

17:29D-1

LEGISLATIVE HISTORY CHECKLIST
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(Personal Automobile Insurance Plan--
rating system)

NJSA: 17:29D-1

LAWS OF: 1995 **CHAPTER:** 151

BILL NO: S1668

SPONSOR(S): Cardinale

DATE INTRODUCED: December 19, 1994

COMMITTEE: **ASSEMBLY:** ---

SENATE: Commerce

AMENDED DURING PASSAGE: Yes **Amendments during passage
denoted by superscript
numbers**
Second reprint enacted

DATE OF PASSAGE: **ASSEMBLY:** June 19, 1995

SENATE: May 11, 1995

DATE OF APPROVAL: June 30, 1995

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:
REPORTS: No

HEARINGS: No

KBG:pp

REPRODUCTION OF ORIGINAL DOCUMENT

STATE OF NEW JERSEY

INTRODUCED DECEMBER 19, 1994

By Senator CARDINALE

1 AN ACT concerning automobile insurance and amending
2 P.L.1970, c.215 ¹and P.L.1988, c.156¹.

3
4 BE IT ENACTED *by the Senate and General Assembly of the*
5 *State of New Jersey:*

6 1. Section 1 of P.L.1970, c.215 (C.17:29D-1) is amended to
7 read as follows:

8 1. The Commissioner of Insurance may adopt, issue and
9 promulgate rules and regulations establishing a plan for the
10 providing and apportionment of insurance coverage for applicants
11 therefor who are in good faith entitled to, but are unable to
12 procure the same, through ordinary methods. Every insurer
13 admitted to transact and transacting any line, or lines, of
14 insurance in the State of New Jersey shall participate in such
15 plan and provide insurance coverage to the extent required in
16 such rules and regulations.

17 Any plan established pursuant to this section to provide
18 insurance for automobiles, as defined in section 2 of P.L.1972,
19 c.70 (C.39:6A-2), shall provide:

20 a. **[That any automobile liability insurance coverage with**
21 **limits in excess of \$50,000 per person and \$100,000 per accident**
22 **for bodily injury or death and \$25,000 for property damage, or in**
23 **lieu thereof, \$100,000 for a single limit of liability against claims**
24 **for bodily injury or death and property damage, shall be**
25 **experience rated with respect to the rate applicable to coverage**
26 **in excess of those limits] For a rating system which shall produce**
27 **rates for each coverage which are adequate for the safeness and**
28 **soundness of the plan, and are not excessive nor unfairly**
29 **discriminatory with regard to risks in the plan involving**
30 **essentially the same hazards and expense elements;**

31 b. **[That collision and comprehensive automobile insurance**
32 **coverages on automobiles with a value of \$25,000 or more at the**
33 **time those coverages are issued or renewed shall be experience**
34 **rated and for automobiles with a value of more than \$15,000 but**
35 **less than \$25,000 at the time those coverages are issued or**
36 **renewed that part of the rate applicable to the value between**
37 **\$15,000 and \$25,000 shall be experience rated] For rates charged**
38 **to plan insureds which shall be sufficient to meet the plan's**
39 **expenses and the plan's losses on an incurred basis, including the**
40 **establishment and maintenance of actuarially sound loss reserves**
41 **to cover all future costs associated with the exposure;**

42 c. For a limited assignment distribution system permitting

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SCM committee amendments adopted March 13, 1995.

² Senate floor amendments adopted March 30, 1995.

1 insurers to enter into agreements with other mutually agreeable
 2 insurers or other qualified entities to transfer their applicants
 3 and insureds under such plan to such insurers or other entities;

4 d. That it shall not provide insurance coverage for more than
 5 10 percent of the aggregate number of private passenger
 6 automobile non-fleet exposures being written in the total private
 7 passenger automobile insurance market in this State. The plan
 8 shall provide for the cessation of the acceptance of applications
 9 or the issuance of new policies at any time it reaches 10 percent
 10 of marketshare, as certified by the commissioner, until such time
 11 that the commissioner certifies that the plan is insuring less than
 12 10 percent of the aggregate number of private passenger
 13 automobile non-fleet exposures being written in the total private
 14 passenger automobile insurance market in this State;

15 e. That it shall not provide coverage to an eligible person as
 16 defined pursuant to section 25 of P.L.1990, c.8 (C.17:33B-13);
 17 [and]

18 f. That insurers who write automobile risks in those urban
 19 territories designated by the commissioner shall receive one
 20 assigned risk credit for every two voluntary risks written in those
 21 designated territories; and

22 g. That the plan shall not be subsidized by any source external
 23 to the plan.

24 Prior to the adoption or amendment of such rules and
 25 regulations, the commissioner shall consult with such members of
 26 the insurance industry as he deems appropriate. Such
 27 consultation shall be in addition to any otherwise required public
 28 hearing or notice with regard to the adoption or amendment of
 29 rules and regulations.

30 ²The governing body administering the plan shall report
 31 annually to the Legislature and the Governor on the activities of
 32 the plan. The report shall contain an actuarial analysis regarding
 33 the adequacy of the rates for each coverage for the safeness and
 34 soundness of the plan.²

35 (cf: P.L.1990, c.8, s.34)

36 ¹2. Section 5 of P.L.1988, c.156 (C.17:29A-44) is amended to
 37 read as follows:

38 5. a. [Beginning July 1, 1989, a] A filer may charge rates for
 39 private passenger automobile insurance in the voluntary or
 40 residual market which are not in excess of the following:

41 (1) For private passenger automobile personal injury protection
 42 coverage, residual bodily injury and property damage insurance,
 43 the maximum permissible annual rate increase applicable to each
 44 rate level utilized by an insurer in the voluntary market pursuant
 45 to section 6 of P.L.1988, c.156 (C.17:29A-45) or by any plan
 46 established pursuant to section 1 of P.L.1970, c.215 (C.17:29D-1)
 47 to provide insurance for automobiles, as defined in section 2 of
 48 P.L.1972, c.70 (C.39:6A-2), shall be a Statewide average rate
 49 change of not more than the last published increase in the
 50 medical care services components of the national Consumer Price
 51 Index, all urban consumers, U.S. city average, plus three
 52 percentage points.

53 (2) For private passenger automobile physical damage
 54 coverage, the maximum permissible annual rate increase

1 applicable to each rate level utilized by an insurer in the
2 voluntary market pursuant to section 6 of P.L.1988, c.156
3 (C.17:29A-45) or by any plan established pursuant to section 1 of
4 P.L.1970, c.215 (C.17:29D-1) to provide insurance for
5 automobiles, as defined in section 2 of P.L.1972, c.70
6 (C.39:6A-2), shall be a Statewide average rate change of not
7 more than the last published increase in the automobile
8 maintenance and repair components of the national Consumer
9 Price Index, U.S. city average, plus three percentage points.

10 b. For the purposes of this section, "Statewide average rate
11 change" means the total Statewide premium for all coverages
12 combined at the rates in effect at the time of the filing for each
13 rate level.

14 c. Any change in excess of the rate changes permitted by
15 paragraphs (1) and (2) of subsection a. shall be subject to the
16 provisions of P.L.1944, c.27 (C.17:29A-1 et seq.).

17 d. If, at any time, the commissioner believes that an increase
18 in either or both of the published indices will produce rate levels
19 which are excessive, he may modify the Statewide average rate
20 change which may be used pursuant to this section.

21 e. A filer may implement a change in rate level, pursuant to
22 subsection a. of this section, in whole or in part, in a single or in
23 multiple filings by making an informational filing with the
24 commissioner in a manner and form approved by the
25 commissioner. The filing shall include a statement of the reason
26 or reasons for the change in rate level, including, but not limited
27 to, the claim and expense experience of the individual filer.

28 f. Other than filings made pursuant to subsection c. of this
29 section, [neither] the provisions of subsection c. of section 14 of
30 P.L.1944, c.27 (C.17:29A-14) [, nor the provisions of section 19 of
31 P.L.1974, c.27 (C.52:27E-18),] shall not apply to any filing made
32 pursuant to this section. However, the commissioner shall
33 provide a copy of any filing made or other information provided
34 by a filer pursuant to the provisions of this section to the
35 appropriate division or office in the Department of Insurance.
36 The appropriate division or office in the Department of Insurance
37 may challenge a rate change implemented pursuant to subsection
38 a. of this section after the effective date of the rate change by
39 filing such challenge in writing with the commissioner within 30
40 days of the effective date of the rate change. The commissioner
41 shall hear the matter on an expedited basis and shall render a
42 final determination within six months of the date of filing. The
43 commissioner may, for good cause, extend this six-month period
44 up to an additional three months. If that division or office in the
45 Department of Insurance prevails, the commissioner shall reduce
46 or rescind the rate change as appropriate. If the commissioner
47 reduces or rescinds a rate change as a result of a challenge by the
48 appropriate division or office in the Department of Insurance
49 filed pursuant to the provisions of this subsection, the filer shall
50 bear the cost of the reasonable expenses incurred by that division
51 or office in the Department of Insurance in maintaining the
52 challenge.

53 g. [The commissioner shall monitor the implementation and
54 use of flex rating pursuant to this section and shall report

1 his findings to the Senate Labor, Industry and Professions
2 Committee and the Assembly Insurance Committee, or their
3 successors, including any legislative proposals, no later than July
4 1, 1992. This report shall provide an evaluation of the use of this
5 rating mechanism and its impact on the availability and
6 affordability of private passenger automobile insurance in this
7 State and the depopulation of the New Jersey Automobile Full
8 Insurance Underwriting Association and shall include any
9 legislative proposals or other recommendations of the
10 commissioner.] (~~Deleted by amendment, P.L. . c. .~~)¹
11 (cf: P.L.1994, c.58, s.44)

12 ¹[2.] 3.¹ This act shall take effect immediately.

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17 Provides for adequate rates for the personal automobile insurance
18 plan.

1 d. That it shall not provide insurance coverage for more than
2 10 percent of the aggregate number of private passenger
3 automobile non-fleet exposures being written in the total private
4 passenger automobile insurance market in this State. The plan
5 shall provide for the cessation of the acceptance of applications
6 or the issuance of new policies at any time it reaches 10 percent
7 of marketshare, as certified by the commissioner, until such time
8 that the commissioner certifies that the plan is insuring less than
9 10 percent of the aggregate number of private passenger
10 automobile non-fleet exposures being written in the total private
11 passenger automobile insurance market in this State;

12 e. That it shall not provide coverage to an eligible person as
13 defined pursuant to section 25 of P.L.1990, c.8 (C.17:33B-13);
14 [and]

15 f. That insurers who write automobile risks in those urban
16 territories designated by the commissioner shall receive one
17 assigned risk credit for every two voluntary risks written in those
18 designated territories; and

19 g. That the plan shall not be subsidized by any source external
20 to the plan.

21 Prior to the adoption or amendment of such rules and
22 regulations, the commissioner shall consult with such members of
23 the insurance industry as he deems appropriate. Such
24 consultation shall be in addition to any otherwise required public
25 hearing or notice with regard to the adoption or amendment of
26 rules and regulations.

27 (cf: P.L.1990, c.8, s.34)

28 2. This act shall take effect immediately.

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STATEMENT

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32 This bill provides that the rating system used for the personal
33 automobile insurance plan (PAIP) shall produce rates that are
34 adequate to ensure the safeness and soundness of the plan and are
35 not excessive nor unfairly discriminatory with regard to risks in
36 the plan involving essentially the same hazard; that the rates
37 charged by the plan are sufficient to ensure that the plan will be
38 operated on an actuarially sound basis with regard to current and
39 future costs associated with exposure; and that the plan will not
40 be subsidized by any external source.

41 The purpose of this bill is to ensure that the history of the New
42 Jersey Automobile Full Insurance Underwriting Association (JUA)
43 and the Market Transition Facility (MTF) will not be repeated
44 with regard to establishment of the PAIP. Both the JUA and the
45 MTF failed to fund actuarially sound loss reserves and instead
46 operated using cash flow procedures which resulted in huge
47 operating deficits that subsequently required, and still require,
48 subsidization from outside sources.

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53 Provides for adequate rates for the personal automobile insurance
54 plan.

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 1668

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 13, 1995

The Senate Commerce Committee reports favorably and with committee amendments Senate Bill No. 1668.

This bill, as amended by the committee, provides that the personal automobile insurance plan (PAIP), the residual market for private passenger automobile insurance, must provide for a rating system which produces rates that are adequate to ensure the safeness and soundness of the plan and are not excessive nor unfairly discriminatory with regard to risks in the plan involving essentially the same hazards and expense elements; that the rates charged by the plan are sufficient to ensure that the plan will be operated on an actuarially sound basis with regard to current and future costs associated with the exposure; and that the plan will not be subsidized by any external source.

The bill also provides that the "flex rate" provisions of the automobile insurance rating laws would apply to PAIP. Currently, the "flex rate" provisions apply only to insurers writing automobile insurance in the voluntary market.

Finally, the bill deletes a current provision of law which required a report by the commissioner on the "flex rate" provisions on or before July 1, 1992.