

17: 22-6. 14a

LEGISLATIVE HISTORY CHECKLIST

NJSA 17:22-6.14a (Insurance brokers--restore unearned commissions)

LAWS 1981 CHAPTER 137

Bill No. A1669

Sponsor(s) Bornheimer

Date Introduced May 5, 1980

Committee: Assembly Banking and Insurance

Senate Labor, Industry and Professions

Amended during passage Yes Amendments during passage denoted by asterisks

Date of Passage: Assembly Oct. 16, 1980

Senate Jan. 29, 1981

Date of approval May 4, 1981

Following statements are attached if available:

Sponsor statement Yes (Below)

Committee Statement: Assembly Yes

Senate Yes

Fiscal Note No

Veto Message No

Message on signing No

Following were printed:

Reports No

Hearings No

Sponsor's statement:

This legislation, amending legislation passed last year, would restore unearned commissions to insurance brokers.

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ASSEMBLY, No. 1669**STATE OF NEW JERSEY**

INTRODUCED MAY 5, 1980

By Assemblyman BORNHEIMER

Referred to Committee on Banking and Insurance

AN ACT concerning certain insurance agency contracts, and
amending ***and supplementing*** P. L. 1970, c. 217.

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

1 1. Section 1 of P. L. 1970, c. 217 (C. 17:22-6.14a) is amended
2 to read as follows:

3 1. In the event that a policy is canceled by the insurer, either at
4 its own behest or at the behest of the agent or broker of record,
5 the unearned premium, including the unearned commission shall
6 be returned to the policyholder. In the event that a policy ***[is**
7 canceled by the insured, any broker of record may retain his
8 **[earned]** *portion of the unearned* commission, and the balance of
9 the unearned premium including any balance of unearned commis-
10 sion, shall be returned to the policyholder]* **of automobile insur-*
10A *ance issued by the automobile insurance plan established pursuant*
10B *to P. L. 1970, c. 215 (C. 17:29D-1) or any successor thereto, is can-*
10C *celled by reason of nonpayment of premium to the insurer issuing*
10D *the policy or nonpayment of an installment payment due pursuant*
10E *to an insurance premium finance agreement, the broker of record*
10F *for that policy may retain the full annual commission due thereon*
10G *and**, if a premium finance agreement is not involved,** the*
10H *effective date of cancellation of the policy shall be no earlier*
10I *than 10 days prior to the last full day for which the premium paid*
10J *by the insured, net of the broker's full annual commission, would*
10K *pay for coverage on a pro rata basis in accordance with rules*
10L *established by the commissioner*. Contracts between insur-*
11 *ance companies and agents for the appointment of the agent as the*
12 *representative of the company shall set forth the rate of commis-*

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

13 sion to be paid to the agent for each class of insurance within the
 14 scope of such appointment written on all risks or operations in this
 15 State except:

- 16 (a) Reinsurance.
- 17 (b) Life insurance.
- 18 (c) Annuities.
- 19 (d) Accident and health insurance.
- 20 (e) Title insurance.
- 21 (f) Mortgage guaranty insurance.
- 22 (g) Hospital service, medical service, or dental service corpora-
 23 tions, investment companies, mutual benefit associations, or fra-
 24 ternal beneficiary associations.

25 Said rates of commission shall continue in force and effect unless
 26 changed by mutual written consent or until termination of said
 27 contract as hereinafter provided. Failure to achieve such mutual
 28 consent shall require that the agent's contract be terminated as
 29 hereinbelow provided. The rate of commissions being paid on each
 30 class of insurance on the date of enactment hereof shall be deemed
 31 to be pursuant to the existing contract between agent and company.

32 Termination of any such contract for any reason other than one
 33 excluded herein shall become effective after not less than 90 days'
 34 notice in writing given by the company to the agent and the Com-
 35 missioner of Insurance. No new business nor increases in liability
 36 on renewal or in force business shall be written by the agent for
 37 the company after notice of termination without written approval
 38 of the company. However, during the term of the agency contract,
 39 including the said 90-day period, the company shall not refuse to
 40 renew such business from the agent as would be in accordance with
 41 said company's current underwriting standards. The company
 42 shall during a period of 9 months from the effective date of such
 43 termination ***[or]* [for the 3 years following if] *[during any**
 44 *period in which* the insurer renews the policy pursuant to the provi-
 45 sions of section 3 of P. L. 1972, c. 70 (C. 39:6A-3)**]*, [provided the**
 46 former agent has been designated as the broker of record by the
 46A insured,**]** **provided the former agent has not been replaced as*
 46B *the broker of record by the insured, and** upon request in writing
 47 of the terminated agent, renew all contracts of insurance for such
 48 agent for said company as may be in accordance with said
 49 company's then current underwriting standards and pay to the
 50 terminated agent a commission in accordance with the previous
 51 agency contract of the terminated agent**],** provided, however,
 52 that if such policy is canceled, the unearned commission shall be

53 returned to the policyholder] ****[****provided, however, in the event*
53A *that a policy issued by the automobile insurance plan established*
53B *pursuant to P. L. 1970, c. 215 (C. 17:29D-1) or any successor thereto,*
53C *is cancelled by reason of nonpayment of premium to the insurer*
53D *issuing the policy or nonpayment of an installment payment due*
53E *pursuant to an insurance premium finance agreement, the broker of*
53F *record for that policy may retain the full annual commission due*
53G *thereon and the effective date of cancellation of the policy shall be*
53H *no earlier than 10 days prior to the last full day for which the*
53I *premium paid by the insured, net of the broker's full annual com-*
53J *mission, would pay for coverage on a pro rata basis in accordance*
53K *with rules established by the commissioner*]**. Said commission*
54 can be paid only to the holder of a New Jersey broker's license. In
55 the event any risk shall not meet the then current underwriting
56 standards of said company, that company may decline its renewal,
57 provided that the company shall give the terminated agent and the
58 insured not less than 60 days' notice of its intention not to renew
59 said contract of insurance.

60 The agency termination provisions of this act shall not apply to
61 those contracts in which the agent is paid on a salary basis without
62 commission or where he agrees to represent exclusively one com-
63 pany or to the termination of an agent's contract for insolvency,
64 abandonment, gross and willful misconduct, or failure to pay over
65 to the company moneys due to the company after his receipt of a
66 written demand therefor, or after revocation of the agent's license
67 by the Commissioner of Insurance; and in any such case the com-
68 pany shall upon request of the insured, provided he meets the then
69 current underwriting standards of the company, renew any contract
70 of insurance formerly processed by the terminated agent through
71 an active agent, or directly pursuant to such rules and regulations
72 as may be promulgated by the Commissioner of Insurance.

73 The Commissioner of Insurance, on the written complaint of any
74 person stating that there has been a violation of this act, or when
75 he deems it necessary without a complaint, may inquire and other-
76 wise investigate to determine whether there has been any violation
77 of this act.

78 All existing contracts between agent and company in effect in
79 the State of New Jersey on the effective date of this act are subject
80 to all provisions of this act.

81 The Commissioner of Insurance may, if he determines that a
82 company is in unsatisfactory financial condition, exclude such com-
83 pany from the provisions of this act.

84 Whenever under this act it is required that the company shall
85 renew a contract of insurance, the renewal shall be for a time
86 period equal to one additional term of the term specified in the
87 original contract, but in no event to be less than 1 year.

1 *2. *** (New section)** Notwithstanding the provisions of this act*
2 *with respect to the period during which a commission is to be paid*
3 *following the termination of a contract, commissions shall be paid*
4 *for a period of 3 years on all business renewed pursuant to the*
5 *provisions of section 3 of P. L. 1972, c. 70 (C. 39:6A-3) before*
6 *April 10, 1982.**

1 ***[2.]*** *3.* This act shall take effect ***[immediately]*** *60 days
2 after enactment*.

ASSEMBLY BANKING AND INSURANCE COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1669

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 6, 1980

As amended by the Assembly Banking and Insurance Committee, this legislation provides that insurance brokers need not return a pro rata portion of the broker's commission to a policyholder if an assigned risk automobile insurance policy is cancelled before the expiration date. The bill also provides that insurers must pay brokers commissions for 3 years on all policies written on assigned risk business until April 10, 1982. After that date, insurers would be required to pay commissions on terminated agents or brokers for a 1-year period.

SENATE LABOR, INDUSTRY AND PROFESSIONS
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1669

with Assembly committee amendments
and Senate committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 11, 1980

This legislation provides that insurance brokers need not return a pro rata portion of the broker's commission to a policyholder if an assigned risk automobile insurance policy is cancelled before the expiration date. A mandatory 10-day cancellation period is provided for.

The bill also provides that insurers must pay brokers commissions for 3 years on all policies written on assigned risk business until April 10, 1982. After that date, insurers would be required to pay commissions on terminated agents or brokers for a 1-year period.

In addition to technical changes, the Senate Labor, Industry and Professions Committee amended the bill to remove the 10-day restriction on effective date of cancellation with regard to premium finance agreements.