

17:46C-1 et al

LEGISLATIVE HISTORY CHECKLIST

NJSA 17:46C-1 et al; 54:18A-2 and 54:18A-3 ("Legal Services Insurance Act"--  
authorize and regulate)

LAWS 1981 CHAPTER 160

Bill No. S897

Sponsor(s) Hamilton and Weiss

Date Introduced Jan. 24, 1980

Committee: Assembly Banking and Insurance

Senate Labor, Industry and Professions; Revenue, Finance & Appropriations

Amended during passage Yes ~~No~~ Amendments during passage  
denoted by asterisks

Date of Passage: Assembly March 2, 1981

Senate Feb. 23, 1981

Date of approval June 8, 1981

Following statements are attached if available:

Sponsor statement Yes ~~No~~ (Below)

Committee Statement: Assembly Yes ~~No~~

Senate Yes ~~No~~ 2-9-81d

Fiscal Note ~~Yes~~ No

Veto Message ~~Yes~~ No

Message on signing ~~Yes~~ No

Following were printed:

Reports ~~Yes~~ No

Hearings ~~Yes~~ No

Sponsors' statement:

This bill provides for the authorization and regulation of persons engaged in  
the business of legal insurance.

For background see:

- J340 Honig, Emanuel A.
- B223f Prepaid legal services in New Jersey...
- NJ Bar Association, 1973.

DOCUMENTS  
 OF THE  
 LEGISLATIVE  
 HISTORY  
 COLLECTION  
 OF THE  
 STATE OF  
 NEW JERSEY  
 1981

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SENATE, No. 897

# STATE OF NEW JERSEY

INTRODUCED JANUARY 24, 1980

By Senators HAMILTON and WEISS

Referred to Committee on Labor, Industry and Professions

AN ACT to provide for the authorization and regulation of persons engaged in the business of legal insurance, amending section 2 of P. L. 1945, c. 132 and supplementing Title 17 of the Revised Statutes.

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

1 1. This act shall be known and may be cited as the "New Jersey  
2 Legal Services Insurance Act."

1 2. It is declared that there is a need to encourage the development  
2 of effective and economically sound methods for making legal  
3 services more readily available *\*at reasonable cost\** to the citizens  
4 of New Jersey; that there is a need to protect the interest of the  
5 users of legal services and of the public of this State with a mini-  
6 mum of restrictions on experimentation with new forms of  
7 organization, administration, or benefits; that the risks inherent in  
8 experimentation with legal services plans should be borne by the  
9 promoters of new plans rather than by the consumers; that persons  
10 other than professional insurers should be permitted and en-  
11 couraged to provide legal services, subject to practical and reason-  
12 able financial and regulatory requirements; that effective competi-  
13 tion between the various systems of financing legal services should  
14 be permitted and encouraged; and that it is the purpose of this act  
15 to meet the aforementioned needs and accomplish the aforemen-  
16 tioned objectives.

1 3. As used in this act:

2 a. "Commissioner" means the Commissioner of Insurance.

3 b. "Insurer" means any person who obtains a certificate of  
4 authority in accordance with the provisions of section 4 of this act  
5 and any person authorized to transact the business of insurance  
6 under Subtitle 3 of Title 17 of the Revised Statutes or Subtitle 3  
7 of Title 17B of the New Jersey Statutes.

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

8 c. "Legal insurance" means the assumption of a contractual  
9 obligation to provide specified legal services or reimbursement for  
10 legal expenses in consideration of a specified payment for an  
11 interval of time, regardless of whether the payment is made by the  
12 beneficiaries individually or by a third person for them, in such a  
13 manner that the total cost incurred by assuming the obligation is  
14 to be spread directly or individually among a group of persons.  
15 Legal insurance shall not include the provision of or reimbursement  
16 for legal services incidental to other insurance coverages such as  
17 the duty to defend, nor shall the following be considered legal  
18 insurance under the laws of this State:

19 (1) Retainer contracts made with individual clients with the  
20 fees based on estimates of the nature and the amount of services  
21 that will be provided to the specific client, and similar contracts  
22 made with a group of clients involved in the same or closely related  
23 legal matters such as class actions.

24 (2) Plans providing no benefits other than a limited amount of  
25 consultation and advice on simple matters either alone or in com-  
26 bination with referral services or the promise of fee discounts for  
27 other matters.

28 (3) Plans providing limited benefits on simple legal matters on  
29 an informal basis not involving a legally binding promise, in the  
30 context of an employment or educational or similar relationship.

31 (4) Legal services provided by unions or employee associations  
32 to their members in matters relating to employment or occupation.

33 (5) Employee benefit plans regulated by the "Employee Retire-  
34 ment Income Security Act of 1974," (P. L. 93-406, 29 USC 1001  
35 et seq.).

36 *\*(6) Plans or legal services provided by a legal aid office or*  
37 *public defender office, a military legal assistance office, a lawyer*  
38 *referral service operated, sponsored or approved by a bar associa-*  
39 *tion representative of the general bar of the geographical area in*  
40 *which the association exists, or any other nonprofit organization*  
41 *that recommends, furnishes or pays for legal services to its*  
42 *members or beneficiaries in a manner incidental and reasonably*  
43 *related to a primary purpose of such organization to promote a*  
44 *public interest, including, without limitation, defense of human and*  
45 *civil rights, elimination of prejudice and discrimination as to race,*  
46 *religion, sex and national origin, lessening neighborhood tensions,*  
47 *preservation of scenic beauty, combatting or preventing pollution,*  
48 *preservation of natural resources, protection of consumer interest,*  
49 *promotion of cultural, historical or other educational activities, and*  
50 *prevention of cruelty to animals.\**

51 As used herein, "contractual obligation" includes any arrange-  
52 ment in which those persons for whom services are to be provided  
53 under the arrangement have reasonable expectations of enforceable  
54 rights.

1 4. a. (1) A person entitled to transact the business of insurance  
2 under Subtitle 3 of Title 17 of the Revised Statutes or Subtitle 3  
3 of Title 17B of the New Jersey Statutes may transact the business  
4 of legal insurance in this State without having to obtain a certificate  
5 of authority under this act. This paragraph shall not by itself en-  
6 large the powers of any corporation entitled to transact the busi-  
7 ness of insurance under Subtitle 3 of Title 17 of the Revised  
8 Statutes or Subtitle 3 of Title 17B of the New Jersey Statutes given  
9 by its articles of incorporation or charter, but shall authorize  
10 such a corporation formed under Title 14A of the New Jersey  
11 Statutes, Subtitle 3 of Title 17 of the Revised Statutes, Subtitle 3  
12 of Title 17B of the New Jersey Statutes, Title 15 of the Revised  
13 Statutes or Title 16 of the Revised Statutes to include in its powers  
14 the authority to transact the business of legal insurance.

15 (2) No other person may transact the business of legal insurance  
16 unless he applies for and obtains a certificate of authority to tran-  
17 sact the business of legal insurance in compliance with this act.

18 (3) An application for a certificate of authority to transact the  
19 business of legal insurance shall be in a form prescribed by the  
20 commissioner and shall be accompanied by a fee of \$250.00. If the  
21 applicant is not domiciled in this State, the application shall be  
22 accompanied by a power of attorney duly executed by the applicant  
23 appointing the commissioner and his successors in office, and duly  
24 authorized deputies, as the true and lawful attorney of the applicant  
25 in and for this State, upon whom all lawful process in any legal  
26 action or proceeding against the applicant on a cause of action  
27 arising in this State shall be served.

28 b. Except for section 26 of this act, this act shall not apply to any  
29 person issuing group or blanket policies if fewer than 5% of the  
30 certificate holders or insureds reside in this State and the person  
31 is regulated to a comparable extent by another state in which a  
32 larger number of certificate holders or insureds reside. Any person  
33 exempt under this subsection shall file an annual report with the  
34 commissioner in accordance with the rules and regulations promul-  
35 gated by the commissioner.

1 5. a. A certificate of authority shall be issued if the commissioner  
2 is satisfied that the following conditions are met:

3 (1) The persons responsible for the conduct of the affairs of  
4 the applicant are competent, trustworthy, and of good reputation;

5 (2) The applicant demonstrates the willingness and ability to  
6 assure that the promised benefits can be provided.

7 In making this determination the commissioner shall consider  
8 so far as applicable:

9 (a) The adequacy of capital and surplus considered in relation  
10 to the other items in subsection a. (2) of this section;

11 (b) The financial soundness of the applicant's arrangements  
12 for legal services and the rating system proposed to be used in  
13 connection therewith;

14 (c) Any agreement with another person authorized to do busi-  
15 ness under this act, an insurer licensed under the general insurance  
16 law to do business in this State, a reinsurer eligible under the laws  
17 or regulations of this State to provide reinsurance, or an agency  
18 of the Federal or State Government for insuring the payment of  
19 the cost of legal services or the provision for automatic applicability  
20 of an alternative coverage in the event the insurer is unable to  
21 perform its obligations.

22 (d) Any surety bond or deposit of cash or securities as a guar-  
23 antee that the obligation will be duly performed; and

24 (e) If the applicant is licensed as an insurer under insurance  
25 laws of other states, whether the applicant has complied with the  
26 requirements of those laws.

27 b. At the request of an applicant, the commissioner shall issue  
28 an order stating whether a person is providing legal insurance as  
29 defined in section 3c. of this act.

1 6. a. (1) Each contractual obligation for legal insurance shall  
2 be evidenced by a policy or master policy. Legal insurance may  
3 be written on an individual basis or on a group or blanket basis  
4 in accordance with the provisions of chapter 27 of Title 17B of  
5 the New Jersey Statutes. Each person insured under a group  
6 policy shall be issued a certificate of coverage. No legal insurance  
7 policy or certificate of any kind may be issued or delivered in this  
8 State unless and until a copy of the form thereof has been ap-  
9 proved by the commissioner.

10 (2) The forms shall meet the following requirements:

11 (a) Policies shall contain a detailed list and description of the  
12 legal services promised or the legal matters for which expenses  
13 are to be reimbursed and the amount or method of reimbursement;

14 (b) Policies and certificates shall indicate prominently the  
 15 name of the insurer and the full address of its principal place of  
 16 business; **\*[and]\***

17 (c) Certificates issued under group policies may summarize the  
 18 terms of the master contract but shall contain a full and clear  
 19 statement of the benefits provided **\*[;]\*** *\*; and\**

19A *\*(d) Such other requirements as the commissioner shall deter-*  
 19B *mine.\**

20 (3) The commissioner shall disapprove a form if it is found  
 21 that it:

22 (a) Does not meet the requirements of subsection a. (2) of this  
 23 section;

24 (b) Is unfair, unfairly discriminatory, misleading, obscure or  
 25 encourages misrepresentation or misunderstanding of the contract,  
 26 including cases where the form:

27 (i) Provides coverage or benefits that are too restricted to  
 28 achieve the purposes for which the policy is designed;

29 (ii) Fails to attain a reasonable degree of readability, sim-  
 30 plicity and conciseness; or

31 (iii) Is misleading, deceptive or obscure because of its physi-  
 32 cal aspects such as format, typography, style, color, material  
 33 or organization;

34 (c) Provides coverage or benefits or contains other provisions  
 35 that would endanger the solvency of the insurer;

36 (d) Is contrary to law; *\*or\**

37 (e) Provides coverage or benefits for legal services rendered in  
 38 connection with defending criminal charges **\*[;]\*** *\*in which the*  
 38A *victim of the crime or a member of his immediate family or any*  
 38B *corporation or partnership in which the victim has a substantial*  
 38C *interest contributed to the plan on behalf of the insured.\**

39 **\*[(f) Provides coverage or benefits for legal services in actions**  
 40 **involving persons who contribute to the plan for the benefit of the**  
 41 **insured except in workers' compensation actions.]\***

42 b. (1) Every person shall, before using or applying any rate to  
 43 legal insurance, file with the commissioner for approval a copy of  
 44 the rating system upon which such rate is based, or by which such  
 45 rate is fixed or determined. From and after the date of the approval  
 46 of its rating system, every insurer shall charge and receive rates  
 47 fixed or determined in strict conformity therewith. The commis-  
 48 sioner may permit an insurer to file and use a rate for a 3-year  
 49 period before approving or disapproving the rate so that appro-  
 50 priate expense and claims experience can be obtained through a  
 51 statistical plan for use in his determination of the rate.

52 (2) The rates produced from such rating system shall meet the  
53 following requirements:

54 (a) They shall be established and justified in accordance with  
55 generally accepted insurance principles including but not limited  
56 to the experience or judgment of the insurer making the rate filing  
57 or actuarial computations; and

58 (b) They shall not be excessive, inadequate or unfairly dis-  
59 criminatory. Rates shall not be deemed unfairly discriminatory  
60 because they are averaged broadly among persons insured under  
61 group or blanket policies.

62 (3) The commissioner may, by written order, suspend or modify  
63 the requirement for filing and approval for any risk, group or  
64 class of risk the rates for which cannot practically be filed before  
65 they are used.

66 c. If the commissioner disapproves a filing he shall notify the  
67 person making it in writing specifying therein the reasons for  
68 disapproval. A hearing shall be granted after a request in writing  
69 by any such person aggrieved by the disapproval. The commis-  
70 sioner may, after notice and hearing, disapprove any rating system  
71 that has been previously approved; provided that such disapproval  
72 shall apply only to rating systems used on and after the date of  
73 said disapproval.

74 d. The commissioner may require the submission of whatever  
75 relevant information is reasonably necessary in determining  
76 whether to approve or disapprove a filing made pursuant to sub-  
77 sections a. or b. of this section.

1 7. Except for employee welfare benefit plans regulated by the  
2 "Employee Retirement Income Security Act of 1974" (P. L.  
3 93-406, 29 U. S. C. 1001 et seq.), a person who obtains a certificate  
4 of authority under this act and who transacts the business of  
5 legal insurance along with any other business shall transact legal  
6 insurance wholly within a segregated account in accordance with  
7 the following requirements:

8 a. The segregated account shall satisfy the financial require-  
9 ments for issuance of a certificate of authority;

10 b. Except under subsections f. and g. of this section the income  
11 and assets attributable to a segregated account shall always re-  
12 main identifiable with the account but, unless the commissioner  
13 so orders, the assets need not be kept physically separate from  
14 other assets of said person. The income, gains and losses, whether  
15 or not realized, from assets attributable to a segregated account  
16 shall be credited to or charged against the account without regard  
17 to other income, gains or losses of said person;

18 c. Except under subsection d. of this section, the assets attribu-  
 19 table to a segregated account shall not be chargeable with any  
 20 liabilities arising out of any other business of the person, nor  
 21 shall any assets not attributable to the account be chargeable with  
 22 any liabilities arising out of the segregated account;

23 d. The segregated account shall be deemed an insurer within  
 24 the meaning of P. L. 1975, c. 113 (C. 17:30C-1 et seq.). Claims  
 25 remaining unpaid after completion of the liquidation under P. L.  
 26 1975, c. 113 (C. 17:30C-1 et seq.) shall be liens against the interests  
 27 of shareholders, if any, in all of said person's assets that are not  
 28 liquidated.

29 e. Assets allocated to segregated accounts shall be the property  
 30 of said person, which person shall not be nor hold himself out to  
 31 be a trustee of the assets;

32 f. Said person may allocate a portion or part of a particular  
 33 asset to the segregated account;

34 g. Said person may by an identifiable act transfer assets to or  
 35 from the segregated account if:

36 (1) The terms are fair and reasonable; and

37 (2) The books, accounts and records of each party having an  
 38 interest in the account are so maintained as to clearly and accu-  
 39 rately disclose the precise nature and details of the transaction.

1 8. a. An insurer who obtains a certificate of authority in accord-  
 2 ance with the provisions of section 4 of this act may not enter  
 3 into any management contract, unless the contract is first filed  
 4 with the commissioner and not disapproved under this section.

5 b. The commissioner shall disapprove a contract under subsec-  
 6 tion a. of this section if he finds that:

7 (1) It subjects the insurer to excessive charges; or

8 (2) The contract extends for an unreasonable period of time; or

9 (3) The contract does not contain fair and adequate standards  
 10 of performance; or

11 (4) The persons empowered under the contract to manage the  
 12 insurer are not sufficiently trustworthy, competent, experienced  
 13 and free from conflict of interest to manage the insurer with due  
 14 regard for the interests of its insureds, creditors or the public; or

15 (5) The contract contains provisions which impair the interests  
 16 of the insurer's insureds or creditors or the public.

1 9. An insurer other than an insurer authorized to transact the  
 2 business of insurance under subtitle 3 of Title 17 of the Revised  
 3 Statutes or subtitle 3 of Title 17B of the New Jersey Statutes  
 4 shall annually, on or before the first day of March, file with the



5 commissioner a report covering the preceding calendar year veri-  
6 fied by at least two principal officers. The report shall be on forms  
7 prescribed by the commissioner and shall include:

8 a. A financial statement of the insurer's legal insurance business  
9 on December 31 of the year last preceding, including:

10 (1) Its balance sheet, and

11 (2) Its receipts and disbursements for the preceding year;

12 b. Any material changes in the information submitted pursuant  
13 to section 5 of this act;

14 c. Such information about the number of persons insured and  
15 terminated as may be prescribed by the commissioner;

16 d. Such other information relating to the performance of the  
17 insurer as is necessary to enable the commissioner to carry out  
18 his duties under this act.

1 10. An insurer shall maintain the reserves necessary for the  
2 sound operation of the business including unearned premium  
3 reserves in a manner to be determined by the commissioner.

1 11. The investable funds generated through the transaction of the  
2 business of legal insurance by a person who obtains a certificate  
3 of authority under this act shall be invested in securities or other  
4 investments permitted by the laws of this State for the investment  
5 of assets of life insurers or in such other securities or investments  
6 as the commissioner shall permit.

1 12. Except where inconsistent with this act, P. L. 1947, c. 379  
2 (C. 17:29B-1 to 17:29B-14) shall apply to persons obtaining a  
3 certificate of authority under this act.

1 13. The commissioner shall promulgate rules and regulations to  
2 provide for the licensing of agents *\*and brokers\** under this act,  
3 including the establishment of examination and licensing fees, and  
4 such other rules and regulations as are necessary or proper to carry  
5 out the provisions of this act, which rules and regulations are con-  
6 sistent with licensing requirements and standards in Title 17 of the  
7 Revised Statutes and Title 17B of the New Jersey Statutes.

1 14. Commissions may not be paid to nonlicensees. Rebates are  
2 prohibited to the same extent as under Titles 17 of the Revised  
3 Statutes and 17B of the New Jersey Statutes. Penalties for non-  
4 compliance with this section shall be consistent with the licensing  
5 provisions of Titles 17 of the Revised Statutes and 17B of the  
6 New Jersey Statutes.

1 15. The commissioner, in accordance with the procedures set  
2 forth in R. S. 17:23-4 et seq., shall make an examination of the  
3 affairs of any insurer obtaining a certificate of authority under this

4 act as often as he deems it necessary for the protection of the  
5 interest of the people of this State. The commissioner shall have  
6 the power to charge the expenses of examination to the insurer in  
7 the manner in which they are charged under Titles 17 of the  
8 Revised Statutes and 17B of the New Jersey Statutes.

1 16. The commissioner shall report to the New Jersey Supreme  
2 Court any information which he considers to be indicative of pos-  
3 sible violations of the Code of Professional Responsibility of the  
4 American Bar Association as amended by the New Jersey Supreme  
5 Court.

1 17. The commissioner may suspend or revoke any certificate of  
2 authority issued to a person transacting the business of legal  
3 insurance under this act, after notice and hearing, for violation of  
4 any provision of the act.

1 18. Any liquidation or dissolution of a person transacting the  
2 business of legal insurance shall be accomplished in accordance  
3 with the provisions of P. L. 1975, c. 113 (C. 17:30C-1 et seq.).

1 19. Every person subject to this act shall pay to the commissioner  
2 fees required by R. S. 17:33-1.

1 20. The provisions of P. L. 1950, c. 231 (C. 17:32-15) relating to  
2 retaliatory tax provisions shall apply to insurers under this act.

1 21. All applications, filings, and reports required under this act  
2 shall be treated as public documents. *\*Nothing contained in this  
3 act shall require the filing, reporting or disclosure of information  
4 or material which is subject to an attorney-client privilege or con-  
5 fidence, and no insurer shall question the independent judgment  
6 of an attorney providing legal services hereunder.\**

1 22. Subject to the provisions of this act, P. L. 1952, c. 330  
2 (C. 17:51-1 to 17:51-5), relating to unauthorized insurers, shall  
3 apply to persons transacting the business of legal insurance.

1 23. The provisions of Title 17 of the Revised Statutes and Title  
2 17B of the New Jersey Statutes shall apply generally to legal  
3 insurance offered by insurers authorized to transact the business of  
4 insurance and regulated under Subtitle 3 of Title 17 of the Revised  
5 Statutes or Subtitle 3 of Title 17B of the New Jersey Statutes;  
6 provided, however, that legal insurance sold by such insurers shall  
7 be subject to sections 2, 3, 4b., 6, 8, 13, 14, 18 and 20 of this act  
8 rather than to the corresponding sections of Title 17 of the Revised  
9 Statutes and Title 17B of the New Jersey Statutes; and further  
10 provided that the provisions of P. L. 1974, c. 17 (C. 17:30A-1  
11 et seq.) shall not apply to legal insurance offered by such insurers.

1 24. a. Orders or rules and regulations issued under the provisions  
 2 of this act shall be \***subject to**\* *issued in accordance with* the  
 3 provisions of Title 17 of the Revised Statutes and Title 17B of the  
 4 New Jersey Statutes **and to any rules or regulations promulgated**  
 5 relating to hearings and appeals.]\* *The provisions of N. J. S.*  
 5A *17B:34-11 shall apply in matters not specifically provided for*  
 5B *herein.\**

6 b. Except as otherwise provided in this act, the provisions of  
 7 Title 17 of the Revised Statutes and Title 17B of the New Jersey  
 8 Statutes shall not apply to insurers authorized under this act.

1 25. The penalty for each violation of any section of this act or  
 2 any supplement thereto, shall be a penalty not exceeding \$1,000.00  
 3 for the first offense and not exceeding \$2,000.00 for each succeeding  
 4 offense. Any penalty provided for herein shall be enforced and  
 5 collected by the commissioner in the name of the State in a sum-  
 6 mary proceeding in accordance with the penalty enforcement law  
 7 (N. J. S. 2A:58-1 et seq.). A warrant may issue in lieu of a sum-  
 8 mons. Upon the failure of the defendant to pay forthwith the  
 9 amount of any money judgment rendered against him, such  
 10 defendant shall be committed to the county jail as provided in said  
 11 penalty enforcement law until the penalty and costs are paid.  
 12 Penalties shall be paid to the commissioner for the use of the  
 13 State. The necessary expenses for enforcing the provisions of this  
 14 act when not otherwise provided for, shall be paid out of the  
 15 penalties so collected and the fees and taxes paid by insurance com-  
 16 panies of other States and foreign countries.

1 26. Any person *who has been* transacting the business of legal  
 2 insurance **as of** *for more than 90 days prior to* the effective  
 3 date of this act shall submit an application for a certificate of au-  
 4 thority under section 4 of this act within 90 days of the effective  
 5 date of this act and that applicant may continue to operate until  
 6 the commissioner acts upon the application. In the event that an  
 7 application is denied under section 5 of this act, the applicant shall  
 8 be treated as a legal insurer whose certificate of authority has been  
 9 revoked.

1 27. Section 2 of P. L. 1945, c. 132 (C. 54:18A-2) is amended to  
 2 read as follows:

3 2. (a) The tax specified in subsection (a) of section 1 of this act,  
 4 except as to life insurance companies and except as to marine  
 5 insurance as described by chapter 16 of Title 54 of the Revised  
 6 Statutes, shall, except as hereinafter provided, be 2% upon the  
 7 taxable premiums collected by such company during the year  
 8 ending December 31 next preceding on all business of the company

9 in this State, less the amount of any franchise taxes and taxes on  
 10 its property, exclusive of taxes on real estate and of taxes payable  
 11 pursuant to this section, paid in this State by the company pursuant  
 12 to any law of this State during the said year. Any taxes paid to the  
 13 treasurer of any firemen's relief association of this State pursuant  
 14 to section 54:18-1 of the Revised Statutes shall be considered a  
 15 part of the tax payable under this act.

16 (b) Taxable premiums, collected after December 31, 1965 by an  
 17 insurance company subject to the provisions of subsection (a)  
 18 hereof under group accident and health insurance policies on resi-  
 19 dents of this State, *and taxable premiums collected under legal in-*  
 20 *surance policies as defined in this amendatory and supplementary*  
 21 *act on residents of this State*, shall be subject to tax only at the  
 22 following rates:

23	As to taxes payable in 1967 .....	1¾%
24	As to taxes payable in 1968 .....	1½%
25	As to taxes payable in 1969 .....	1¼%
26	As to taxes payable in 1970 and thereafter .....	1%

1 28. Section 3 of P. L. 1945, c. 132 (C. 54:18A-3) is amended to  
 2 read as follows:

3 3. Amount of tax, life insurance companies; deductions.

4 (a) The tax specified in subsection (a) of section 1 of this act  
 5 as to life insurance companies, shall, except as hereinafter pro-  
 6 vided, be 2% upon the taxable premiums collected by the company  
 7 during the year ending December 31 next preceding under all  
 8 policies or contracts of insurance on residents of this State, less  
 9 the amount of any franchise taxes and taxes on its property,  
 10 exclusive of taxes on real estate and of taxes payable pursuant  
 11 to this section, paid in this State by the company pursuant to any  
 12 law of this State during the said year; provided, however, that in  
 13 the case of any life insurance company incorporated under any  
 14 law of this State having capital and surplus of \$15,000,000.00 or  
 15 more, such deduction from the tax payable pursuant to this section  
 16 shall be diminished by the amount of tax paid during the said  
 17 year pursuant to subsection b. or c. of section 2, chapter 101 of the  
 18 laws of 1950, as amended.

19 (b) Taxable premiums, collected after December 31, 1965 by an  
 20 insurance company subject to the provisions of subsection (a)  
 21 hereof under group accident and health insurance policies on  
 22 residents of this State, *and taxable premiums collected under legal*  
 23 *insurance policies as defined in this amendatory and supplementary*  
 24 *act on residents of this State*, shall be subject to tax only at the  
 25 following rates:

26	As to taxes payable in 1967	1¾%
27	As to taxes payable in 1968	1½%
28	As to taxes payable in 1969	1¼%
29	As to taxes payable in 1970 and thereafter	1%

1 29. Nothing contained in this act shall give the commissioner  
2 authority concerning regulation or suspension of attorneys ad-  
3 mitted to practice in this State, or authority over attorneys' agree-  
4 ments or fees with individual clients or organizations.

1 30. If any section in this act or any part of any section is declared  
2 invalid or unconstitutional, such declaration of invalidity shall not  
3 affect the validity of the remaining portions thereof.

1 31. This act shall be liberally construed to effectuate the purposes  
2 set forth in section 2.

1 32. This act shall take effect 90 days after enactment.

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ASSEMBLY BANKING AND INSURANCE COMMITTEE

STATEMENT TO

**SENATE, No. 897**

with Senate committee amendments

**STATE OF NEW JERSEY**

DATED: MARCH 2, 1981

This legislation, entitled the "New Jersey Legal Services Insurance Act," would permit the issuance of legal insurance contracts which would provide for reimbursement to the policyholder for legal services, or would provide for legal services to be provided directly to the policyholder. Legal insurance policies would be permitted to be issued by insurers presently authorized to write insurance under Title 17 of the Revised Statutes and under Title 17B of the New Jersey Statutes. Others desiring to issue legal insurance would be required to apply to the Commissioner of Insurance for a certificate of authority. The legislation established criteria for the admission of insurers to write legal insurance, and permits legal insurance to be written on an individual, group, or blanket basis. The Commissioner of Insurance would be given the authority to approve policy forms, rating systems, and rates. The commissioner could permit a file-and-use system for the first 3 years in order to develop a statistical base from which to determine the sufficiency of rates. Insurers who write this type of business would be required to maintain a segregated account for legal insurance. Insurers would be required to maintain adequate reserves and would be required to submit an annual report to the commissioner. Premium taxes would be required to be paid on legal insurance in the same manner as other insurance.

SENATE LABOR, INDUSTRY AND PROFESSIONS  
COMMITTEE

STATEMENT TO

**SENATE, No. 897**

with Senate committee amendments

**STATE OF NEW JERSEY**

DATED: OCTOBER 9, 1980

This bill provides for the authorization and regulation of persons engaged in the business of legal insurance. It provides that any person who obtains a certificate of authority may provide legal insurance; admitted insurers may do so without a certificate.

A certificate of authority may be issued by the Commissioner of Insurance if he is satisfied that:

- 1) The persons responsible for the conduct of the affairs of the applicant are competent, trustworthy, and of good reputation; and
- 2) The applicant demonstrates the willingness and ability to assure that the promised benefits can be provided.

Legal insurance may be written on an individual or a group basis. Each person insured under a group policy will be issued a certificate of coverage. All policies for legal insurance, as well as their rates, must be approved by the commissioner. The commissioner is empowered to issue regulations providing for the licensing of legal insurance agents.

The bill was amended by the Labor, Industry and Professions Committee to insure that the following not be considered legal insurance:

1. Plans or legal services provided by a legal aid office, a public defendant's office, or a military legal assistance office.
2. Lawyer referral services operated, sponsored or approved by a bar association representative.
3. Any other non-profit organization that recommends or provides legal services to its members ancillary to the primary purpose of the organization to promote a public interest.

As amended, the bill would mandate that the commissioner disapprove the form of a legal insurance plan which provided benefits for legal services rendered in connection with criminal charges in which the victim of the crime or a member of his immediate family or any corporation or partnership in which the victim has a substantial interest contributed to the plan on behalf of the insured. The amendments delete the section of the bill which would have required the commissioner to disapprove a policy form which provided coverage in actions

involving persons who contribute to the plan for the benefit of the insured. This provision would have disallowed, for example, use of the plan in class action suits, cases of assault of one worker by another, and any other suits involving more than one person in the same legal insurance plan, whether as adversaries or co-plaintiffs, whether against each other or against a contributing employer.

The amendments make it clear that nothing in the act requires the filing, reporting, or disclosure of information subject to an attorney-client privilege.

The penalty for violating any section of this act is not to exceed \$1,000.00 for the first offense and not to exceed \$2,000.00 for each succeeding offense. One-half of each penalty is to be paid to the local firemen's relief association and the other half to the commissioner for the use of the State. The necessary expenses for enforcing this act are to be paid out of these penalties along with the fees and taxes paid by insurance companies of other states.

Any person providing legal insurance when this act takes effect must apply for a certificate of authority within 90 days, but may continue to operate until the commissioner acts on the application.

At the present time, insurance companies in New Jersey are not authorized to sell legal insurance.

A number of labor unions now offer what are referred to as "closed panel" prepaid legal service plans. These plans are authorized under the Federal Employee Retirement Income Security Act of 1974, which provides a framework for all employee benefits, prepaid legal insurance being one of them. Since they are technically "employee benefits" rather than "insurance", they do not have to be regulated by the Department of Insurance. In fact, Federal law prohibits State regulatory control of such plans. Every lawyer who is the administrator of a closed panel plan must file an application with the Supreme Court and thereafter re-register annually.

Under the "closed panel" plan, a union selects a group of attorneys to represent its members in certain negotiated circumstances, such as consumer fraud, marital disputes, house closings, or wills. A member of the plan would not be able to use an attorney of his own choosing.

Michigan, Oregon, Alaska, Texas and a few other states allow bar associations and insurance companies to operate "open panel" plans. These plans operate much the same way Blue Cross operates. A member may go to a lawyer of his own choosing and the plan will reimburse him for a percentage of the fee.

The sponsor feels that prepaid legal insurance plans will give the middle class legal protections now enjoyed by increasing numbers of the poor (through legal aid programs) and the rich (who can afford to pay for private service).

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