

17:29AA-1 to 17:29AA-32

LEGISLATIVE HISTORY CHECKLIST

(Commercial Insurance  
Deregulation Act)

NJSA 17:29AA-1 to 17:29AA-32; 17:36; 17:36-5.15, 17:36-5.22

LAWS 1982 CHAPTER 114

Bill No. A813

Sponsor(s) Jackman, T. Gallo and Cowan

Date Introduced Feb. 22, 1982

Committee: Assembly Banking and Insurance

Senate Labor, Industry and Professions

Amended during passage Yes No Assembly Committee  
Substitute enacted

Date of Passage: Assembly June 21, 1982

Senate July 12, 1982

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Following statements are attached if available:

Sponsor statement Yes No

Committee Statement: Assembly Yes No

Senate Yes No

Fiscal Note. Yes No

Veto Message Yes No

Message on signing Yes No

Following were printed:

Reports Yes No

Hearings Yes No

Report, referred to in statements:

974.90 New Jersey Advisory Committee of Deregulation of  
159 Commercial Insurance.  
1980d Deregulating commercial insurance in New Jersey, Dec. 1, 1980.  
Trenton, 1980.

6/22/81

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ASSEMBLY, No. 813

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 22, 1982

By Assemblymen JACKMAN, T. GALLO and COWAN

Referred to Committee on Banking and Insurance

AN ACT concerning commercial insurance 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 "Commercial  
2 Insurance Deregulation Act of 1982."

1 2. The purposes of this act are:

2 a. To encourage independent action by price competition among  
3 insurers in the writing of commercial lines insurance;

4 b. To prevent practices that tend to bring about monopoly or to  
5 lessen or destroy competition; and

6 c. To encourage the most efficient and economic rating and mar-  
7 keting practices.

1 3. As used in this act:

2 a. "Commercial lines insurance" includes all insurance policies  
3 issued by a licensed insurer pursuant to Title 17 of the Revised  
4 Statutes, except:

5 (1) Insurance of vessels or craft, their cargoes, marine builders'  
6 risks, marine protection and indemnity, or other risks commonly  
7 insured under marine, as distinguished from inland marine insur-  
8 ance policies;

9 (2) Title insurance;

10 (3) Mortgage guaranty insurance;

11 (4) Workers' compensation and employers' liability insurance;

12 (5) Any policy or contract of reinsurance, other than joint re-  
13 insurance to the extent provided for under section 24 of this act;

14 (6) Insurance written through the New Jersey Medical Malprac-  
15 tice Reinsurance Association established pursuant to P. L. 1975,  
16 c. 301 (C. 17:30D-1 et seq.);

17 (7) Insurance written through the New Jersey Insurance Under-  
18 writing Association established pursuant to P. L. 1968, c. 129  
19 (C. 17:37A-1 et seq.);

20 (8) Insurance issued by hospital service corporations and medi-  
21 cal service corporations; and

22 (9) Insurance issued for personal, family or household purposes,  
23 as determined by the commissioner.

24 b. "Commissioner" means Commissioner of Insurance.

25 c. "Department" means the Department of Insurance.

26 d. "Insurer" means any person, corporation, association, joint  
27 underwriting association established pursuant to section 24 of this  
28 act, partnership or company licensed under the laws of this State  
29 to transact the business of insurance in this State.

30 e. "Premium" means the consideration paid or to be paid to an  
31 insurer for the issuance and delivery of any binder or policy of  
32 insurance.

33 f. "Rate" means the unit charge by which the measure of ex-  
34 posure or the amount of insurance specified in a policy of insurance  
35 or covered thereunder is multiplied to determine the premium.

36 g. "Rate-making" means the examination and analysis of every  
37 factor and influence related to and bearing upon the hazard and  
38 risk made the subject of insurance; the collection and collation of  
39 such factors and influences into rating systems; and the applica-  
40 tion of such rating systems to individual risks.

41 h. "Rating-system" means every schedule, class, classification,  
42 rule, guide, standard, manual, table, rating-plan, or compilation by  
43 whatever name described, containing the rates used by any rating  
44 organization or by any insurer, or used by any insurer or by any  
45 rating organization in determining or ascertaining a rate.

46 i. "Reasonable degree of competition" means that degree of  
47 competition which would tend to produce rates that are not exces-  
48 sive, inadequate, or unfairly discriminatory, or forms that are not  
49 unfair, inequitable, misleading or contrary to law, as determined  
50 by the commissioner.

51 j. "Risk," as the context may require, means (1) as to fire in-  
52 surance or any other kind of insurance which, by law, may be  
53 embraced in a policy of fire insurance as part thereof or as supple-  
54 mental thereto, any property, real or personal, described in a policy,  
55 exposed to any hazard or peril named in such policy, and (2) as  
56 to all other kinds of insurance not specifically included in clause

57 (1) of this subsection, the hazard or peril named in a policy of  
58 insurance.

59 k. "Special risks" means (1) those commercial lines insurance  
60 risks as specified on a list promulgated by the commissioner, which  
61 are of an unusual nature or high loss hazard or are difficult to place  
62 or rate or which are excess or umbrella or which are eligible for  
63 export; (2) commercial lines insurance risks which produce mini-  
64 mum annual premium in excess of \$10,000.00 on a single line or  
65 \$25,000.00 or a multiple line, where "line" and "multiple line" shall  
66 be defined by regulation promulgated by the commissioner giving  
67 due deference to customary annual reporting practices in the in-  
68 dustry; (3) inland marine insurance; or (4) fidelity, surety or for-  
69 gery bonds. Additions or deletions to the list promulgated may be  
70 made by the commissioner without a hearing upon notice to all  
71 licensed insurers.

72 l. "Supplementary rate information" includes any manual or  
73 plan of rates, statistical plan, classification, rating schedule, rating  
74 rule and any other rule used by an insurer in making rates.

1 4. All policies of commercial lines insurance, issued by an in-  
2 surer licensed to do business in this State shall be issued in  
3 accordance with the provisions of this act.

1 5. Notwithstanding any other law to the contrary, every at-  
2 thorized and admitted insurer and every rating organization shall  
3 file with the commissioner all rates and supplementary rate in-  
4 formation and all changes and amendments thereof made by it for  
5 use in this State at least 45 days, excluding Saturdays, Sundays,  
6 and public holidays, prior to becoming effective. Unless dis-  
7 approved by the commissioner prior to its stated effective date,  
8 such rates shall be deemed approved as of their effective date. An  
9 extension of the effective date of a filing beyond the date just pre-  
10 scribed will be permitted at the sole option of the insurer or rating  
11 organization making the filing. This section shall apply to initial  
12 rate filings, as well as any and all alterations, supplements or  
13 amendments to such initial rate filings. In his discretion, the com-  
14 missioner may waive such 45-day waiting period, or any portion  
15 thereof. This section shall not apply to special risks except as  
16 provided in section 12 of this act.

1 6. Notwithstanding any other law to the contrary, insurers shall  
2 file copies of all policy forms for approval with the commissioner.  
3 No policy form shall be used by any insurer until so approved.

1 7. Each filing and supporting information filed under this act  
2 shall, as soon as filed, be open to public inspection at any reasonable  
3 time. Copies may be obtained by any person on request and upon  
4 payment of a reasonable charge therefor.

1 8. An insurer may itself establish rates and supplementary rate  
2 information, or it may use rates and supplementary rate informa-  
3 tion prepared by a rating organization of which it is a member or  
4 subscriber, with such modification for its own expense and loss  
5 experience as the credibility of that experience allows.

1 9. In making rates, due consideration shall be given to: past and  
2 prospective loss experience, including where pertinent, the con-  
3 flagration and catastrophe hazards, if any, both within and without  
4 the State; all factors reasonably related to the kind of insurance  
5 involved; a reasonable profit for the insurer; and, in the case of  
6 participating insurers, policyholders' dividends.

1 10. Rates shall not be excessive, inadequate or unfairly discrim-  
2 inatory.

1 11. Policy forms shall not be unfair, inequitable, misleading or  
2 contrary to law, nor shall they produce rates that are excessive,  
3 inadequate or unfairly discriminatory.

1 12. With respect to special risks, upon a finding by the commis-  
2 sioner, after a hearing, that there is no reasonable degree of compe-  
3 tition with respect to rates applicable to a particular line, kind,  
4 class, subclass or type of business, he may issue an order requiring  
5 that the rates for such line, kind, class, subclass or type of business  
6 be submitted to the department for approval prior to becoming  
7 effective pursuant to section 5 of this act.

1 13. If the commissioner finds, after a hearing, that a rate or  
2 policy form in effect for any rating organization or insurer,  
3 whether or not a member or subscriber of a rating organization is  
4 not in compliance with the standards of this act, he shall issue an  
5 order specifying in what respects it so fails, and stating when,  
6 within a reasonable period thereafter, such rate or form shall be  
7 deemed no longer effective. The order shall not affect any contract  
8 or policy made or issued prior to the expiration of the period set  
9 forth in the order.

1 14. With respect to rates and supplementary rate information  
2 and all changes and amendments thereof subject to prior approval  
3 pursuant to section 5 of this act, (a) no insurer or employee  
4 thereof, and no broker or agent shall knowingly charge, demand or  
5 receive a premium for a policy of commercial lines insurance except  
6 in accordance with the respective rates and supplementary rate  
7 information and all changes and amendments thereof effective  
8 pursuant to this act; (b) no insurer, or employee thereof, and no  
9 broker or agent shall pay, allow, or give, or offer to pay, allow, or  
10 give, directly or indirectly, as an inducement to insure, or after  
11 insurance has been effected, any rebate, discount, abatement,

12 credit, or reduction of the premium specified in the policy of  
13 insurance, or any special favor or advantage in the dividends or  
14 other benefits to accrue thereon, or any valuable consideration or  
15 inducement whatever, not specified in the policy of insurance,  
16 except to the extent that such rebate, discount, abatement, credit,  
17 reduction, favor, advantage or consideration may be provided for  
18 in such rates and supplementary rate information and all changes  
19 and amendments thereof effective pursuant to this act; and (c) no  
20 insured named in a policy of insurance, nor any employee of such  
21 insured, shall knowingly receive or accept, directly or indirectly,  
22 any such rebate, discount, abatement, or reduction of premium,  
23 or any such special favor or advantage or valuable consideration  
24 or inducement. Nothing herein contained shall be construed as  
25 prohibiting the payment of commissions or other compensation to  
26 regularly appointed and licensed agents and to brokers duly  
27 licensed by this State, nor as prohibiting a discount, abatement, or  
28 reduction in premium on policies issued to or on behalf of the State  
29 of New Jersey.

1 15. Upon written application of an insurance company, broker  
2 or agent, which application shall include the signed consent of the  
3 applicant for insurance, the commissioner may approve, on any  
4 specific risk, a rate in excess of that provided by a rate filing which  
5 would otherwise be applicable.

1 16. a. The commissioner shall promulgate rules and regulations  
2 as to statistical plans, reasonably adapted to each of the rating  
3 systems on file with him, which may be modified from time to time  
4 and which shall be used thereafter by each insurer in the recording  
5 and reporting of its loss and countrywide expense experience, in  
6 order that the experience of all insurers may be made available at  
7 least annually in such form and detail as may be necessary to aid  
8 him in determining whether such rating systems comply with the  
9 standards set forth in this act. Such rules and regulations shall  
10 provide for the recording and reporting of loss experience of this  
11 State and of any combination of states where such combined  
12 experience is used in any manner for rate making, and may provide  
13 for the recording and reporting of expense experience of this  
14 State for items of expense which are specially applicable to this  
15 State. In promulgating such rules and regulations the commis-  
16 sioner shall give due consideration to the rating systems on file  
17 with him and in order that such rules and regulations may be as  
18 uniform as is practicable among the several states, to the rules and  
19 statistical plans used for such rating systems in other states.  
20 The commissioner shall designate the format in which such reports

21 shall be prepared and he may require, in his discretion, that reports  
22 of experience be accompanied by punch cards or other means used  
23 for data processing, or such other source material as he deems  
24 appropriate.

25 b. The commissioner may designate one or more agencies to  
26 assist him in gathering such experience. The commissioner shall  
27 give preference in such designation to entities organized by and  
28 functioning on behalf of the insurance companies operating in this  
29 State for the kinds of insurance to which this act applies. If the  
30 commissioner, in his judgment, determines that one or more of such  
31 organizations designated as statistical agent is unable or unwilling  
32 to perform its statistical functions according to reasonable re-  
33 quirements established from time to time by him, he may, after  
34 consultation with such statistical agent and upon 20 days' notice to  
35 any affected companies, designate another person to act on his  
36 behalf in the gathering of statistical experience. The commissioner  
37 shall in such case establish the fee to be paid to such designated  
38 person by the affected companies in order to pay the total cost of  
39 gathering and compiling such experience. Agencies designated by  
40 the commissioner shall assist him in making compilations of the  
41 report data, and such compilations shall be made available, subject  
42 to reasonable rules and regulations promulgated by the commis-  
43 sioner, to insurers, rating organizations and any other interested  
44 parties.

1 17. The underwriting files, loss and expense statistics, financial  
2 and other records with respect to special risks written by an in-  
3 surer shall be maintained in such detail as may be required by the  
3A commissioner and shall be subject to examination by the commis-  
4 sioner or his designee in this State as often as deemed necessary  
5 by the commissioner.

1 18. The commissioner may review and adjust the minimum  
2 annual premium levels defining special risks set forth in paragraph  
3 (2) of subsection k. of section 3 of this act. As part of this review  
4 he may demand statistical information from any insurer, or any  
5 rating organization to establish the minimum annual premium level  
6 defining special risks. Adjustments in the minimum annual  
7 premium level, if any, made by the commissioner shall be made not  
8 more than once annually and shall not exceed 25% of the minimum  
9 then in effect.

1 19. Any rating organization providing any service relating to  
2 the rates of any commercial lines insurance, and any insurer utiliz-  
3 ing the service of such organization for such purpose shall be  
4 subject to the provisions of sections 2, 3, 12, 13, 19, 20, and 21 of

5 P. L. 1944, c. 27 (C. 17:29A-2, 17:29A-3, 17:29A-12, 17:29A-13,  
6 17:29A-19, 17:29A-20 and 17:29A-21) and the provisions of P. L.  
7 1954, c. 268 (C. 17:36-5.15 et seq.) and R. S. 17:28-1 et seq. to the  
8 extent applicable, providing that where the license of a rating  
9 organization is suspended under this act, such suspension shall  
10 have the same effect as a suspension under P. L. 1944, c. 27 (C.  
11 17:29A-1 et seq.).

1 20. No insurer, and no officer, agent, or employee thereof, shall  
2 give false or misleading information to any rating organization  
3 of which it is a member or subscriber, or to the commissioner, which  
4 will in any manner affect the proper determination of compliance  
5 with the rating standards of this act.

1 21. Any rating organization which violates any provision of this  
2 act shall be subject to suspension of its license. Failure of a rating  
3 organization to comply with the provisions of any order of the  
4 commissioner within the time limited by the order, or any extension  
5 thereof as the commissioner may grant, shall, if no proceeding in  
6 lieu of prerogative writ has been taken for review of the order,  
7 automatically suspend the license of the rating organization. No  
8 order suspending a license because of a violation of any provision  
9 of this act shall be made by the commissioner, except upon 10 days'  
10 notice to the rating organization, specifying the particular  
11 violation. If the rating organization shall make a request therefor  
12 in writing within the 10-day period, the commissioner shall name a  
13 time and place for a hearing, at which the rating organization shall  
14 be given opportunity to make its defense. At the conclusion of the  
15 hearing, the commissioner shall make such order as in his judg-  
16 ment the evidence shall warrant. A suspension of a license shall be  
17 effective until modified or rescinded by order of the commissioner  
18 upon proof that the violation of the provisions of this act no longer  
19 continue, or upon proof that the rating organization has complied  
20 with the terms of any prior order made by the commissioner, or  
21 until the order of the commissioner upon which the suspension is  
22 based is reversed or modified upon a review thereof by a proceed-  
23 ing in lieu of prerogative writ.

1 22. Any insurer which violates any provision of this act, or which  
2 fails to comply with the terms of any order made by the commis-  
3 sioner pursuant to the provisions of this act, shall be deemed to  
4 have violated the law within the meaning of P. L. 1975, c. 113 (C.  
5 17:30C-1 et seq.).

1 23. a. Every group, association or other organization of in-  
2 surers, whether located within or outside this State, which assists  
3 insurers which make their own filings or rating organizations, in



4 rate making, by the collection and furnishing of loss or expense  
5 statistics, or by the submission of recommendations, but which  
6 does not make filings under this act, shall be known as an advisory  
7 organization.

8 b. Every advisory organization shall file with the commissioner  
9 (1) a copy of its constitution, its articles of agreement or associa-  
10 tion or its certificate of incorporation and of its bylaws, rules and  
11 regulations governing its activities, (2) a list of its members, and  
12 (3) the name and address of a resident of this State upon whom  
13 notices or orders of the commissioner or process issued at his  
14 direction may be served.

15 c. If, after a hearing, the commissioner finds that the furnishing  
16 of information or assistance involves any act or practice which is  
17 unfair or unreasonable or otherwise inconsistent with the pro-  
18 visions of this act, he may issue a written order specifying in what  
19 respects the act or practice is unfair or unreasonable or otherwise  
20 inconsistent with the provisions of this act, and requiring the  
21 discontinuance of the act or practice.

22 d. No insurer which makes its own filings nor any rating organi-  
23 zation shall support its filings by statistics or adopt rate making  
24 recommendations, furnished to it by an advisory organization  
25 which has not complied with this section or with an order of the  
26 commissioner involving such statistics or recommendations issued  
27 under subsection c. of this section. If the commissioner finds an  
28 insurer or rating organization to be in violation of this subsection  
29 he may issue an order requiring the discontinuance of the violation.

1 24. a. Every group, association, or other organization of in-  
2 surers which engages in joint underwriting or joint reinsurance  
3 through such group, association or by standing agreement among  
4 the members thereof shall be subject to the provisions of this act  
5 and shall file with the commissioner: a copy of its constitution,  
6 articles of association and bylaws, a list of its members, and the  
7 name and address of a resident of this State upon whom notices or  
8 orders of the commissioner or process may be served. Every such  
9 group, association or other organization shall notify the commis-  
10 sioner promptly of any change in the documents required to be  
11 filed with him.

12 b. If, after a hearing, the commissioner finds that any activity  
13 or practice of any such group, association or other organization is  
14 unfair or unreasonable or otherwise inconsistent with the pro-  
15 visions of this act, he may issue a written order specifying in what  
16 respects the activity or practice is unfair or unreasonable or  
17 otherwise inconsistent with the provisions of this act, and requiring  
18 the discontinuance of the activity or practice.

1 25. The commissioner may make or cause to be made an examina-  
2 tion of the business, affairs, and method of operation of any group,  
3 association or other organization referred to in sections 23 and 24  
4 of this act. The reasonable costs of the examination shall be deter-  
5 mined and fixed by the commissioner, and shall be paid by the  
6 group, association or other organization examined upon presenta-  
7 tion to it of a detailed account of the cost. The officers, managers,  
8 agents and employees of the group, association or other organiza-  
9 tion shall exhibit all its books, records, documents, or agreements,  
10 governing its method of operation, and its accounts for the purpose  
11 of the examination. The commissioner may, for the purpose of  
12 facilitating and furthering the examination, examine, under oath,  
13 the officers, managers, agents, and employees of the group, associa-  
14 tion or other organization. In lieu of an examination the commis-  
15 sioner may accept the report of an examination made by the in-  
16 surance supervisory official of another state, pursuant to the laws  
17 of that state.

1 26. No insurer shall promise, other than to a policyholder or  
2 other entities with which it is under common control or management  
3 or that are members of a joint underwriting or joint reinsurance  
4 organization, to use or adhere to certain insurance rates or rules,  
5 and no other person shall impose any penalty or other adverse  
6 consequence for failure of an insurer to adhere to certain rates or  
7 rules. This section shall not apply to apportionment agreements  
8 among insurers approved by the commissioner pursuant to section  
9 27 of this act, and rates or rules approved for use by members of  
10 licensed rating organizations.

1 27. Agreements may be made among insurers with respect to  
2 equitable apportionment among them of insurance which may be  
3 afforded applicants who are in good faith entitled to but are unable  
4 to procure insurance through ordinary methods and the insurers  
5 may agree among themselves on the use of reasonable rate modifica-  
6 tions for such insurance, provided that the agreements and rate  
7 modifications shall be effective only upon the prior approval of  
8 the commissioner.

1 28. An insurer shall advise the producer, or where there is no  
2 producer involved, the insured, in writing, within 30 days prior to  
3 renewal whenever it intends to eliminate or cause a reduction in  
4 coverage on renewal with respect to a special risk. This notice  
5 shall not be required whenever an elimination or reduction in  
6 coverage is requested by the producer or by the insured. If no  
7 notice is given within the required 30-day period, a producer or,  
8 where there is no producer involved, the insured may request

9 and the company shall provide an extension of expired coverage  
10 for up to 30 days after the expiration date of the policy. Such an  
11 extension of expired coverage shall be without any penalty to the  
12 insured.

1 29. Any person, partnership, association, corporation, insurer,  
2 or rating organization who or which willfully violates the pro-  
3 visions of this act shall be liable to a penalty in the sum of \$500.00  
4 for each violation, to be sued for and recovered for the use of the  
5 State in a summary proceeding brought by the commissioner pur-  
6 suant to "The Penalty Enforcement Law" (N. J. S. 2A:58-1 et  
7 seq.).

8 30. In lieu of the penalty provided in section 29 of this act but  
9 in addition to any other penalty or forfeiture provided by this act,  
10 or otherwise provided by law, the commissioner may, if he finds  
11 that any person, partnership, association, corporation, insurer, or  
12 rating organization has willfully violated any provision of this act,  
13 impose a penalty of not less than \$25.00 nor more than \$500.00 for  
14 each violation. No such penalty shall be imposed, except upon at  
15 least 10 days written notice to such person, partnership, associa-  
16 tion, corporation, insurer, or rating organization, specifying the  
17 specific violation, and naming a date and place for a hearing on the  
18 violation so charged. If the commissioner shall find, upon the  
19 evidence placed before him at the hearing, that the person,  
20 partnership, association, corporation, insurer, or rating organiza-  
21 tion is guilty of any violation of the provisions of this act, he shall  
22 make an order briefly stating his findings, and specifying the  
23 penalty imposed. The imposition of such a penalty shall, in the  
24 case of a licensed broker, or agent, or in the case of a rating  
25 organization, automatically suspend the license of the broker or  
26 agent or rating organization until such time as the penalty shall  
27 be paid. The commissioner may file in the office of the Clerk of  
28 the Superior Court, a certificate stating the amount of any penalty  
29 assessed pursuant to the provisions of this section, and the name  
30 of the person, partnership, association, corporation, insurer, or  
31 rating organization against whom or which the penalty has been  
32 assessed, and thereupon the Clerk of the Superior Court shall enter  
33 upon his record of docketed judgments the certificate, or an ab-  
34 stract thereof, and shall duly index the same. From the time of  
35 the docketing, the certificate shall have the same effect as a judg-  
36 ment obtained in the Superior Court, Law Division, and the com-  
37 missioner shall have all remedies and may take all the proceedings  
38 for the collection thereof which may be had or taken upon the re-  
39 covery of such a judgment.

1 31. Any order made by the commissioner pursuant to the pro-  
2 visions of this act shall be subject to review by the Superior Court  
3 in a proceeding in lieu of prerogative writ. Upon the institution of  
4 the proceeding, the court may stay the provisions of the order.  
5 Where the order of the commissioner provides for an increase or  
6 decrease in rates, any insurer affected thereby may, with leave  
7 of court, pending final disposition of the proceedings in the  
8 Superior Court, continue to charge rates which obtained prior to  
9 the order, on condition that the difference in the rates be deposited  
10 in a special account by the insurer affected, to be held in trust by  
11 the insurer, and to be retained by the insurer or paid to the holders  
12 of policies issued after the order of the commissioner, as the court  
13 may determine.

1 32. Wherever, under the provisions of this act, the commissioner  
2 is authorized or required to do any act, he may designate a deputy  
3 commissioner, or any salaried employee of the Department of  
4 Insurance to act in his place who shall report to the commissioner  
5 and advise the commissioner on the nature of the matter delegated.  
6 The commissioner shall make such order, based upon the advice and  
7 report, as he shall determine, and the order shall have the same  
8 effect as if the commissioner had acted thereon personally.

1 33. The commissioner shall promulgate regulations to imple-  
2 ment and enforce the provisions of this act.

1 34. Commercial lines insurance shall be exempt from the pro-  
2 visions of P. L. 1944, c. 27 (C. 17:29A-1 et seq.) except as specifi-  
3 cally provided in this act.

1 35. The commissioner shall monitor the implementation and  
2 effect of this legislation on the commercial lines marketplace and  
3 shall report to the Legislature no later than 3 years after the enact-  
4 ment of this act, and recommend whether the act should be con-  
5 tinued, repealed or modified. In making his recommendation, the  
6 commissioner shall consider, among other things, whether a reason-  
7 able degree of competition exists among commercial lines insurers.

1 36. The invalidity of any part or section of this act shall not  
2 affect the validity of the remaining parts or sections.

1 37. This act shall take effect 90 days after enactment. Approved  
2 rates and forms for commercial lines insurance in effect on the  
3 effective date of this act pursuant to the provisions of P. L. 1944,  
4 c. 27 (C. 17:29A-1 et seq.) as amended and supplemented shall  
5 remain in effect until changed, amended or replaced pursuant to  
6 the provisions of this act.

Sponsor's

STATEMENT

This bill reduces the extent of regulation of rates and forms of certain kinds of commercial lines insurance. Rates and forms for special risks, including risks that produce certain high annual premiums, are generally exempt from the requirement of prior approval by the commissioner. However, if the commissioner finds that there is no reasonable competition in the marketplace or a part of the marketplace, he may intervene and order the reinstatement of prior approval. Other kinds of commercial lines insurance are subject to a more streamlined prior approval process than currently is imposed under R. S. 17:29A-1 et seq.

Deregulation of commercial lines insurance should promote competition and the efficiencies that result therefrom.

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ASSEMBLY BANKING AND INSURANCE COMMITTEE  
STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, No. 813

STATE OF NEW JERSEY

DATED: JUNE 14, 1982

Assembly Committee Substitute to Assembly Bill No. 813 deregulates the rates charged for designated commercial lines of insurance, by replacing the current prior approval rate making system with a use and file system. Under the terms of the bill, the commissioner, however, retains the right periodically to review and to order changes in the rates for any deregulated commercial lines insurance. The bill also provides a file and use, unless disapproved, system for commercial insurance policy forms.

The Committee Substitute (hereinafter referred to as this or the bill) is a comprehensive scheme of rate and policy form deregulation of designated commercial lines of insurance (see sections 4 and 32). Accordingly, except as otherwise specifically provided, the deregulated lines are exempted from the rate making and other provisions of P. L. 1944, c. 27 (C. 17:29A-1 et seq.). It should be noted that other than in the area of deregulation, the provisions of this bill generally parallel those of P. L. 1944, c. 27.

The bill's provisions apply to all commercial lines of insurance, except those specifically exempted pursuant to section 3. The exempted coverages include insurance issued for personal, family or household purposes, as determined by the commissioner. Exempted coverages remain subject to the rate filing and other requirements of P. L. 1944, c. 27.

According to the sponsor's statement to Assembly Bill No. 813 "[d]eregulation of commercial lines should produce competition and the efficiencies that result therefrom". The principal and most immediate efficiencies that are anticipated from enactment of this bill are:

(1) a substantial reduction in the manhours devoted by the Department of Insurance to the review of commercial rate filings; and

(2) elimination of the time lag between rate filings and rate approval.

Section 5 requires rates or rate changes for deregulated lines of insurance to be filed by the insurer or rating organization with the Commissioner of Insurance within 30 days following their taking effect..

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

The Section 5 filing provisions apply to initial filings, as well as alterations, supplements or amendments thereto. Special risks, as defined in subsection 3k., are exempted from the filing provisions of section 5, unless the commissioner determines pursuant to a public hearing, that there is a lack of a "reasonable degree of competition" for one or more types of business; in which case, the commissioner may require a section 5 filing (section 12).

Section 6 requires policy forms of all deregulated commercial lines to be filed with the commissioner at least 30 days prior to their taking effect. Unless disapproved by the commissioner for a lack of compliance with standards set forth in section 11, the filed policy forms shall be deemed approved as of the effective date. The commissioner may waive the 30 day filing requirement. The policy filing provisions apply only to certain types of special risks, including where the commissioner finds a lack of reasonable competition pursuant to section 12.

Consistent with current statutory rate standards in P. L. 1944, c. 27, deregulated rates shall not be "excessive, inadequate or unfairly discriminatory" (section 10), nor shall policy forms be "unfair, inequitable, misleading or contrary to law", or produce "excessive, inadequate or unfairly discriminatory" rates (section 11). See also section 9 (cf. C. 17:29A-4).

Upon a finding, after a hearing, that a rate or policy form already in effect fails to comply with statutory standards, the commissioner may, subject to judicial review, order the necessary changes, which changes shall, however, not apply to contracts or policies entered into or issued prior to the expiration date of the order (section 13).

Section 14 prohibits insurers, employees thereof, or agents from providing any special advantage or valuable consideration to an insured, other than that specified in the policy of insurance (cf. C. 17:29A-15).

Section 16 affords the commissioner substantially similar powers over statistical plans as he currently enjoys under the prior approval rate system pursuant to C. 17:29A-5.

Section 18 subjects deregulated rating organizations and insurers using such organizations to specified sections of P. L. 1944, c. 27.

Section 22 pertains to the regulation of advisory organizations. Sections 23 through 26, inclusive, pertain to the regulation of insurer groups or organizations engaging in joint underwriting or joint reinsurance, or established by standing agreement of the members. These several sections generally track the provisions on advisory organizations and joint underwriting associations in the current rate filing law (cf. C. 17:29A-29 through 17:29A-31 inclusive.)

With the prior approval of the commissioner and the applicant for

insurance, an insurer may charge a rate in excess of that set in a section 5 rate filing (section 15; cf. C. 17:29A-7.1). Agreements by insurers to place hard-to-place applicants for insurance, and "reasonable" rate modifications therefor, also require the prior approval of the commissioner (section 26).

Statistical and other information shall be maintained on special risks in such detail as may be required by the commissioner (section 17).

Insurer, rating organizations and their employees shall comply with the terms of the rate filing or policy form, and all applicable provisions of law, including any rules and regulations adopted by, or order of the commissioner (section 12). Penalties for violations are set forth in sections 19, 20, 21, 27 and 28.

Section 27 and 28 provide alternative monetary penalty provisions for violations of the provisions of the bill. The two sections track, in substantial measure, C. 17:29A-22 and 17:29A-23.

Section 29 establishes special procedures for handling any "excess" moneys resulting from an order by the commissioner to reduce insurance rates.

Section 36 leaves unaffected any rates and forms for commercial lines insurance approved, pursuant to P. L. 1944, c. 27 (C. 17:29A-1), prior to the effective date of the bill's enactment, until such rates and forms are changed in accordance with the bill's provisions.

#### BACKGROUND

This bill is an outgrowth of a study of commercial insurance regulation conducted by the Advisory Committee on the Deregulation of Commercial Insurance, created by the Commissioner of Insurance in 1980. In a report issued on December 1, 1980, the committee concluded that the present system of prior approval of rates for commercial lines was both time-consuming and not particularly productive.

The committee recommended the deregulation of commercial lines insurance and the elimination of the present requirement that all rate changes for these lines receive the prior approval of the Commissioner of Insurance. The committee noted in its report that the system would bring the benefits of rate competition to the commercial insurance market and would eliminate the time lag between the rate filing and the approval by the commissioner under the present system which often distorts the ratemaking process because of the attempt by insurers to adjust proposed rates to make up either for an anticipated delay in rate approval or a denial of the full requested rate of change. The committee also noted that purchasers of commercial insurance are generally more sophisticated about the purchase of insurance than are individuals who purchase only their personal lines coverages such as automobile insurance and are thus better able to take advantage of a deregulated market.

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SENATE LABOR, INDUSTRY AND  
PROFESSIONS COMMITTEE

STATEMENT TO  
ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 813**

**STATE OF NEW JERSEY**

DATED: JUNE 24, 1982

This bill deregulates the rates charged for designated commercial lines of insurance, by replacing the current prior approval rate making system with a use and file system. Under the terms of the bill, the commissioner, however, retains the right periodically to review and to order changes in the rates for any deregulated commercial lines insurance. The bill also provides a file and use, unless disapproved, system for commercial insurance policy forms.

This bill is a comprehensive scheme of rate and policy form deregulation of designated commercial lines of insurance. Accordingly, except as otherwise specifically provided, the deregulated lines are exempt from the rate making and other provisions of P. L. 1944, c. 27 (N. J. S. A. 17:29A-1 et seq.). Except in the area of deregulation, the provisions of this bill generally parallel those of P. L. 1944, c. 27.

The bill's provisions apply to all commercial lines of insurance, except for ocean marine insurance, title insurance, mortgage guaranty insurance, workers' compensation, reinsurance, insurance written through the New Jersey Medical Malpractice Reinsurance Association, the FAIR plan, and all personal lines of insurance such as private passenger automobile and homeowners' insurance. Exempted coverages remain subject to the rate filing and other requirements of P. L. 1944, c. 27.

Section 5 requires rates or rate changes for deregulated lines of insurance to be filed by the insurer or rating organization with the Commissioner of Insurance within 30 days following their taking effect. The section 5 filing provisions apply to initial filings, as well as alterations, supplements or amendments thereto. All special risks, as defined in section 3k., are exempt from the filing provisions of section 5, unless the commissioner determines pursuant to a public hearing, that there is a lack of a "reasonable degree of competition" for one or more types of business; in which case, the commissioner may require filing as provided under section 5 (section 12).

Section 6 requires policy forms of all deregulated commercial lines to be filed with the commissioner at least 30 days prior to their taking

effect. Unless disapproved by the commissioner for a lack of compliance with standards set forth in section 11, the filed policy forms shall be deemed approved as of the effective date. The commissioner may waive the 30-day filing requirement. The policy filing provisions only apply to certain types of special risks, including those where the commissioner finds a lack of reasonable competition pursuant to section 12.

Consistent with current statutory rate standards in P. L. 1944, c. 27, deregulated rates shall not be "excessive, inadequate or unfairly discriminatory" (section 10), nor shall policy forms be "unfair, inequitable, misleading or contrary to law," or produce "excessive, inadequate or unfairly discriminatory" rates (section 11).

Upon a finding, after a hearing, that a rate or policy form already in effect fails to comply with statutory standards, the commissioner may, subject to judicial review, order the necessary changes, which changes shall, however, not apply to contracts or policies entered into or issued prior to the expiration date of the order (section 13).

Section 14 prohibits insurers, employees thereof, or agents from providing any special advantage or valuable consideration to an insured, other than that specified in the policy of insurance.

Section 16 affords the commissioner substantially similar powers over statistical plans as he currently enjoys under the prior approval rate system pursuant to N. J. S. A. 17:29A-5.

Section 18 subjects deregulated rating organizations and insurers using such organizations to specified sections of P. L. 1944, c. 27.

Section 21 pertains to the regulation of advisory organizations. Sections 22 through 25, inclusive, pertain to the regulation of insurer groups or organizations engaging in joint underwriting or joint re-insurance, or established by standing agreement of the members. These several sections generally track the provisions on advisory organizations and joint underwriting associations in the current rate filing law, N. J. S. A. 17:29A-29 through 17:29A-31 inclusive.

With the prior approval of the commissioner and the applicant for insurance, an insurer may charge a rate in excess of that set in a section 5 rate filing (section 15). Agreements by insurers to place hard-to-place applicants for insurance, and "reasonable" rate modifications therefor, also require the prior approval of the commissioner (section 25).

Statistical and other information shall be maintained on special risks in such detail as may be required by the commissioner (section 17).

Insurers, rating organizations and their employees shall comply with the terms of the rate filing or policy form, and all applicable provisions of law, including any rules and regulations adopted by, or order of, the commissioner. Penalties for violations are set forth in sections

18, 20, 26 and 27. Sections 26 and 27 provide alternative monetary penalty provisions for violations of the provisions of the bill.

Section 34 provides that approved rates and forms for commercial lines insurance in effect on the effective date of this bill would remain in effect until changed, amended or replaced pursuant to the provisions of this bill.

This bill is an outgrowth of a study of commercial insurance regulation conducted by the Advisory Committee on the Deregulation of Commercial Insurance, created by the Commissioner of Insurance in 1980. In a report issued on December 1, 1980, the committee concluded that the present system of prior approval of rates for commercial lines was both time-consuming and not particularly productive.

Under the present prior-approval system,  $\frac{2}{3}$  of the rate filings received by the Department of Insurance in 1980 were for commercial lines, as opposed to personal lines. The committee estimated that the commercial filings required at least 15,000 hours of actuarial scrutiny by the Department; each filing required an average of 32 hours of review. Furthermore, of the commercial filings made, nearly  $\frac{4}{5}$  of them represented risks that were individually underwritten because of the peculiar character of the risk. Because of the nature of the commercial lines market, relatively few risks are so standard that they can be written at the approved "manual" rate. The committee also noted that 95% of commercial risks written in New Jersey have an annual premium under \$2000.00, which means that they represent small to medium-sized risks.

The committee recommended the deregulation of commercial lines insurance and the elimination of the present requirement that all rate changes for these lines receive the prior approval of the Commissioner of Insurance. The committee noted in its report that the system would bring the benefits of rate competition to the commercial insurance market and would eliminate the time lag between the rate filing and the approval by the Commissioner under the present system which often distorts the ratemaking process because of the attempt by insurers to adjust proposed rates to make up either for an anticipated delay in rate approval or a denial of the full requested rate of change. The committee also noted that purchasers of commercial insurance are generally more sophisticated about the purchase of insurance than are individuals who purchase only their personal lines coverages such as automobile insurance and are thus better able to take advantage of a deregulated market.

The deregulation of commercial insurance would, it is contended, result in a reduction of the total number of risks written in the surplus lines market, primarily by insurers such as the Lloyds syndicates.

In recent years, the premium volume in the surplus lines market has grown from \$3 million in premiums annually in 1965 to \$1 billion in 1979, indicating that the needs of New Jersey's insureds are not being met by the admitted companies in the voluntary market. It is hoped that the deregulation of these lines will bring about more flexibility in the insurance market and permit the writing of risks which are not now attractive to admitted companies.