

# 17B:25-18.4

## LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 2001      **CHAPTER:** 237  
**NJSA:** 17B:25-18.4 (Life insurance—forms)  
**BILL NO:** S2126 (Substituted for A3659)

**SPONSOR(S):** Cardinale and Singer

**DATE INTRODUCED:** February 15, 2001

**COMMITTEE:**      **ASSEMBLY:** Banking and Insurance  
**SENATE:** Commerce

**AMENDED DURING PASSAGE:** Yes

**DATE OF PASSAGE:**      **ASSEMBLY:** June 28, 2001  
**SENATE:** June 28, 2001

**DATE OF APPROVAL:** August 31, 2001

### FOLLOWING ARE ATTACHED IF AVAILABLE:

**FINAL TEXT OF BILL** (Senate Committee Substitute (1R) enacted)

(Amendments during passage denoted by superscript numbers)

#### S2126

**SPONSORS STATEMENT:**(Begins on page 4 of original bill)      Yes

**SPONSORS STATEMENT**      No

**COMMITTEE STATEMENT:**      **ASSEMBLY:**      Yes

**SENATE:**      Yes

**FLOOR AMENDMENT STATEMENTS:**      No

**LEGISLATIVE FISCAL ESTIMATE:**      No

#### A3659

<b>SPONSORS STATEMENT:</b> (Begins on page 4 of original bill)	Yes
<b>COMMITTEE STATEMENT:</b>	<b>ASSEMBLY:</b> No
	<b>SENATE:</b> No
<b>FLOOR AMENDMENT STATEMENTS:</b>	No
<b>LEGISLATIVE FISCAL ESTIMATE:</b>	No
<b>VETO MESSAGE:</b>	No
<b>GOVERNOR'S PRESS RELEASE ON SIGNING:</b>	No

**FOLLOWING WERE PRINTED:**

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<b>HEARINGS:</b>	No
<b>NEWSPAPER ARTICLES:</b>	No

**SENATE, No. 2126**

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**STATE OF NEW JERSEY**  
**209th LEGISLATURE**

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INTRODUCED FEBRUARY 15, 2001

**Sponsored by:**

**Senator GERALD CARDINALE**

**District 39 (Bergen)**

**Senator ROBERT W. SINGER**

**District 30 (Burlington, Monmouth and Ocean)**

**SYNOPSIS**

Modifies requirements for insurers to file and use life insurance policy forms if approved in at least 42 other states under certain circumstances.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning the filing of certain life insurance policy forms and  
2 amending and supplementing P.L.1995, c.73.

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

6  
7 1. Section 17 of P.L.1995, c.73 (C.17B:25-18.3) is amended to  
8 read as follows:

9 17. a. Pursuant to the provisions of this section, an insurer  
10 authorized to do business in this State may file with the commissioner  
11 and use, in accordance with subsection d. of this section, any form of  
12 life insurance policy, health insurance policy, annuity, variable  
13 contract, endorsement or related form that is stipulated by the  
14 commissioner to be of a kind or type eligible for file and use pursuant  
15 to subsection b. of this section. The form shall be accompanied by a  
16 certification memorandum which includes a statement that it is filed in  
17 accordance with the provisions of this section, and which is executed  
18 by a responsible officer of the insurer who certifies that the form being  
19 filed is in conformance with the law and regulation applicable to that  
20 type or kind of form as specified in a certification form to be  
21 determined by the commissioner, except that any life insurance policy  
22 or contract form that is the same as or substantially similar to a life  
23 insurance policy or contract form that has been approved for use in at  
24 least 42 other states in which the combined population equals or  
25 exceeds two-thirds of the total United States population, except that  
26 the [population] populations of the [State] states of New Jersey and  
27 New York shall not be included in the total United States population,  
28 as determined by the most current decennial census, shall be deemed  
29 to comply with the law and regulation applicable to that type or kind  
30 of form, except for the conditions provided therefor in subsection b.  
31 of this section. If the commissioner determines that the form being  
32 filed does not conform with the law or regulation applicable to that  
33 type or kind of form, the commissioner shall notify the insurer of his  
34 objections in writing and may disapprove that form for further use in  
35 New Jersey.

36 b. Policy and contract forms, including related endorsements, riders  
37 and application forms, eligible for certification pursuant to this section  
38 shall include, but not be limited to certain categories of individual life,  
39 individual annuity, group annuity, group life, group health, individual  
40 health and variable contracts which the commissioner shall define by  
41 regulation and, notwithstanding any other provision of law or  
42 regulation to the contrary, any life insurance policy or contract form  
43 that is the same as or substantially similar to a life insurance policy or

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

**Matter underlined thus is new matter.**

1 contract form that has been approved for use in at least 42 other states  
2 in which the combined population equals or exceeds two-thirds of the  
3 total United States population, except that the [population]  
4 populations of the [State] states of New Jersey and New York shall  
5 not be included in the total United States population, as determined by  
6 the most current decennial census, unless disapproved by the  
7 commissioner within 60 days of filing with the commissioner. Such  
8 disapproval shall be in writing and shall set forth the substantive, not  
9 arbitrary, reasons for the disapproval which shall be based on  
10 preventing deceptive policy or contract form provisions.

11 c. The certification memorandum shall be signed and acknowledged  
12 by a responsible officer of the insurer. The acknowledgment by that  
13 officer shall be done in the same manner in which documents for  
14 recording instruments conveying or affecting interests in real estate in  
15 this State must be acknowledged to be eligible for recording, or in  
16 such other manner as specified by the commissioner by regulation from  
17 time to time.

18 d. Upon receipt of an acknowledgment from the commissioner that  
19 the form and a certification memorandum which conforms to the  
20 requirements of this section have been received, the form so submitted  
21 may be used by the insurer. The acknowledgment shall be sent by first  
22 class mail by the commissioner to the insurer within 60 days of receipt  
23 by the commissioner of the form and the certification memorandum  
24 which conforms to the requirements of this section.

25 e. (1) Improper certification shall subject an insurer submitting  
26 such improper certification to a fine not to exceed \$50,000 and, in  
27 addition, a maximum penalty of \$1,000 per policy issued on a form  
28 determined to be improperly certified pursuant to the provisions of this  
29 section. The commissioner shall promulgate a schedule of penalties to  
30 be applied pursuant to this section. In determining the amount of any  
31 penalty to be imposed, the commissioner shall consider the severity of  
32 the violation based upon the potential adverse impact to the public and  
33 whether it is the filer's first violation of this section.

34 (2) If after notice and a hearing pursuant to the "Administrative  
35 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), an insurer is  
36 found by the commissioner to be in violation of this section, the form  
37 may be disapproved, and in addition to any other penalties that may be  
38 imposed under Title 17B of the New Jersey Statutes, the commissioner  
39 may bar that insurer from participating in the certification process  
40 pursuant to this section for a period not to exceed one year.

41 f. The commissioner shall hold a hearing annually, or more often,  
42 for the purpose of adopting regulations to define the specific forms  
43 eligible for certification pursuant to this section. Initial regulations  
44 shall be adopted pursuant to this section no later than 180 days after  
45 enactment of this act.

46 g. For purposes of this section:

1 (1) "a responsible officer of the insurer" means a corporate officer  
2 of the level of vice president or higher, or of equivalent title within the  
3 insurer's structure, who is either the actuary of the insurer with  
4 responsibility for the type of form filed, or the individual with  
5 responsibility for managing the form filing process for the insurer with  
6 regard to the type of form filed; and

7 (2) "improper certification" means providing any misrepresentation  
8 or false statement material to a certification form required pursuant to  
9 subsection a. of this section.

10 (cf: P.L.1999, c.275, s.1)

11  
12 2. (New section) a. An officer or employee of the Department of  
13 Banking and Insurance shall not take or threaten any action or  
14 omission in retaliation against a person for efforts of that person, or a  
15 person acting on his behalf, to secure or enforce any rights under  
16 contract, the laws of this State or the laws of the United States, or the  
17 good faith complaint of that person, or a person acting on his behalf,  
18 to any other government official, officer or employee or other person  
19 concerning any actions or omissions of the officer or employee of the  
20 department in regard to that person.

21 b. Any officer or employee who violates the provisions of  
22 subsection a. of this section shall, after notice and a hearing, be  
23 terminated from employment with the State.

24  
25 3. This act shall take effect immediately.  
26  
27

#### 28 STATEMENT

29  
30 Current law provides that any life insurance policy or contract form  
31 that has been approved in at least 42 other states in which the  
32 combined population equals or exceeds two-thirds of the total United  
33 States population, as determined by the most current decennial census,  
34 shall be deemed to comply with the New Jersey law and regulation  
35 applicable to that form, unless disapproved by the commissioner within  
36 60 days of filing. The law also provides, however, that the population  
37 of the State of New Jersey shall not be included in the total United  
38 States population calculation. The disapproval must be in writing and  
39 set forth the substantive, not arbitrary, reasons for the disapproval.  
40 This bill provides that, in addition to the population of State of New  
41 Jersey, the population of the State of New York shall not be included  
42 in the total United States population calculation. It also provides that  
43 the reasons for disapproval may only be based on preventing deceptive  
44 policy or contract form provisions.

45 The bill also prohibits retaliation by officers and employees of the  
46 department against persons for their efforts to secure or enforce any

1 rights under contract or the laws of this State or the United States or  
2 the good faith complaints of those persons to other government  
3 officials, officers or employees or other persons concerning any  
4 actions or omissions of officers or employees of the department. Any  
5 such officer or employee involved in retaliation shall, after notice and  
6 a hearing, be terminated.

7 This bill is very similar to Senate, No. 1112 of 1998-99, which was  
8 enacted into law as P.L.1999, c.275 on November 24, 1999, but which  
9 the Department of Banking and Insurance has steadfastly attempted to  
10 undermine. The department is using, as a basis for its intransigence,  
11 various amendments to which the sponsor consented. That consent  
12 was premised on the representation of the then-commissioner that only  
13 the commissioner would implement disapprovals of policy forms and  
14 that no disapprovals nor policy of disapproval would be suggested or  
15 implemented by the personnel administering this departmental  
16 function. The sponsor has become aware that the original language of  
17 the bill, which was deleted, must be restored in order to preserve the  
18 legislative intent and therefore the bill is being re-introduced in that  
19 form.

SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE, No. 2126**

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**STATE OF NEW JERSEY**  
**209th LEGISLATURE**

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ADOPTED MARCH 8, 2001

**Sponsored by:**

**Senator GERALD CARDINALE**

**District 39 (Bergen)**

**Senator ROBERT W. SINGER**

**District 30 (Burlington, Monmouth and Ocean)**

**SYNOPSIS**

Allows life insurers to use forms in this State if approved in 40 other states.

**CURRENT VERSION OF TEXT**

Substitute as adopted by the Senate Commerce Committee.





1 **AN ACT** concerning the filing of certain life insurance policy forms and  
2 certain actions by employees of the Department of Banking and  
3 Insurance and supplementing Title 17B of the New Jersey Statutes.

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

7  
8 1. a. Notwithstanding the provisions of any other law to the  
9 contrary and pursuant to the provisions of this section, an insurer  
10 authorized to do business in this State may file with the Commissioner  
11 of Banking and Insurance and make available for sale or use, in  
12 accordance with subsection d. of this section, any form of life  
13 insurance policy, annuity, variable contract, endorsement, riders and  
14 application forms. The form shall be accompanied by a certification  
15 memorandum that includes a statement that it is filed in accordance  
16 with the provisions of this section, and which is executed by a  
17 responsible officer of the insurer. The certification shall state that the  
18 form has been made available for sale or use in accordance with  
19 current state regulations governing the type of product submitted,  
20 subject to state variations that do not alter the unique product features  
21 or design of the product, in 40 states. If that certification is made, the  
22 form shall be available for sale or use in the State of New Jersey.  
23 Filing pursuant to this section shall not preclude an insurer from filing  
24 under other laws or rules and regulations of this State.

25 b. Policy and contract forms, including related endorsements,  
26 riders and application forms, eligible for certification pursuant to this  
27 section shall include, but not be limited to, individual life, individual  
28 annuity, group annuity, group life, variable life and variable annuity  
29 contracts, excluding specified disease and critical illness policies or  
30 contracts.

31 c. The certification memorandum shall be signed and  
32 acknowledged by a responsible officer of the insurer. The  
33 acknowledgment by that officer shall be done in the same manner in  
34 which documents for recording instruments conveying or affecting  
35 interests in real estate in this State must be acknowledged to be  
36 eligible for recording, or in such other manner as specified by the  
37 commissioner by regulation from time to time.

38 d. Upon receipt of an acknowledgment from the commissioner  
39 that the form and the certification memorandum which conforms to the  
40 requirements of this section have been received, the form so submitted  
41 may be used in this State by the insurer. The acknowledgment shall be  
42 sent by first class mail by the commissioner to the insurer within 30  
43 days of receipt by the commissioner of the form and the certification  
44 memorandum that conforms to the requirements of this section.

45 e. (1) An insurer submitting an improper certification shall be  
46 subject to a fine not to exceed \$50,000 and, in addition, a maximum

1 penalty of \$1,000 per policy issued on a form determined to be  
2 improperly certified pursuant to the provisions of this section. The  
3 commissioner shall promulgate a schedule of penalties to be applied  
4 pursuant to this section. In determining the amount of any penalty to  
5 be imposed, the commissioner shall consider the severity of the  
6 violation based upon the potential adverse impact to the public and  
7 whether it is the filer's first violation of this section.

8 (2) If, after notice and a hearing pursuant to the "Administrative  
9 Procedure Act," P.L.1968, c.410 (C.52:14b-1 et seq.), an insurer is  
10 found by the commissioner to be in violation of this section, the form  
11 may be disapproved, and in addition to any other penalties that may be  
12 imposed under Title 17B of the New Jersey Statutes, the commissioner  
13 may bar that insurer from participating in the certification process  
14 pursuant to this section for a period not to exceed one year.

15 f. (1) Initial regulations shall be adopted pursuant to this section  
16 no later than 120 days after enactment of this act. These regulations  
17 shall stand on their own and deal solely and specifically with the  
18 provisions of this section and only address the certification and the  
19 process of certification required by this section.

20 (2) Until the commissioner adopts rules and regulations pursuant  
21 to this act, an insurer may submit certifications in any format that  
22 satisfies the requirements of this section.

23 (3) The commissioner shall submit an annual report, on or before  
24 December 1, to the Governor and the Legislature, on the  
25 administration of this act including, but not limited to, the number and  
26 type of forms approved and rejected pursuant to the provisions of this  
27 section.

28 g. (1) The certification memorandum shall list the 40 States,  
29 including the state of domicile, the form number submitted and the  
30 date that form was made available for sale or use in each state.

31 (2) An insurer who files in accordance with this section shall be  
32 exempt from the certification requirements of section 17 of P.L.1995,  
33 c.73 (C.17B:25-18.3).

34 h. For purposes of this section:

35 (1) "A responsible officer of the insurer" means a corporate officer  
36 of the level of vice president or higher, or of equivalent title within the  
37 insurer's structure, who is either the actuary of the insurer with  
38 responsibility for the type of form filed, or the individual with  
39 responsibility for managing the form filing process for the insurer with  
40 regard to the type of form filed;

41 (2) "Available for sale or use" means that the insurer has complied  
42 with the state's laws, regulations, and procedures to allow the insurer  
43 to sell or use the form in that state;

44 (3) "Improper certification" means providing any misrepresentation  
45 or false statement material to a certification form required.

- 1        2. a. An officer or employee of the Department of Banking and  
2 Insurance shall not take or threaten any action or omission in  
3 retaliation against a person for efforts of that person, or a person  
4 acting on his behalf, to secure or enforce any rights under contract, the  
5 laws of this State or the laws of the United States, or the good faith  
6 complaint of that person, or a person acting on his behalf, to any other  
7 government official, officer or employee or other person concerning  
8 any actions or omissions of the officer or employee of the department  
9 in regard to that person.
- 10        b. Any officer or employee who violates the provisions of  
11 subsection a. of this section shall, after notice and a hearing, be  
12 terminated from employment with the State.
- 13
- 14        3. This act shall take effect immediately.

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE, No. 2126**

**STATE OF NEW JERSEY**

DATED: MARCH 8, 2001

The Senate Commerce Committee reports favorably a Senate Committee Substitute for Senate Bill No. 2126.

This bill, a Senate Committee Substitute for Senate, No. 2126, provides that any life insurance or annuity policy or contract form that has been approved in 40 other states shall be deemed to comply with the New Jersey law and regulation applicable to that form. The bill provides that the commissioner shall report annually to the Governor and Legislature on the implementation of the provisions of the bill.

The bill also prohibits retaliation by officers and employees of the department against persons for their efforts to secure or enforce any rights under contract or the laws of this State or the United States or the good faith complaints of those persons to other government officials, officers or employees or other persons concerning any actions or omissions of officers or employees of the department. Any such officer or employee involved in retaliation shall, after notice and a hearing, be terminated.

# ASSEMBLY BANKING AND INSURANCE COMMITTEE

## STATEMENT TO

### SENATE COMMITTEE SUBSTITUTE FOR

with committee amendments

### **SENATE, No. 2126**

# **STATE OF NEW JERSEY**

DATED: JUNE 4, 2001

The Assembly Banking and Insurance Committee reports favorably and with committee amendments, Senate Committee Substitute for Senate Bill No. 2126.

This bill, a Senate Committee Substitute for Senate Bill No. 2126, provides that any life insurance policy, annuity, variable contract, endorsement, rider or application form that has been approved in 40 other states shall be deemed to comply with the New Jersey law and regulation applicable to that form. The provisions of the bill exclude specified disease and critical illness policies or contracts. The form shall be accompanied by a certification memorandum, executed by a responsible officer of the insurer, that includes a statement that it is filed in accordance with the provisions of the bill. An insurer submitting an improper certification shall be subject to a fine not to exceed \$50,000 and, in addition, a maximum penalty of \$1,000 per policy issued on a form determined to be improperly certified pursuant to the provisions of the bill. The bill provides that the Commissioner of Banking and Insurance shall report annually to the Governor and Legislature on the implementation of the provisions of the bill.

The bill also prohibits retaliation by officers and employees of the Department of Banking and Insurance against persons for their efforts to secure or enforce any rights under contract or the laws of this State or the United States or the good faith complaints of those persons to other government officials, officers or employees or other persons concerning any actions or omissions of officers or employees of the department. Any such officer or employee involved in retaliation shall, after notice and a hearing, be terminated.

The committee made a technical amendment to the bill to delete reference to the state of domicile in relation to the states listed in the certification memorandum.

[First Reprint]

SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE, No. 2126**

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**STATE OF NEW JERSEY**  
**209th LEGISLATURE**

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ADOPTED MARCH 8, 2001

**Sponsored by:**

**Senator GERALD CARDINALE**

**District 39 (Bergen)**

**Senator ROBERT W. SINGER**

**District 30 (Burlington, Monmouth and Ocean)**

**Co-Sponsored by:**

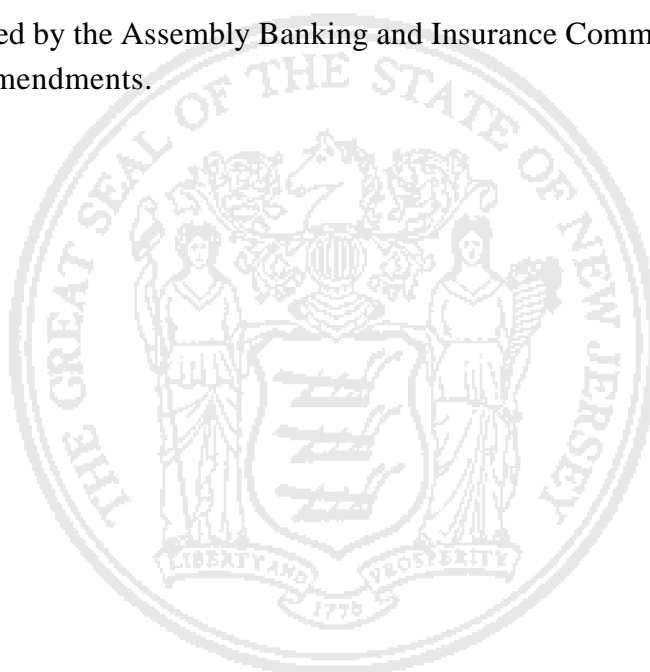
**Assemblyman Merkt, Assemblywoman Farragher, Assemblymen Garrett,  
Corodemus and Kean**

**SYNOPSIS**

Allows life insurers to use forms in this State if approved in 40 other states.

**CURRENT VERSION OF TEXT**

As reported by the Assembly Banking and Insurance Committee on June 4,  
2001, with amendments.



**(Sponsorship Updated As Of: 6/29/2001)**

1 **AN ACT** concerning the filing of certain life insurance policy forms and  
2 certain actions by employees of the Department of Banking and  
3 Insurance and supplementing Title 17B of the New Jersey Statutes.

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

7  
8 1. a. Notwithstanding the provisions of any other law to the  
9 contrary and pursuant to the provisions of this section, an insurer  
10 authorized to do business in this State may file with the Commissioner  
11 of Banking and Insurance and make available for sale or use, in  
12 accordance with subsection d. of this section, any form of life  
13 insurance policy, annuity, variable contract, endorsement, riders and  
14 application forms. The form shall be accompanied by a certification  
15 memorandum that includes a statement that it is filed in accordance  
16 with the provisions of this section, and which is executed by a  
17 responsible officer of the insurer. The certification shall state that the  
18 form has been made available for sale or use in accordance with  
19 current state regulations governing the type of product submitted,  
20 subject to state variations that do not alter the unique product features  
21 or design of the product, in 40 states. If that certification is made, the  
22 form shall be available for sale or use in the State of New Jersey.  
23 Filing pursuant to this section shall not preclude an insurer from filing  
24 under other laws or rules and regulations of this State.

25 b. Policy and contract forms, including related endorsements,  
26 riders and application forms, eligible for certification pursuant to this  
27 section shall include, but not be limited to, individual life, individual  
28 annuity, group annuity, group life, variable life and variable annuity  
29 contracts, excluding specified disease and critical illness policies or  
30 contracts.

31 c. The certification memorandum shall be signed and  
32 acknowledged by a responsible officer of the insurer. The  
33 acknowledgment by that officer shall be done in the same manner in  
34 which documents for recording instruments conveying or affecting  
35 interests in real estate in this State must be acknowledged to be  
36 eligible for recording, or in such other manner as specified by the  
37 commissioner by regulation from time to time.

38 d. Upon receipt of an acknowledgment from the commissioner  
39 that the form and the certification memorandum which conforms to the  
40 requirements of this section have been received, the form so submitted  
41 may be used in this State by the insurer. The acknowledgment shall be  
42 sent by first class mail by the commissioner to the insurer within 30

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

**Matter underlined thus is new matter.**

**Matter enclosed in superscript numerals has been adopted as follows:**

<sup>1</sup> Assembly ABI committee amendments adopted June 4, 2001.

1 days of receipt by the commissioner of the form and the certification  
2 memorandum that conforms to the requirements of this section.

3 e. (1) An insurer submitting an improper certification shall be  
4 subject to a fine not to exceed \$50,000 and, in addition, a maximum  
5 penalty of \$1,000 per policy issued on a form determined to be  
6 improperly certified pursuant to the provisions of this section. The  
7 commissioner shall promulgate a schedule of penalties to be applied  
8 pursuant to this section. In determining the amount of any penalty to  
9 be imposed, the commissioner shall consider the severity of the  
10 violation based upon the potential adverse impact to the public and  
11 whether it is the filer's first violation of this section.

12 (2) If, after notice and a hearing pursuant to the "Administrative  
13 Procedure Act," P.L.1968, c.410 (C.52:14b-1 et seq.), an insurer is  
14 found by the commissioner to be in violation of this section, the form  
15 may be disapproved, and in addition to any other penalties that may be  
16 imposed under Title 17B of the New Jersey Statutes, the commissioner  
17 may bar that insurer from participating in the certification process  
18 pursuant to this section for a period not to exceed one year.

19 f. (1) Initial regulations shall be adopted pursuant to this section  
20 no later than 120 days after enactment of this act. These regulations  
21 shall stand on their own and deal solely and specifically with the  
22 provisions of this section and only address the certification and the  
23 process of certification required by this section.

24 (2) Until the commissioner adopts rules and regulations pursuant  
25 to this act, an insurer may submit certifications in any format that  
26 satisfies the requirements of this section.

27 (3) The commissioner shall submit an annual report, on or before  
28 December 1, to the Governor and the Legislature, on the  
29 administration of this act including, but not limited to, the number and  
30 type of forms approved and rejected pursuant to the provisions of this  
31 section.

32 g. (1) The certification memorandum shall list the 40 States,  
33 <sup>1</sup>[including the state of domicile,]<sup>1</sup> the form number submitted and the  
34 date that form was made available for sale or use in each state.

35 (2) An insurer who files in accordance with this section shall be  
36 exempt from the certification requirements of section 17 of P.L.1995,  
37 c.73 (C.17B:25-18.3).

38 h. For purposes of this section:

39 (1) "A responsible officer of the insurer" means a corporate officer  
40 of the level of vice president or higher, or of equivalent title within the  
41 insurer's structure, who is either the actuary of the insurer with  
42 responsibility for the type of form filed, or the individual with  
43 responsibility for managing the form filing process for the insurer with  
44 regard to the type of form filed;

45 (2) "Available for sale or use" means that the insurer has complied  
46 with the state's laws, regulations, and procedures to allow the insurer



1 to sell or use the form in that state;

2 (3) "Improper certification" means providing any misrepresentation  
3 or false statement material to a certification form required.

4

5 2. a. An officer or employee of the Department of Banking and  
6 Insurance shall not take or threaten any action or omission in  
7 retaliation against a person for efforts of that person, or a person  
8 acting on his behalf, to secure or enforce any rights under contract, the  
9 laws of this State or the laws of the United States, or the good faith  
10 complaint of that person, or a person acting on his behalf, to any other  
11 government official, officer or employee or other person concerning  
12 any actions or omissions of the officer or employee of the department  
13 in regard to that person.

14 b. Any officer or employee who violates the provisions of  
15 subsection a. of this section shall, after notice and a hearing, be  
16 terminated from employment with the State.

17

18 3. This act shall take effect immediately.

# ASSEMBLY, No. 3659

## STATE OF NEW JERSEY 209th LEGISLATURE

INTRODUCED JUNE 21, 2001

**Sponsored by:**

**Assemblyman RICK MERKT**

**District 25 (Morris)**

**Assemblywoman CLARE M. FARRAGHER**

**District 12 (Monmouth)**

**Co-sponsored by:**

**Assemblyman E. Scott Garrett**

**SYNOPSIS**

Allows life insurers to use forms in this State if approved in 40 other states.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning the filing of certain life insurance policy forms and  
2 certain actions by employees of the Department of Banking and  
3 Insurance and supplementing Title 17B of the New Jersey Statutes.

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

7  
8 1. a. Notwithstanding the provisions of any other law to the  
9 contrary and pursuant to the provisions of this section, an insurer  
10 authorized to do business in this State may file with the Commissioner  
11 of Banking and Insurance and make available for sale or use, in  
12 accordance with subsection d. of this section, any form of life  
13 insurance policy, annuity, variable contract, endorsement, riders and  
14 application forms. The form shall be accompanied by a certification  
15 memorandum that includes a statement that it is filed in accordance  
16 with the provisions of this section, and which is executed by a  
17 responsible officer of the insurer. The certification shall state that the  
18 form has been made available for sale or use in accordance with  
19 current state regulations governing the type of product submitted,  
20 subject to state variations that do not alter the unique product features  
21 or design of the product, in 40 states. If that certification is made, the  
22 form shall be available for sale or use in the State of New Jersey.  
23 Filing pursuant to this section shall not preclude an insurer from filing  
24 under other laws or rules and regulations of this State.

25 b. Policy and contract forms, including related endorsements, riders  
26 and application forms, eligible for certification pursuant to this section  
27 shall include, but not be limited to, individual life, individual annuity,  
28 group annuity, group life, variable life and variable annuity contracts,  
29 excluding specified disease and critical illness policies or contracts.

30 c. The certification memorandum shall be signed and acknowledged  
31 by a responsible officer of the insurer. The acknowledgment by that  
32 officer shall be done in the same manner in which documents for  
33 recording instruments conveying or affecting interests in real estate in  
34 this State must be acknowledged to be eligible for recording, or in  
35 such other manner as specified by the commissioner by regulation from  
36 time to time.

37 d. Upon receipt of an acknowledgment from the commissioner that  
38 the form and the certification memorandum which conforms to the  
39 requirements of this section have been received, the form so submitted  
40 may be used in this State by the insurer. The acknowledgment shall be  
41 sent by first class mail by the commissioner to the insurer within 30  
42 days of receipt by the commissioner of the form and the certification  
43 memorandum that conforms to the requirements of this section.

44 e. (1) An insurer submitting an improper certification shall be  
45 subject to a fine not to exceed \$50,000 and, in addition, a maximum  
46 penalty of \$1,000 per policy issued on a form determined to be

1 improperly certified pursuant to the provisions of this section. The  
2 commissioner shall promulgate a schedule of penalties to be applied  
3 pursuant to this section. In determining the amount of any penalty to  
4 be imposed, the commissioner shall consider the severity of the  
5 violation based upon the potential adverse impact to the public and  
6 whether it is the filer's first violation of this section.

7 (2) If, after notice and a hearing pursuant to the "Administrative  
8 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), an insurer is  
9 found by the commissioner to be in violation of this section, the form  
10 may be disapproved, and in addition to any other penalties that may be  
11 imposed under Title 17B of the New Jersey Statutes, the commissioner  
12 may bar that insurer from participating in the certification process  
13 pursuant to this section for a period not to exceed one year.

14 f. (1) Initial regulations shall be adopted pursuant to this section no  
15 later than 120 days after enactment of this act. These regulations shall  
16 stand on their own and deal solely and specifically with the provisions  
17 of this section and only address the certification and the process of  
18 certification required by this section.

19 (2) Until the commissioner adopts rules and regulations pursuant  
20 to this act, an insurer may submit certifications in any format that  
21 satisfies the requirements of this section.

22 (3) The commissioner shall submit an annual report, on or before  
23 December 1, to the Governor and the Legislature, on the  
24 administration of this act including, but not limited to, the number and  
25 type of forms approved and rejected pursuant to the provisions of this  
26 section.

27 g. (1) The certification memorandum shall list the 40 States, the  
28 form number submitted and the date that form was made available for  
29 sale or use in each state.

30 (2) An insurer who files in accordance with this section shall be  
31 exempt from the certification requirements of section 17 of P.L.1995,  
32 c.73 (C.17B:25-18.3).

33 h. For purposes of this section:

34 (1) "A responsible officer of the insurer" means a corporate officer  
35 of the level of vice president or higher, or of equivalent title within the  
36 insurer's structure, who is either the actuary of the insurer with  
37 responsibility for the type of form filed, or the individual with  
38 responsibility for managing the form filing process for the insurer with  
39 regard to the type of form filed;

40 (2) "Available for sale or use" means that the insurer has complied  
41 with the state's laws, regulations, and procedures to allow the insurer  
42 to sell or use the form in that state;

43 (3) "Improper certification" means providing any misrepresentation  
44 or false statement material to a certification form required.

45

46 2. a. An officer or employee of the Department of Banking and

1 Insurance shall not take or threaten any action or omission in  
2 retaliation against a person for efforts of that person, or a person  
3 acting on his behalf, to secure or enforce any rights under contract, the  
4 laws of this State or the laws of the United States, or the good faith  
5 complaint of that person, or a person acting on his behalf, to any other  
6 government official, officer or employee or other person concerning  
7 any actions or omissions of the officer or employee of the department  
8 in regard to that person.

9 b. Any officer or employee who violates the provisions of  
10 subsection a. of this section shall, after notice and a hearing, be  
11 terminated from employment with the State.

12

13 3. This act shall take effect immediately.

14

15

16

#### STATEMENT

17

18 This bill provides that any life insurance policy, annuity, variable  
19 contract, endorsement, rider or application form that has been  
20 approved in 40 other states shall be deemed to comply with the New  
21 Jersey law and regulation applicable to that form. The provisions of  
22 the bill exclude specified disease and critical illness policies or  
23 contracts. The form shall be accompanied by a certification  
24 memorandum, executed by a responsible officer of the insurer, that  
25 includes a statement that it is filed in accordance with the provisions  
26 of the bill. An insurer submitting an improper certification shall be  
27 subject to a fine not to exceed \$50,000 and, in addition, a maximum  
28 penalty of \$1,000 per policy issued on a form determined to be  
29 improperly certified pursuant to the provisions of the bill. The bill  
30 provides that the Commissioner of Banking and Insurance shall report  
31 annually to the Governor and Legislature on the implementation of the  
32 provisions of the bill.

33 The bill also prohibits retaliation by officers and employees of the  
34 Department of Banking and Insurance against persons for their efforts  
35 to secure or enforce any rights under contract or the laws of this State  
36 or the United States or the good faith complaints of those persons to  
37 other government officials, officers or employees or other persons  
38 concerning any actions or omissions of officers or employees of the  
39 department. Any such officer or employee involved in retaliation shall,  
40 after notice and a hearing, be terminated.

P.L. 2001, CHAPTER 237, *approved August 31, 2001*  
Senate Committee Substitute (*First Reprint*) for  
Senate, No. 2126

1 **AN ACT** concerning the filing of certain life insurance policy forms and  
2 certain actions by employees of the Department of Banking and  
3 Insurance and supplementing Title 17B of the New Jersey Statutes.

4

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

7

8 1. a. Notwithstanding the provisions of any other law to the  
9 contrary and pursuant to the provisions of this section, an insurer  
10 authorized to do business in this State may file with the Commissioner  
11 of Banking and Insurance and make available for sale or use, in  
12 accordance with subsection d. of this section, any form of life  
13 insurance policy, annuity, variable contract, endorsement, riders and  
14 application forms. The form shall be accompanied by a certification  
15 memorandum that includes a statement that it is filed in accordance  
16 with the provisions of this section, and which is executed by a  
17 responsible officer of the insurer. The certification shall state that the  
18 form has been made available for sale or use in accordance with  
19 current state regulations governing the type of product submitted,  
20 subject to state variations that do not alter the unique product features  
21 or design of the product, in 40 states. If that certification is made, the  
22 form shall be available for sale or use in the State of New Jersey.  
23 Filing pursuant to this section shall not preclude an insurer from filing  
24 under other laws or rules and regulations of this State.

25 b. Policy and contract forms, including related endorsements,  
26 riders and application forms, eligible for certification pursuant to this  
27 section shall include, but not be limited to, individual life, individual  
28 annuity, group annuity, group life, variable life and variable annuity  
29 contracts, excluding specified disease and critical illness policies or  
30 contracts.

31 c. The certification memorandum shall be signed and  
32 acknowledged by a responsible officer of the insurer. The  
33 acknowledgment by that officer shall be done in the same manner in  
34 which documents for recording instruments conveying or affecting  
35 interests in real estate in this State must be acknowledged to be  
36 eligible for recording, or in such other manner as specified by the  
37 commissioner by regulation from time to time.

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Assembly ABI committee amendments adopted June 4, 2001.

1 d. Upon receipt of an acknowledgment from the commissioner  
2 that the form and the certification memorandum which conforms to the  
3 requirements of this section have been received, the form so submitted  
4 may be used in this State by the insurer. The acknowledgment shall be  
5 sent by first class mail by the commissioner to the insurer within 30  
6 days of receipt by the commissioner of the form and the certification  
7 memorandum that conforms to the requirements of this section.

8 e. (1) An insurer submitting an improper certification shall be  
9 subject to a fine not to exceed \$50,000 and, in addition, a maximum  
10 penalty of \$1,000 per policy issued on a form determined to be  
11 improperly certified pursuant to the provisions of this section. The  
12 commissioner shall promulgate a schedule of penalties to be applied  
13 pursuant to this section. In determining the amount of any penalty to  
14 be imposed, the commissioner shall consider the severity of the  
15 violation based upon the potential adverse impact to the public and  
16 whether it is the filer's first violation of this section.

17 (2) If, after notice and a hearing pursuant to the "Administrative  
18 Procedure Act," P.L.1968, c.410 (C.52:14b-1 et seq.), an insurer is  
19 found by the commissioner to be in violation of this section, the form  
20 may be disapproved, and in addition to any other penalties that may be  
21 imposed under Title 17B of the New Jersey Statutes, the commissioner  
22 may bar that insurer from participating in the certification process  
23 pursuant to this section for a period not to exceed one year.

24 f. (1) Initial regulations shall be adopted pursuant to this section  
25 no later than 120 days after enactment of this act. These regulations  
26 shall stand on their own and deal solely and specifically with the  
27 provisions of this section and only address the certification and the  
28 process of certification required by this section.

29 (2) Until the commissioner adopts rules and regulations pursuant  
30 to this act, an insurer may submit certifications in any format that  
31 satisfies the requirements of this section.

32 (3) The commissioner shall submit an annual report, on or before  
33 December 1, to the Governor and the Legislature, on the  
34 administration of this act including, but not limited to, the number and  
35 type of forms approved and rejected pursuant to the provisions of this  
36 section.

37 g. (1) The certification memorandum shall list the 40 States,  
38 <sup>1</sup>[including the state of domicile,]<sup>1</sup> the form number submitted and the  
39 date that form was made available for sale or use in each state.

40 (2) An insurer who files in accordance with this section shall be  
41 exempt from the certification requirements of section 17 of P.L.1995,  
42 c.73 (C.17B:25-18.3).

43 h. For purposes of this section:

44 (1) "A responsible officer of the insurer" means a corporate officer  
45 of the level of vice president or higher, or of equivalent title within the  
46 insurer's structure, who is either the actuary of the insurer with

1 responsibility for the type of form filed, or the individual with  
2 responsibility for managing the form filing process for the insurer with  
3 regard to the type of form filed;

4 (2) "Available for sale or use" means that the insurer has complied  
5 with the state's laws, regulations, and procedures to allow the insurer  
6 to sell or use the form in that state;

7 (3) "Improper certification" means providing any misrepresentation  
8 or false statement material to a certification form required.

9

10 2. a. An officer or employee of the Department of Banking and  
11 Insurance shall not take or threaten any action or omission in  
12 retaliation against a person for efforts of that person, or a person  
13 acting on his behalf, to secure or enforce any rights under contract, the  
14 laws of this State or the laws of the United States, or the good faith  
15 complaint of that person, or a person acting on his behalf, to any other  
16 government official, officer or employee or other person concerning  
17 any actions or omissions of the officer or employee of the department  
18 in regard to that person.

19 b. Any officer or employee who violates the provisions of  
20 subsection a. of this section shall, after notice and a hearing, be  
21 terminated from employment with the State.

22

23 3. This act shall take effect immediately.

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28 \_\_\_\_\_  
29 Allows life insurers to use forms in this State if approved in 40 other  
states.



## CHAPTER 237

**AN ACT** concerning the filing of certain life insurance policy forms and certain actions by employees of the Department of Banking and Insurance and supplementing Title 17B of the New Jersey Statutes.

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

C.17B:25-18.4 Filing of certain forms of life insurance approved in other states.

1. a. Notwithstanding the provisions of any other law to the contrary and pursuant to the provisions of this section, an insurer authorized to do business in this State may file with the Commissioner of Banking and Insurance and make available for sale or use, in accordance with subsection d. of this section, any form of life insurance policy, annuity, variable contract, endorsement, riders and application forms. The form shall be accompanied by a certification memorandum that includes a statement that it is filed in accordance with the provisions of this section, and which is executed by a responsible officer of the insurer. The certification shall state that the form has been made available for sale or use in accordance with current state regulations governing the type of product submitted, subject to state variations that do not alter the unique product features or design of the product, in 40 states. If that certification is made, the form shall be available for sale or use in the State of New Jersey. Filing pursuant to this section shall not preclude an insurer from filing under other laws or rules and regulations of this State.

b. Policy and contract forms, including related endorsements, riders and application forms, eligible for certification pursuant to this section shall include, but not be limited to, individual life, individual annuity, group annuity, group life, variable life and variable annuity contracts, excluding specified disease and critical illness policies or contracts.

c. The certification memorandum shall be signed and acknowledged by a responsible officer of the insurer. The acknowledgment by that officer shall be done in the same manner in which documents for recording instruments conveying or affecting interests in real estate in this State must be acknowledged to be eligible for recording, or in such other manner as specified by the commissioner by regulation from time to time.

d. Upon receipt of an acknowledgment from the commissioner that the form and the certification memorandum which conforms to the requirements of this section have been received, the form so submitted may be used in this State by the insurer. The acknowledgment shall be sent by first class mail by the commissioner to the insurer within 30 days of receipt by the commissioner of the form and the certification memorandum that conforms to the requirements of this section.

e. (1) An insurer submitting an improper certification shall be subject to a fine not to exceed \$50,000 and, in addition, a maximum penalty of \$1,000 per policy issued on a form determined to be improperly certified pursuant to the provisions of this section. The commissioner shall promulgate a schedule of penalties to be applied pursuant to this section. In determining the amount of any penalty to be imposed, the commissioner shall consider the severity of the violation based upon the potential adverse impact to the public and whether it is the filer's first violation of this section.

(2) If, after notice and a hearing pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14b-1 et seq.), an insurer is found by the commissioner to be in violation of this section, the form may be disapproved, and in addition to any other penalties that may be imposed under Title 17B of the New Jersey Statutes, the commissioner may bar that insurer from participating in the certification process pursuant to this section for a period not to exceed one year.

f. (1) Initial regulations shall be adopted pursuant to this section no later than 120 days after enactment of this act. These regulations shall stand on their own and deal solely and specifically with the provisions of this section and only address the certification and the process of certification required by this section.

(2) Until the commissioner adopts rules and regulations pursuant to this act, an insurer may submit certifications in any format that satisfies the requirements of this section.

(3) The commissioner shall submit an annual report, on or before December 1, to the Governor and the Legislature, on the administration of this act including, but not limited to, the number and type of forms approved and rejected pursuant to the provisions of this section.

g. (1) The certification memorandum shall list the 40 States, the form number submitted and

the date that form was made available for sale or use in each state.

(2) An insurer who files in accordance with this section shall be exempt from the certification requirements of section 17 of P.L.1995, c.73 (C.17B:25-18.3).

h. For purposes of this section:

(1) "A responsible officer of the insurer" means a corporate officer of the level of vice president or higher, or of equivalent title within the insurer's structure, who is either the actuary of the insurer with responsibility for the type of form filed, or the individual with responsibility for managing the form filing process for the insurer with regard to the type of form filed;

(2) "Available for sale or use" means that the insurer has complied with the state's laws, regulations, and procedures to allow the insurer to sell or use the form in that state;

(3) "Improper certification" means providing any misrepresentation or false statement material to a certification form required.

C.17B:25-18.5 Certain actions taken by department employees to result in termination.

2. a. An officer or employee of the Department of Banking and Insurance shall not take or threaten any action or omission in retaliation against a person for efforts of that person, or a person acting on his behalf, to secure or enforce any rights under contract, the laws of this State or the laws of the United States, or the good faith complaint of that person, or a person acting on his behalf, to any other government official, officer or employee or other person concerning any actions or omissions of the officer or employee of the department in regard to that person.

b. Any officer or employee who violates the provisions of subsection a. of this section shall, after notice and a hearing, be terminated from employment with the State.

3. This act shall take effect immediately.

Approved August 31, 2001.