom has expired, or, if an appeal has been taken, until
 16 such order has been affirmed.

17 The commissioner may determine when a suspension of license
 18 shall become effective, and it shall remain in effect for the period
 19 fixed by him unless he modifies or rescinds such suspension, or
 20 until the order upon which such suspension is based is modified,
 21 reversed. No penalty shall be imposed and no license shall be
 22 suspended or revoked except upon a written order of the commis-
 23 sioner, stating his findings, made after a hearing held upon not
 24 less than 10 days' written notice to such person or organization,
 25 specifying the alleged violation.

1 51. Hearing procedure.

2 a. Any title insurance company, title insurance rating organiza-
 3 tion or person aggrieved by any action of the commissioner, or by
 4 any rule or regulation adopted and promulgated by the commis-
 5 sioner, shall have the right to file a complaint with the commissioner
 6 and to have a hearing thereon before the commissioner. Pending
 7 such hearing and the decision thereon, the commissioner may
 8 suspend or postpone the effective date of such action, rule or
 9 regulation.

10 b. All hearings provided for in this act shall be conducted, and
 11 the decision of the commissioner on the issue or filing involved shall
 12 be rendered, in accordance with the provisions of P. L. 1958, c. 68
 13 (C. 17:1-8.5 et seq.).

1 52. Existing filings and hearings continued. All title insurance
 2 manuals of classifications, rules and rates, rating plans and modifi-
 3 cations thereof filed under any repealed act shall be deemed to have
 4 been filed under this act, and all title insurance rating organizations
 5 licensed under such repealed act shall be deemed to have been
 6 licensed under this act. All hearings and investigations pending
 7 under such repealed act shall be deemed to have been initiated
 8 under and shall be continued under this act.

L. POLICY FORMS

1 53. Forms of policies and other contracts of title insurance.
 2 Every title insurance company shall file with the commissioner all
 3 forms of title policies and other contracts of title insurance before
 4 the same shall be issued. Any such filing may be made by a title
 5 insurance rating organization in behalf of all of its members or

6 subscribers*; *provided, however, that members or subscribers of a*
7 *rating organization may file specific deviations to forms of policies*
8 *and other contracts of title insurance in the manner provided in*
9 *section 46 of this act**. In no event shall any title insurance com-
10 pany issue any such form of policy or contract until 30 days after
11 it shall have been filed with the commissioner unless it shall have
12 received earlier approval by the commissioner. ***U**nless the com-
13 missioner shall disapprove a form of title policy or contract of title
14 insurance within 30 days from the date of its filing, such filing shall
15 be deemed to have been approved. Forms of title policies and other
16 contracts of insurance, as used in this section, shall be deemed to **]***
17 **Forms subject to filing hereunder shall** include preliminary
18 reports of title, binders for insurance and policies of insurance
19 or guaranty, together with all the terms and conditions of insurance
20 coverage or guaranty that relate to title to any interest in real
21 property and which shall be offered by a title insurance company***[**.
22 They shall, however **]***, **but shall** specifically exclude reinsurance
23 contracts or agreements, all specific defects in title that may be
24 ascertained from an examination of the risk and **[expected]***
25 **excepted** in such reports, binders or policies, together with any
26 affirmative assurances of the title insurance company with respect
27 to such defects **[whether given by endorsement or otherwise]***,
28 and such further exception from coverage by reason of limitations
29 upon the examination of the risk imposed by an applicant for
30 insurance or through failure of an applicant for insurance to
31 provide the data requisite to a judgment of insurability. **Nothing*
32 *herein contained shall authorize a title insurance company to delete*
33 *or insure over an exception to or exclusion from coverage contained*
34 *in forms of title policies or other approved contracts of title*
35 *insurance filed hereunder except by endorsement specifically ap-*
36 *proved by the commissioner.**

M. ANNUAL STATEMENTS, RECORDS, EXAMINATIONS

1 54. Annual statements of title insurance companies; form and
2 contents.
3 a. Every title insurance company which is authorized to do a
4 title insurance business in this State, shall file in the office of the
5 commissioner annually, on or before March 1, a statement, to be
6 known as its annual statement, executed in duplicate, verified by
7 the oath of at least two of its principal officers, showing its condition
8 on December 31 then next preceding. Such statement shall be in
9 such form and shall contain such matters as the commissioner shall
10 prescribe.

11 b. The commissioner shall from time to time prescribe the form
12 of such annual statement as shall seem to him best adapted to
13 elicit a true exhibit of the condition of each such title insurer, in
14 respect to every matter which he may deem material. He shall
15 cause to be prepared and furnished to every title insurance com-
16 pany uniform printed forms of the statements and schedules
17 required by him.

1 55. Records. Every domestic title insurance company shall,
2 except as hereinafter provided, keep and maintain at its principal
3 office in this State: a. its charter and bylaws, b. its books of
4 account, c. a record containing the names and addresses of its
5 stockholders, the number and class of shares held by each and the
6 dates when they respectively became the owners of record thereof,
7 and d. the minutes of any meetings of its stockholders, board of
8 directors and committees thereof.

9 A domestic title insurance company may keep and maintain its
10 books of account without this State if, in accordance with a plan
11 adopted by its board of directors or trustees and approved by the
12 commissioner, it maintains in this State suitable records in lieu
13 thereof; provided, however, that the commissioner may after notice
14 and hearing direct such title insurance company to return all or
15 any of its books of account to this State if such return is reasonably
16 necessary to protect the interest of the people of this State or to
17 permit their inspection in this State by a director or stockholder
18 who has shown to the satisfaction of the commissioner that he has
19 made an application to such title insurance company for inspection
20 of such books in good faith and for a necessary and legitimate
21 purpose, and that such title insurance company has either declined
22 to permit such inspection or to agree to pay any additional expenses
23 reasonably to be incurred by the applicant, or his agent or attorney,
24 in connection with the inspection of such books as a result of their
25 maintenance without this State. If in the judgment of the commis-
26 sioner delay in the return of any or all books of account of such
27 title insurance company may be hazardous, or may cause irrepa-
27A rable injury, to the people of this State or to the policyholders of
28 such title insurance company, he may direct the return thereof
29 without notice and hearing.

1 56. Commissioner may require special reports. The commis-
2 sioner may also address to any authorized title insurance company
3 or its officers any inquiry in relation to its transaction or condition
4 or any matter connected therewith. Every corporation or person

5 so addressed shall reply in writing to such inquiry promptly and
6 truthfully, and such reply shall be verified, if required by the
7 commissioner, by such individual, or by such officer or officers of
8 a corporation, as he shall designate.

1 57. Examination of title insurance companies; when authorized
2 or required.

3 a. The commissioner may make an examination into the affairs
4 of any title insurance company authorized to do a title insurance
5 business in this State as often as he deems it expedient for the
6 protection of the interest of the people of this State.

7 b. The commissioner shall make an examination into the affairs
8 of every authorized domestic title insurance company at least once
9 in every 3 years and every title insurance rating organization at
10 least once in every 5 years.

N. NO OTHER PROVISIONS

1 58. Judicial review of commissioner's action. If any title insur-
2 ance company, title insurance agent, or title insurance rating
3 organization be dissatisfied with any decision, regulation, order,
4 rate, rule, act or administrative ruling adopted by the commis-
5 sioner, such title insurance company, title insurance agent or title
6 insurance rating organization, may appeal therefrom to the
7 Superior Court, Appellate Division.

1 59. Other sections applicable. In addition to the provisions of
2 this act, only the following provisions of the laws governing insur-
3 ance companies **and insurance agents** as presently enacted and
4 hereinafter amended, except as they are inconsistent with the pro-
5 visions of this act, shall apply to the business of title insurance to
6 title insurance companies, which shall be considered as within the
7 class of insurance companies regulated by such provisions solely for
8 the limited purpose of being subject to such provisions:

9 P. L. 1970, c. 12 (C. 17:1C-1 to 17:1C-18)

10 P. L. 1948, c. 266 (C. 17:3A-1 to 17:3A-7)

11 R. S. 17:17-1, 17:17-4, 17:17-5, 17:17-8 and 17:17-10

12 P. L. 1948, c. 157 (C. 17:17A-1 to 17:7A-4)

13 P. L. 1965, c. 57 (C. 17:17B-1 to 17:17B-8)

14 R. S. 17:18-1, 17:18-2, 17:18-4 and 17:18-10

15 R. S. 17:19-1 to 17:19-7

16 R. S. 17:20-4 and 17:20-5

17 P. L. 1966, c. 85 (C. 17:20-6)

18 R. S. 17:21-1 to 17:21-3

19 P. L. 1960, c. 32, ss. 3, 4, 5 (C. 17:22-6.37 to 17:22-6.39)

20 R. S. 17:23-2, 17:23-4 and 17:23-5

- 21 P. L. 1958, c. 15 (C. 17:23-6, 17:23-7)
 22 R. S. 17:24-5, 17:24-12
 23 P. L. 1949, c. 248 (C. 17:24-13 to 17:24-16)
 24 R. S. 17:25-7
 25 R. S. 17:26-1 to 17:26-3
 26 R. S. 17:27-1 to 17:27-5
 27 R. S. 17:32-1, 17:32-2, 17:32-4, 17:32-8 to 17:32-10
 28 R. S. 17:32-13 and 17:32-14
 29 P. L. 1950, c. 231 (C. 17:32-15)
 30 P. L. 1968, c. 234 (C. 17:32-16 to 17:32-20).

1 60. Repealer. All laws and parts of laws in conflict with the
 2 provisions of this act are hereby repealed insofar as they may be
 3 or have been applicable to the business of title insurance, title
 4 insurance companies, title insurance agents, or title insurance rat-
 5 ing organizations; and, in case conflict should develop, the provi-
 6 sions of this act shall control and be effective.

1 61. Effect of this act. The repeal by this act of any provision
 2 of law shall not revive any law heretofore repealed or superseded,
 3 nor shall this act affect any act done, liability incurred, or any
 4 right accrued or established, or any suit or prosecution, civil or
 5 criminal, pending or to be instituted to enforce any right or penalty
 6 or punish any offense under the authority of the repealed laws.

7 No provision of the insurance laws of this State, except as
 8 contained or referred to in this act, shall be applicable to title
 9 insurance companies, title insurance agents, title insurance rating
 10 organizations or the business of title insurance, and no law here-
 11 after enacted shall apply to title insurance companies, title insur-
 12 ance agents, title insurance rating organizations or the business of
 13 title insurance unless specified to be or become so applicable.

1 *62. *There is hereby appropriated to the Department of Insurance*
 2 *a sum of \$25,000.00 to administer this act.**

1 *~~62.~~* *63.* Effective date. The provisions of this act shall take
 2 effect **~~62.~~**~~on January 1 next succeeding~~* *90 days after*
 3 enactment]** **immediately, except that the Commissioner of
 4 Insurance may suspend the operation of any of the provisions of
 5 this act for a period not to exceed 90 days in order to provide for
 6 an orderly transition period**.

SENATE LABOR, INDUSTRY, AND
PROFESSIONS COMMITTEE

STATEMENT TO
ASSEMBLY, No. 1661
[OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

DATED: APRIL 7, 1975

Assembly Bill No. 1661 would, for the first time, place the title insurance industry in New Jersey under comprehensive regulatory controls administered by the Commissioner of Insurance.

The major objectives of the bill are as follows:

It would require a comprehensive rate-making process requiring justification and prior approval of rates.

It would establish standards of financial responsibility and provide for the protection of policy holders in the event of insolvency or dissolution.

It would eliminate the payment of unearned commissions and rebates for the referral of persons to a title insurance bureau, resulting in an immediate and significant savings to the consumer.

It would subject title insurance agents to qualifications and licensing, and would require that title insurance agents provide a full range of services subject to the same standards as are applied to underwriters.

FROM THE OFFICE OF THE GOVERNOR

MAY 29, 1975

DICK CAMPBELL

FOR IMMEDIATE RELEASE

FOR FURTHER INFORMATION

Governor Brendan Byrne signed into law Thursday a bill which will regulate for the first time the title insurance industry in New Jersey.

The measure, A 1661, sponsored by Assemblyman Daniel F. Newman, D-Ocean, provides for comprehensive regulation of the industry by the State Department of Insurance.

"This bill gives New Jersey the strictest title insurance regulation in the country," said Byrne.

"This is true consumer protection legislation," he added. "Under state regulation, I believe the cost of title insurance can be reduced significantly."

The bill's provisions include:

- Justification for and prior approval of rates.
- Protection for consumers in the event of an insolvency or dissolution of a title insurance company.
- The elimination of payment of unearned commissions and rebates for the referral of business.
- A requirement for agents to meet basic requirements for licensing.

The bill requires any title insurance company doing business in the state would have to provide financial stability, as all other insurance companies are required to do.

The measure also requires that all title insurance agents be bonded and licensed, but would not apply to current agents with at least 2 years experience.

The bill is an outgrowth of a report of a special title insurance study commission which recommended legislation to control the industry.

Title insurance is protection against any legal challenge to ownership of property.
