

56:12-2 et al

LEGISLATIVE HISTORY CHECKLIST

NJSA 56:12-2 et al (Plain language - insurance contracts -  
transfer from Attorney General to Commissioner  
LAWS 1982 CHAPTER 88 of Insurance)

Bill No. A1691

Sponsor(s) Jackman

Date Introduced June 21, 1982

Committee: Assembly

Senate

Amended during passage  Yes  No Substituted from S1568  
(OCR attached)

Date of Passage: Assembly June 28, 1982

Senate June 28, 1982

Date of approval July 23, 1982

Following statements are attached if available:

Sponsor statement  Yes  No (Below)

Committee Statement: Assembly  Yes  No

Senate  Yes  No

Fiscal Note  Yes  No  
~~XXX~~

Veto Message  Yes  No  
~~XXX~~

Message on signing  Yes  No  
~~XXX~~

Following were printed:

Reports  Yes  No  
~~XXX~~

Hearings  Yes  No  
~~XXX~~

Sponsor's statement:

This bill transfers from the Attorney General to the Commissioner of Insurance the responsibility and the authority to review and certify for plain language those contracts of insurance included under the plain language law.

6/22/81

PP

RECEIVED  
JUL 23 1982  
LEGISLATIVE COUNCIL

CHAPTER 88 LAWS OF N. J. 1982  
APPROVED 7-23-82

ASSEMBLY, No. 1691

STATE OF NEW JERSEY

INTRODUCED JUNE 21, 1982

By Assemblyman JACKMAN

AN ACT concerning certain consumer contracts, amending P. L. 1981, c. 464 and amending and supplementing P. L. 1980, c. 125.

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

1 1. Section 2 of P. L. 1980, c. 125 (C. 56:12-2) is amended to read  
2 as follows:

3 2. A consumer contract entered into on or after the effective  
4 date of this amendatory and supplementary act shall be written  
5 in ~~a~~ simple, clear, understandable and easily readable way. In  
6 determining whether a consumer contract has been written in a  
7 simple, clear understandable and easily readable way as a whole,  
8 a court **[or]**, the Attorney General *or the Commissioner of Insur-*  
9 *ance in regard to contracts of insurance provided for in subsection*  
10 *c. of section 1 of this act (C. 56:12-1c.)* shall take into consideration  
11 the guidelines set forth in section 10 of this act. Use of technical  
12 terms or words of art shall not in and of itself be a violation of  
13 this act.

1 2. Section 5 of P. L. 1980, c. 125 (C. 56:12-5) is amended to  
2 read as follows:

3 5. There shall be no liability under sections 3 and 4 if: a. both  
4 parties to the contract have performed their obligations under the  
5 contract, b. the creditor, seller, insurer or lessor attempts in good  
6 faith to comply with this act in preparing the consumer contract,  
7 c. the contract is in conformity with a rule, regulation, or the  
8 opinion or interpretation of the Attorney General *or the Commis-*  
9 *sioner of Insurance in regard to contracts of insurance provided*

**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 printed in italics thus is new matter.**

10 for in subsection c. of section 1 of this act (C. 56:12-1c.), or d. the  
11 consumer supplied the contract or the portion of the contract to  
12 which the consumer objects.

1 3. Section 8 of P. L. 1980, c. 125 (C. 56:12-8) is amended to  
2 read as follows:

3 8. a. A creditor, seller, insurer, lessor or any person in the  
4 business of preparing and selling forms of consumer contracts may  
5 request an opinion from the Attorney General, *or the Commissioner*  
6 *of Insurance in regard to contracts of insurance provided for in*  
7 *subsection c. of section 1 of this act (C. 56:12-1c.)* as to whether a  
8 consumer contract complies with this act.

9 The Attorney General *or the Commissioner of Insurance, as the*  
10 *case may be*, shall furnish the opinion within a reasonable period  
11 of time.

12 b. After reviewing the contract the Attorney General *or the Com-*  
13 *missioner of Insurance, as the case may be*, shall: (1) certify that  
14 the contract complies with this act; (2) decline to certify that the  
15 contract complies with this act and note his objections to the con-  
16 tractual language; (3) decline to review the contract and refer the  
17 party submitting the contract to other previously certified contracts  
18 of the same type; (4) decline to review the contract because the  
19 contract's compliance with this act is the subject of pending litiga-  
20 tion; or (5) decline to review the contract because the contract is  
21 not subject to this act.

22 c. Actions of the Attorney General *or the Commissioner of Insur-*  
23 *ance, as the case may be*, pursuant to this section are not appealable.

24 d. Any consumer contract certified pursuant to this section is  
25 deemed to comply with this act. Certification of a consumer con-  
26 tract pursuant to this section is not otherwise an approval of the  
27 contract's legality or legal effect.

28 e. Failure to submit a contract to the Attorney General *or the*  
29 *Commissioner of Insurance, as the case may be*, for review pur-  
30 suant to this section does not show a lack of good faith nor does  
31 it raise a presumption that the contract violates this act. If pur-  
32 suant to this section the Attorney General *or the Commissioner of*  
33 *Insurance, as the case may be*, refers a party to a previously certi-  
34 fied contract, that the party chooses not to use the contract does  
35 not show a lack of of good faith nor does it raise a presumption  
36 that a contract used by that party violated this act.

37 f. The Attorney General *or the Commissioner of Insurance, as*  
38 *the case may be*, may charge a fee, not to exceed \$50.00, for the  
39 costs of reviewing a consumer contract pursuant to this section.

1 4. Section 10 of P. L. 1980, c. 125 (C. 56:12-10) is amended to  
2 read as follows:

3 10. a. To insure that a consumer contract shall be simple, clear,  
4 understandable and easily readable, the following are examples of  
5 guidelines that a court **[or]**, the Attorney General *or the Commis-*  
6 *sioner of Insurance in regard to contracts of insurance provided*  
7 *for in subsection c. of section 1 of this act (C. 56:12-1c.)* may con-  
8 sider in determining whether a consumer contract as a whole com-  
9 plies with this act:

- 10 (1) Cross references that are confusing;
- 11 (2) Sentences that are of greater length than necessary;
- 12 (3) Sentences that contain double negatives and exceptions to  
13 exceptions;
- 14 (4) Sentences and sections that are in a confusing or illogical  
15 order;
- 16 (5) The use of words with obsolete meanings or words that dif-  
17 fer in their legal meaning from their common ordinary meaning;
- 18 (6) Frequent use of Old English and Middle English words and  
19 Latin and French phrases.

20 b. The following are examples of guidelines that a court **[or]**,  
21 the Attorney General *or the Commissioner of Insurance in regard*  
22 *to contracts of insurance provided for in subsection c. of section 1*  
23 *of this act (C. 56:12-1c.)* may consider in determining whether the  
24 consumer contract as a whole complies with this act:

- 25 (1) Sections shall be logically divided and captioned;
- 26 (2) A table of contents or alphabetical index shall be used for  
27 all contracts with more than 3,000 words;
- 28 (3) Conditions and exceptions to the main promise of the agree-  
29 ment shall be given equal prominence with the main promise, and  
30 shall be in at least 10 point type.

1 5. Section 12 of P. L. 1980, c. 125 (C. 56:12-12) is amended to  
2 read as follows:

3 12. The Office of the Attorney General, the Division of Consumer  
4 Affairs, the Department of the Public Advocate, *the Commissioner*  
5 *of Insurance in regard to contracts of insurance provided for in*  
6 *subsection c. of section 1 of this act (C. 56:12-1c.)* or any interested  
7 person may seek injunctive relief. The court may authorize reason-  
8 able attorney's fees, not to exceed \$2,500.00, and court costs in such  
9 a proceeding.

1 6. Section 11 of P. L. 1981, c. 464 is amended to read as follows:

2 11. This act shall take effect April 15, 1982, but with respect to  
3 consumer contracts which are subject to the Federal Truth in

4 Lending Act (P. L. 90-321, 15 U. S. C. s. 1601 et seq.), this act  
5 shall take effect 60 days after the next revision of regulations made  
6 pursuant to that act or April 15, 1982, whichever is later. This  
7 act shall remain inoperative until October 16, 1982 with regard to  
8 all contracts of insurance during which time the Attorney General,  
9 *or the Commissioner of Insurance on or after the effective date of*  
10 *this 1982 amendatory and supplementary act*, may receive and  
11 process requests for and render opinions as to whether those con-  
12 tracts comply with this act.

1 7. (New section) The transfer to the Commissioner of Insurance  
2 of the power and duty to review and certify contracts of insurance  
3 provided for in subsection c. of section 1 of P. L. 1980, c. 125 (C.  
4 56:12-1c.) shall not affect any certification made by the Attorney  
5 General prior to the effective date of this act.

1 8. This act shall take effect immediately.

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#### STATEMENT

This bill transfers from the Attorney General to the Commissioner of Insurance the responsibility and the authority to review and certify for plain language those contracts of insurance included under the plain language law.

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[OFFICIAL COPY REPRINT]

SENATE, No. 1568

STATE OF NEW JERSEY

INTRODUCED JUNE 21, 1982

By Senators GREGORIO, O'CONNOR, BORNHEIMER, SAXTON  
and CARDINALE

Referred to Committee on Labor, Industry and Professions

AN ACT concerning certain consumer contracts, amending P. L.  
1981, c. 464 and amending and supplementing P. L. 1980, c. 125.

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

1 \***[1.** Section 1 of P. L. 1980, c. 125 (C. 56:12-1) is amended to  
2 read as follows:

3 1. As used in this act:

4 "Consumer contract" means a written agreement in which an  
5 individual:

6 a. Leases or licenses real or personal property;

7 b. Obtains credit;

8 c. Obtains insurance coverage, except insurance coverage con-  
9 tained in policies subject to the "Life and Health Insurance Policy  
10 Language Simplification Act" (P. L. 1979, c. 167, C. 17B:17-17  
11 et seq.);

12 d. Borrows money;

13 e. Purchases real or personal property;

14 f. Contracts for services including professional services**[ ]**;  
15 for cash or on credit and the money, property or services are  
16 obtained for personal, family or household purposes. "Consumer  
17 contract" includes writings required to complete the consumer  
18 transaction.]\*

1 \***[2.]**\* Section 2 of P. L. 1980, c. 125 (C. 56:12-2) is amended  
2 to read as follows:

3 2. A consumer contract entered into on or after the effective

**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 printed in italics *thus is new matter*.

Matter enclosed in asterisks or stars has been adopted as follows:

\*—Senate amendments adopted June 24, 1982.

(8) to

15

4 date of this amendatory and supplementary act shall be written  
 5 in a simple, clear, understandable and easily readable way. In  
 6 determining whether a consumer contract has been written in a  
 7 simple, clear, understandable and easily readable way as a whole,  
 8 a court **[or]**, the Attorney General, *or the Commissioner of Insur-*  
 9 *ance in regard to contracts of insurance provided for in* **[section**  
 10 **1 c.]** *subsection c. of section 1* **\*** *of this act* **\*** *(C. 56:12-1c.)* **\*** shall  
 11 take into consideration the guidelines set forth in section 10 of this  
 12 act. Use of technical terms or words of art shall not in and of itself  
 13 be a violation of this act.

1 **[3.]** **\*** *2.* Section 5 of P. L. 1980, c. 125 (C. 56:12-5) is amended  
 2 to read as follows:

3 5. There shall be no liability under sections 3 and 4 if: a. both  
 4 parties to the contract have performed their obligations under the  
 5 contract, b. the creditor, seller, insurer or lessor attempts in good  
 6 faith to comply with this act in preparing the consumer contract,  
 7 c. the contract is in conformity with a rule, regulation, or the  
 8 opinion or interpretation of the Attorney General *or the Commis-*  
 9 *sioner of Insurance in regard to contracts of insurance provided*  
 10 *for in* **[section 1 c.]** *subsection c. of section 1* **\*** *of this act*  
 11 *(C. 56:12-1c.)* **\***, or d. the consumer supplied the contract or the  
 12 portion of the contract to which the consumer objects.

1 **[4.]** **\*** *3.* Section 8 of P. L. 1980, c. 125 (C. 56:12-8) is amended  
 2 to read as follows:

3 8. a. A creditor, seller, insurer, lessor or any person in the busi-  
 4 ness of preparing and selling forms of consumer contracts may  
 5 request an opinion from the Attorney General, *or the Commis-*  
 6 *sioner of Insurance in regard to contracts of insurance provided*  
 7 *for in* **[section 1 c.]** *subsection c. of section 1* **\*** *of this act*  
 8 *(C. 56:12-1c.)* **\***, as to whether a consumer contract complies with  
 8A this act.

9 The Attorney General *or the Commissioner of Insurance, as the*  
 10 *case may be*, shall furnish the opinion within a reasonable period  
 11 of time.

12 b. After reviewing the contract the Attorney General, *or the*  
 13 *Commissioner of Insurance, as the case may be*, shall: (1) certify  
 14 that the contract complies with this act; (2) decline to certify that  
 15 the contract complies with this act and note his objections to the  
 16 contractual language; (3) decline to review the contract and refer  
 17 the party submitting the contract to other previously certified con-  
 18 tracts of the same type; (4) decline to review the contract because  
 19 the contract's compliance with this act is the subject of pending  
 20 litigation; or (5) decline to review the contract because the con-  
 21 tract is not subject to this act.

22 c. Actions of the Attorney General, *or the Commissioner of In-*  
 23 *surance, as the case may be*, pursuant to this section are not appeal-  
 24 able.

25 d. Any consumer contract certified pursuant to this section is  
 26 deemed to comply with this act. Certification of a consumer con-  
 27 tract pursuant to this section is not otherwise an approval of the  
 28 contract's legality or legal effect.

29 e. Failure to submit a contract to the Attorney General *or the*  
 30 *Commissioner of Insurance, as the case may be*, for review pur-  
 31 suant to this section does not show a lack of good faith nor does  
 32 it raise a presumption that the contract violates this act. If pur-  
 33 suant to this section, the Attorney General *or the Commissioner of*  
 34 *Insurance, as the case may be*, refers a party to a previously cer-  
 35 tified contract, that the party chooses not to use the contract does  
 36 not show a lack of good faith nor does it raise a presumption that  
 37 a contract used by that party violated this act.

38 f. The Attorney General *or the Commissioner of Insurance, as*  
 39 *the case may be*, may charge a fee, not to exceed \$50.00, for the  
 40 costs of reviewing a consumer contract pursuant to this section.

1 \***[5.]**\* \*4.\* Section 10 of P. L. 1980, c. 125 (C. 56:12-10) is  
 2 amended to read as follows:

3 10. a. To insure that a consumer contract shall be simple, clear,  
 4 understandable and easily readable, the following are examples of  
 5 guidelines that a court **[or]**, the Attorney General *or the Commis-*  
 6 *sioner of Insurance in regard to contracts of insurance provided*  
 7 *for in **[section 1 c.]** \*subsection c. of section 1\* of this act*  
 8 *\*(C. 56:12-1c.)\* may consider in determining whether a consumer*  
 8A contract as a whole complies with this act:

- 9 (1) Cross references that are confusing;
- 10 (2) Sentences that are of greater length than necessary;
- 11 (3) Sentences that contain double negatives and exceptions to  
 12 exceptions;
- 13 (4) Sentences and sections that are in a confusing or illogical  
 14 order;
- 15 (5) The use of words with obsolete meanings or words that  
 16 differ in their legal meaning from their common ordinary meaning;
- 17 (6) Frequent use of Old English and Middle English words and  
 18 Latin and French phrases.

19 b. The following are examples of guidelines that a court **[or]**,  
 20 the Attorney General *or the Commissioner of Insurance in regard*  
 21 *to contracts of insurance provided for in section 1 c. of this act* may  
 22 consider in determining whether the consumer contract as a whole  
 23 complies with this act:

24 (1) Sections shall be logically divided and captioned;

25 (2) A table of contents or alphabetical index shall be used for  
26 all contracts with more than 3,000 words;

27 (3) Conditions and exceptions to the main promise of the agree-  
28 ment shall be given equal prominence with the main promise, and  
29 shall be in at least 10 point type.

1 \***[6.]**\* \*5.\* Section 12 of P. L. 1980, c. 125 (C. 56:12-12) is  
2 amended to read as follows:

3 12. The Office of the Attorney General, the Division of Consumer  
4 Affairs, the Department of the Public Advocate, *the Commissioner*  
5 *of Insurance in regard to contracts of insurance provided for in*  
6 *\*[section 1 c.]\* \*subsection c. of section 1\* of this act*  
7 *\*(C. 56:12-1)\*, or any interested person may seek injunctive relief.*  
8 The court may authorize reasonable attorney's fees, not to exceed  
9 \$2,500.00, and court costs in such a proceeding.

1 \***[7.]**\* \*6.\* Section 11 of P. L. 1981, c. 464 is amended to read  
1A as follows:

2 11. This act shall take effect April 15, 1982, but with respect to  
3 consumer contracts which are subject to the Federal Truth in  
4 Lending Act (P. L. 90-321, 15 U. S. C. s. 1601 et seq.), this act  
5 shall take effect 60 days after the next revision of regulations made  
6 pursuant to that act or April 15, 1982, whichever is later. This  
7 act shall remain inoperative until October 16, 1982 with regard to  
8 all contracts of insurance during which time the Attorney General,  
9 *or the Commissioner of Insurance on or after the effective date of*  
10 *this \*1982\* amendatory and supplementary act,* may receive and  
11 process requests for and render opinions as to whether those con-  
12 tracts comply with this act.

1 \***[8.]** (New section) The provisions of this amendatory and sup-  
2 plementary act shall not be construed to impair or negate any  
3 certification by the Attorney General of any contract of insurance  
4 provided for in section 1 c. of this act which was certified prior to  
5 the effective date of this amendatory and supplementary act.]\*

1 \*7. (New section) *The transfer to the Commissioner of Insur-*  
2 *ance of the power and duty to review and certify contracts of in-*  
3 *urance provided for in subsection c. of section 1 of P. L. 1980,*  
4 *c. 125 (C. 56:12-1c.) shall not affect any certification made by the*  
5 *Attorney General prior to the effective date of this act.\**

1 \***[9.]**\* \*8.\* This act shall take effect immediately.

OFFICE OF THE GOVERNOR

RELEASE: IMMEDIATELY

CONTACT: CARL GOLDEN

FRIDAY, JULY 23, 1982

Governor Thomas H. Kean today signed the following bills into law:

A-1755, sponsored by Assemblyman Martin A. Herman (D-Salem), provides a supplemental appropriation of \$472,368 for the Parole Board, to enable them to fulfill their responsibilities pursuant to the new County Parole Law and other initiatives contained in the Governor's Prison Overcrowding Package.

A-1366, sponsored by Speaker of the Assembly, Alan J. Karcher (D-Middlesex), requires that all State chartered credit unions be required to have insurance on shares and deposits in accordance with the Federal Credit Union Act, or that they obtain comparable insurance which must be approved by the Commissioner of Banking.

A-1648, sponsored by Assemblyman Thomas H. Cowan (D-Hudson), amends the definition of motorcycles to exclude three-wheeled vehicles. These vehicles are commonly used by parking garages and local police departments to inexpensively patrol parking areas. The bill enables operators and occupants to avoid the helmet requirement and the need to obtain a motorcycle license.

A-609, sponsored by Assemblyman John W. Markert (R-Bergen), allows policemen to be employed in liquor stores. Under current Alcoholic Beverage Control regulations, policemen are prohibited from working in liquor stores and bars in towns outside their municipality of employment if they handle or serve liquor. This bill abolishes those regulations.

A-1691, sponsored by Assemblyman Christopher Jackman, (D-Hudson), to provide that the Department of Insurance review, under the Plain Language Act, life and health insurance contracts.

A-764, sponsored by Assembly Speaker Alan Karcher, provides for a three-year suspension of driving privileges if a person loses his/her license three times in a three-year period.

S-1601, sponsored by Senator Laurence Weiss, (D-Middlesex), appropriating \$701.00 to pay claims made against the State.