

17:22-6.14a et al.

LEGISLATIVE FACT SHEET

on *INSURANCE AGENTS -- regulates*

N.J.R.S. 17:22-6.14a, 6.14a(1)(2)(3)

17:29A-15

(1971 Amendment)

LAWS OF 1971

CHAPTER 152 May 20, 1971

SENATE BILL

ASSEMBLY BILL 2168 (2nd OCR)

INTRODUCED Feb. 11, 1971

BY *Kaltenbacher*

SPONSOR'S STATEMENT

YES NO

ASSEMBLY COMMITTEE STATEMENT

YES NO

SENATE COMMITTEE STATEMENT

YES NO

FISCAL NOTE

YES NO

AMENDED DURING PASSAGE

YES NO

HEARING *NONE DISCOVERED*

VETO

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ASSEMBLY, No. 2168

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 11, 1970

By Assemblyman KALTENBACHER

Referred to Committee on Insurance

AN ACT concerning insurance, regulating rates, underwriting guidelines and agency contracts therefor in certain cases, and amending and supplementing chapter 217 of the laws of 1970 and amending chapter 27 of the laws of 1944.

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 to
2 read as follows:

3 1. *******[The full commission on insurance premiums shall not be*
4 *earned by the agent or broker at the time coverage is placed, but*
5 *the commission shall be earned by the agent or broker in the same*
6 *proportion as the net premium is earned by the insurer.]*** ***In the*
7 *event that a policy is canceled by the insurer, either at its own behest*
8 *or at the behest of the agent or broker of record, the unearned pre-*
9 *mium, including the unearned commission shall be returned to the*
10 *policyholder. In the event that a policy is canceled by the insured,*
11 *any broker of record may retain his portion of the unearned com-*
11A *mission, and the balance of the unearned premium including any*
11B *balance of unearned commission, shall be returned to the policy-*
11C *holder.*** Contracts between insurance companies and agents for
11D the appointment of the agent as the representative of the company
11E shall set forth the rates of commission to be paid to the agent for
11F each class of insurance within the scope of such appointment written
11G on all risks or operations in this State except:

- 12 (a) Reinsurance.
13 (b) Life insurance.
14 (c) Annuities.
15 (d) Accident and health insurance.
16 (e) Title insurance.
17 (f) Mortgage guaranty insurance.

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

18 (g) Hospital service [of] ***[or]** *,* medical service, ***[corpora-**
 19 **tions]***, *or* dental service *corporations*, investment companies,
 20 mutual benefit associations, or fraternal beneficiary associations.

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

28 Termination of any such contract for any reason other than one
 29 excluded herein shall become effective after not less than 90 days'
 30 notice in writing given by the company to the agent and the Com-
 31 missioner of Insurance. No new business nor increases in liability
 32 on renewal or in force business shall be written by the agent for
 33 the company after notice of termination without written approval
 34 of the company. However, during the term of the agency contract,
 35 including the said 90-day period, the company shall not refuse to
 36 renew such business from the agent as would be in accordance with
 37 said company's current underwriting standards. The company shall
 38 during a period of ****[6]** **9**** months from the effective date of
 39 such termination, upon request ****in writing**** of the terminated
 40 agent ****[and payment of the premium therefor]**, renew all con-
 41 tracts of insurance for such agent for said company ****as may be in**
 41A **accordance with said company's then current underwriting stan-**
 41B **dards and pay to the terminated agent a commission in accordance**
 41C **with the previous agency contract of the terminated agent. Said**
 41D **commission can be paid only to the holder of a New Jersey broker's**
 41E **license.**** [during a period of 6 months from the effective date
 42 of such termination, but in] ****[through an active agent of the**
 43 **company and at the rate of commission then currently payable**
 44 **to said active agent, equitably divided between the active and**
 45 **terminated agents.]**** In the event any risk shall not meet the
 46 then current underwriting standards of said company, that com-
 47 pany may decline its renewal, provided that the company shall give
 48 the terminated agent and the insured not less than 60 days' notice
 49 of its intention not to renew said contract of insurance.

50 [No new business nor increases in liability on renewal or in
 51 force business shall be written by the agent for the company after
 52 notice of termination without written approval of the company.]

53 [Commissions may only be changed by mutual written consent
 54 between agent and company. Failure to achieve such mutual con-
 55 sent shall require that the agent's contract be terminated as here-

56 in above provided. The rate of commissions being paid on each
 57 class of insurance on the date of enactment hereof shall be deemed
 58 to be pursuant to the existing contract between agent and com-
 59 pany.]

60 [During the term of said contract the company shall not refuse
 61 to renew such business from the agent as would be in accordance
 62 with said company's current underwriting standards.]

63 The *agency termination* provisions of this [section] act shall
 64 not apply to those contracts in which the agent *is paid on a salary*
 65 *basis without commission or where he agrees to represent exclu-*
 66 *sively one company* ** [or a group of companies under common man-
 67 agement] ** or to the termination of an agent's contract for insol-
 68 vency, abandonment, gross and willful misconduct, or failure to pay
 69 over to the company moneys due to the company after his receipt of
 70 a written demand therefor, or after revocation of the agent's license
 71 by the Commissioner of Insurance; and in any such case the com-
 72 pany shall upon request of the insured ** [and payment of the
 73 premium] ** **, provided he meets the then current underwriting
 74 standards of the company, ** renew any contract of insurance for-
 75 merly processed by the terminated agent through an active agent,
 76 or directly pursuant to such rules and regulations as may be promul-
 76A gated by the Commissioner of Insurance.

77 The [commissioner] Commissioner of Insurance, on the written
 78 complaint of any [insurer or agent licensed in this State,] person
 79 stating that there has been a violation of this [section] act, or
 80 when he deems it necessary without a complaint, [shall] may in-
 81 quire and otherwise investigate to determine whether there has
 82 been any violation of this [section in] act [the commissions paid
 83 or payable on the risks in this State].

84 All existing contracts between agent and company ** [pres-
 85 ently] ** in effect in the State of New Jersey ** on the effective date
 86 of this act ** are subject to all provisions of [this statute] this act.
 87 The Commissioner of Insurance may, if he determines that a
 88 company is in unsatisfactory financial condition, exclude such com-
 89 pany from the provisions of this act.

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

1 2. All property and casualty insurers doing business in New
 2 Jersey shall, upon request of the Commissioner of Insurance, file
 3 with the Department of Insurance a copy of their current under-
 4 writing guidelines, together with any amendments thereto or modi-

5 fication thereof. Such guidelines, amendments or modifications
6 shall not be arbitrary, capricious or unfairly discriminatory.

1 3. Where a policy of insurance is not renewed because of failure
2 to meet ***the*** then current underwriting standards, the notice of
3 nonrenewal shall ***[set forth]*** ***identify*** the underwriting
4 standard ***and specify in detail the factual basis*** upon ***[which*
5 *the nonrenewal is based]*** ***said underwriting standard has not*
6 *been met***.

7 ***There shall be no liability on the part of and no cause of action*
8 *of any nature shall arise against the Commissioner of Insurance*
9 *or against any insurer, its authorized representative, its agents, its*
10 *employees, or any firm, person or corporation furnishing to the*
11 *insurer information as to reasons for nonrenewal, for any statement*
12 *made by any of them in any written notice of nonrenewal, or in any*
13 *other communication, oral or written specifying the reasons for*
14 *nonrenewal, or the providing of information pertaining thereto, or*
15 *for statements made or evidence submitted at any hearings con-*
16 *ducted in connection therewith.***

1 4. The Commissioner of Insurance is authorized to adopt, pro-
2 mulgate and enforce such rules and regulations as he determines
3 to be necessary to implement this act.

1 5. Section 15 of P. L. 1944, c. 27 (C. 17:29A-15) is amended to
2 read as follows:

3 15. No insurer or employee thereof, and no broker or agent shall
4 knowingly charge, demand or receive a premium for any policy of
5 insurance except in accordance with the respective rating-systems
6 on file with and approved by the commissioner. No insurer, or
7 employee thereof, and no broker or agent shall pay, allow, or give,
8 or offer to pay, allow, or give, directly or indirectly, as an induce-
9 ment to insurance, or after insurance has been effected, any rebate,
10 discount, abatement, credit, or reduction of the premium named
11 in a policy of insurance, or any special favor or advantage in the
12 dividends or other benefits to accrue thereon, or any valuable con-
13 sideration or inducement whatever, not specified in the policy of
14 insurance, except to the extent that such rebate, discount, abate-
15 ment, credit, reduction, favor, advantage or consideration may be
16 provided for in rating-systems filed by or on behalf of such insurer
17 and approved by the commissioner. No insured named in a policy
18 of insurance, nor any employee of such insured, shall knowingly
19 receive or accept, directly or indirectly, any such rebate, discount,
20 abatement, or reduction of premium, or any such special favor or
21 advantage or valuable consideration or inducement. Nothing herein
22 contained shall be construed as prohibiting the payment of com-

23 missions or other compensation to regularly appointed and licensed
24 agents and to brokers duly licensed by this State, *nor as prohibit-*
25 *ing a discount, abatement, or reduction in premium on policies*
26 *issued to or on behalf of the State of New Jersey* **[or any agency,*
27 *authority, or instrumentality thereto]* * **[its political subdivi-*
28 *sions, or any agencies, authorities, or instrumentalities thereof]* * *.

1 *6. *If any section, subsection, subdivision, paragraph, sentence*
2 *or clause of this act is held invalid or unconstitutional, such decision*
3 *shall not affect the remaining portions of this act, and to this end*
4 *the provisions of this act are declared to be severable.**

1 **[6.]* *7.* This act shall take effect immediately.