

17.22-6.14a

LEGISLATIVE HISTORY CHECKLIST

NJSA: 17:22-6.14a (Insurance agents-- allow terminated agents to service certain automobile policies)

LAWS OF: 1989 **CHAPTER:** 129

BILL NO: S3092

SPONSOR(S): Jackman

Date Introduced: December 12, 1988

Committee: **Assembly:** _____

Senate: Labor, Industry and Professions

Amended during passage: Yes Amendments during passage denoted by asterisks.

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Senate: May 4, 1989

Date of Approval: July 20, 1989

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: **Assembly** No

Senate Yes

Fiscal Note: No

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Message on Signing: No

Following were printed:

Reports: No

Hearings: No

RDV

[FIRST REPRINT]
SENATE, No. 3092

STATE OF NEW JERSEY

INTRODUCED DECEMBER 12, 1988

By Senator JACKMAN

1 AN ACT concerning the servicing of automobile insurance
policies by terminated agents and amending P.L.1970, c.217.

3

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

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

1. a. In the event that a policy is canceled by the insurer,
9 either at its own behest or at the behest of the agent or broker of
record, the unearned premium, including the unearned
11 commission, shall be returned to the policyholder.

b. In the event that a policy of insurance, issued by the
13 automobile insurance plan established pursuant to P.L.1970, c.215
(C.17:29D-1) or any successor thereto, is canceled by reason of
15 nonpayment of premium to the insurer issuing the policy or
nonpayment of an installment payment due pursuant to an
17 insurance premium finance agreement, the broker of record for
that policy may retain the full annual commission due thereon
19 and, if a premium finance agreement is not involved, the
effective date of cancellation of the policy shall be no earlier
21 than 10 days prior to the last full day for which the premium paid
by the insured, net of the broker's full annual commission, would
23 pay for coverage on a pro rata basis in accordance with rules
established by the commissioner.

c. Contracts between insurance companies and agents for the
25 appointment of the agent as the representative of the company
27 shall set forth the rate of commission to be paid to the agent for
each class of insurance within the scope of such appointment
29 written on all risks or operations in this State, except:

- (1) Reinsurance.
- 31 (2) Life insurance.
- (3) Annuities.
- 33 (4) Accident and health 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.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SLI committee amendments adopted April 27, 1989.

1 (5) Title insurance.

(6) Mortgage guaranty insurance.

3 (7) Hospital service, medical service, health service, or dental
service corporations, investment companies, mutual benefit
5 associations, or fraternal beneficiary associations.

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

d. Termination of any such contract for any reason other than
15 one excluded herein shall become effective after not less than 90
days' notice in writing given by the company to the agent and the
17 Commissioner of Insurance. No new business [nor increases] or
changes in liability on renewal or in force business, except as
19 provided in subsection l. of this section, shall be written by the
agent for the company after notice of termination without prior
21 written approval of the company. However, during the term of
the agency contract, including the said 90-day period, the
23 company shall not refuse to renew such business from the agent
as would be in accordance with said company's current
25 underwriting standards. The company shall, during a period of
[nine] 12 months from the effective date of such termination,
27 provided the former agent has not been replaced as the broker of
record by the insured, and upon request in writing of the
29 terminated agent, renew all contracts of insurance for such agent
for said company as may be in accordance with said company's
31 then current underwriting standards and pay to the terminated
agent a commission in accordance with the [previous] agency
33 contract [of the terminated agent] in effect at the time notice of
termination was issued. Said commission can be paid only to the
35 holder of a valid New Jersey [broker's] insurance producer's
license. In the event any risk shall not meet the then current
37 underwriting standards of said company, that company may
decline its renewal, provided that the company shall give the
39 terminated agent and the insured not less than 60 days' notice of

1 its intention not to renew said contract of insurance.

2 e. The agency termination provisions of this act shall not apply
3 to those contracts in which the agent is paid on a salary basis
4 without commission or where he agrees to represent exclusively
5 one company or to the termination of an agent's contract for
6 insolvency, abandonment, gross and willful misconduct, or failure
7 to pay over to the company moneys due to the company after his
8 receipt of a written demand therefor, or after revocation of the
9 agent's license by the Commissioner of Insurance; and in any
10 such case the company shall, upon request of the insured,
11 provided he meets the then current underwriting standards of the
12 company, renew any contract of insurance formerly processed by
13 the terminated agent, through an active agent, or directly
14 pursuant to such rules and regulations as may be promulgated by
15 the Commissioner of Insurance.

16 f. The Commissioner of Insurance, on the written complaint of
17 any person stating that there has been a violation of this act, or
18 when he deems it necessary without a complaint, may inquire and
19 otherwise investigate to determine whether there has been any
20 violation of this act.

21 g. All existing contracts between agent and company in effect
22 in the State of New Jersey on the effective date of this act are
23 subject to all provisions of this act.

24 h. The Commissioner of Insurance may, if he determines that a
25 company is in unsatisfactory financial condition, exclude such
26 company from the provisions of this act.

27 i. Whenever under this act it is required that the company
28 shall renew a contract of insurance, the renewal shall be for a
29 time period equal to one additional term of the term specified in
30 the original contract, but in no event to be less than one year.

31 j. The provisions of subsection b. of this section shall not apply
32 to policies written by the New Jersey Automobile Full Insurance
33 Underwriting Association established pursuant to sections 13
34 through 34 of P.L.1983, c.65 (C.17:30E-1 et seq.).

35 k. The New Jersey Automobile Full Insurance Underwriting
36 Association established pursuant to sections 13 through 34 of
37 P.L.1983, c.65 (C.17:30E-1 et seq.), shall not be liable to pay any
38 commission required by subsection b. of this section on any
39 policies written by the association prior to January 1, 1986.

1 1. A company which terminates its contractual relationship
2 with an agent subject to the provisions of subsection d. of this
3 section shall, at the time of the agent's termination, with
4 respect to insurance covering an automobile as defined in
5 subsection 1a. of section¹ 2 of P.L.1972, c.70 (C.39:6A-2), notify
6 each named insured whose policy is serviced by the terminated
7 agent in writing of the following: (1) that the agent's
8 contractual relationship with the company is being terminated
9 and the effective date of that termination; and (2) that the
10 named insured may (a) continue to renew and obtain service
11 through the terminated agent; ¹or¹ (b) renew the policy and
12 obtain service through another agent of the company ¹;
13 or (c)
14 renew the policy and obtain service directly with the company
15 through a toll-free telephone number established by the
16 company]¹.

17 Notwithstanding any provision of this section to the contrary,
18 no insurance company which has terminated its contractual
19 relationship with an agent subject to subsection d. of this section
20 shall, upon the expiration of any automobile insurance policy
21 renewed pursuant to subsection d. of this section which is
22 required to be renewed pursuant to section 3 of P.L.1972, c.70
23 (C.39:6A-3), refuse to renew, accept additional or replacement
24 vehicles, refuse to provide changes in the limits of liability or
25 refuse to service a policyholder in any other manner which is in
26 accordance with the company's current underwriting standards,
27 upon the written request of the agent or as otherwise provided in
28 this section, provided the agent maintains a valid New Jersey
29 insurance producer's license and has not been replaced as the
30 broker of record by the insured. However, nothing in this section
31 shall be deemed to prevent nonrenewal of an automobile
32 insurance policy pursuant to the provisions of section 26 of
33 P.L.1988, c.119 (C.17:29C-7.1).

34 The company shall pay a terminated agent who continues to
35 service policies pursuant to the provisions of this subsection a
36 commission in an amount not less than that provided for under
37 the agency contract in effect at the time the notice of
38 termination was issued. A terminated agent who continues to
39 service automobile insurance policies pursuant to this subsection
40 shall be deemed to be an insurance broker as defined in section 2

1 of P.L.1987, c.293 (C.17:22A-2), and not an agent of the
2 company, except that the terminated agent shall have the
3 authority to bind coverage for renewals, additional or
4 replacement vehicles, and for changed limits of liability as
5 provided in this subsection to the same extent as an active agent
6 for the company. The company shall provide the terminated
7 agent with a written copy of its current underwriting guidelines
8 during the time the agent continues to service policies pursuant
9 to this subsection.

10 If a terminated agent who is continuing to service policies
11 pursuant to the provisions of this subsection violates the written
12 underwriting guidelines of the company in such a manner or with
13 such frequency as to substantially affect the company's ability to
14 underwrite or provide coverage, the company may discontinue
15 accepting renewal and service requests from, and paying
16 commissions to, the terminated agent; provided, however, that
17 the company provides the terminated agent with at least 45 days
18 written notice which shall include a detailed explanation of the
19 reasons for discontinuance. A copy of this notice, along with
20 supporting documentation providing evidence that the terminated
21 agent received proper notice of discontinuance pursuant to this
22 subsection and evidence in support of the company's action, shall
23 be sent by the company to the Division of Enforcement and
24 Consumer Protection in the Department of Insurance.

25 ¹The provisions of this subsection shall not apply to any policy
26 issued by the New Jersey Automobile Full Insurance Underwriting
27 Association created pursuant to the provisions of P.L.1983, c.65
28 (C.17:30E-1 et seq.).¹
29 (cf: P.L.1986, c.211, s.11)

30 2. This act shall take effect immediately and shall apply to all
31 policies in effect on or after the effective date.

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INSURANCE

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Insurance - Automobile

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37 Permits terminated agents to continue servicing automobile
insurance policies under certain circumstances.

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2 company, except that the terminated agent shall have the
3 authority to bind coverage for renewals, additional or
4 replacement vehicles, and for changed limits of liability as
5 provided in this subsection to the same extent as an active agent
6 for the company. The company shall provide the terminated
7 agent with a written copy of its current underwriting guidelines
8 during the time the agent continues to service policies pursuant
9 to this subsection.

10 If a terminated agent who is continuing to service policies
11 pursuant to the provisions of this subsection violates the written
12 underwriting guidelines of the company in such a manner or with
13 such frequency as to substantially affect the company's ability to
14 underwrite or provide coverage, the company may discontinue
15 accepting renewal and service requests from, and paying
16 commissions to, the terminated agent; provided, however, that
17 the company provides the terminated agent with at least 45 days
18 written notice which shall include a detailed explanation of the
19 reasons for discontinuance. A copy of this notice, along with
20 supporting documentation providing evidence that the terminated
21 agent received proper notice of discontinuance pursuant to this
22 subsection and evidence in support of the company's action, shall
23 be sent by the company to the Division of Enforcement and
24 Consumer Protection in the Department of Insurance.

25 (cf: P.L.1986, c.211, s.11)

26 2. This act shall take effect immediately and shall apply to all
27 policies in effect on or after the effective date.

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STATEMENT

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32 This bill would permit insurance producers whose contract to
33 serve as the agent of an insurer has been terminated by the
34 insurer, except those whose contract is terminated for cause, to
35 continue to renew and service automobile insurance policies that
36 are required to be renewed by law. The bill requires that upon
37 termination the insurer notify all insureds whose policies are
38 serviced by the terminated agent of the termination and that the
39 insured may continue to have the agent service the policy, have

1 another agent service the policy or obtain direct service through
the company itself. A terminated agent who continues to service
3 policies will do so as a broker and receive a commission in an
amount not less than that received under the contract in effect
5 at the time of termination. No company will be required to
renew a policy or provide coverage that would be a violation of
7 their written underwriting guidelines. A company may
discontinue their relationship with a terminated agent if the
9 agent violates the company's underwriting guidelines in such a
manner or with such frequency as to substantially affect the
11 company's ability to provide coverage.

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INSURANCE

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Insurance - Automobile

17 Permits terminated agents to continue servicing automobile
insurance policies under certain circumstances.

SENATE LABOR, INDUSTRY AND PROFESSIONS COMMITTEE

STATEMENT TO

SENATE, No. 3092

with committee amendments

STATE OF NEW JERSEY

DATED: APRIL 27, 1989

The Senate Labor, Industry and Professions Committee reports favorably and with committee amendments Senate, No. 3092.

This bill amends the agency termination provisions of the insurance law. It would require insurers to renew all contracts of insurance for a terminated agent during a period of 12 months from the effective date of the agency termination. The current requirement is nine months. This requirement would apply in any case in which the agent has not been replaced as the broker of record by the insured and if the policy to be renewed is not contrary to the insurer's current underwriting standards. The insurer would be required to continue payment of commission at the rate specified in the former agency contract. These provisions apply to all lines of insurance.

With respect to private passenger automobile insurance, the bill would also require insurers writing private passenger automobile policies to notify each named insured whose policy is serviced by the terminated agent that the agent's contractual relationship with the company is being terminated, the effective date of that termination, and that the named insured may continue to renew and obtain service through the terminated agent or, as an alternative, that the insured may renew the policy and obtain service through another agent of the company.

The bill further provides that no insurer which has terminated its contractual relationship with an agent and which is prohibited from cancelling a private passenger automobile insurance policy may refuse to renew any such policy, or refuse to add additional or replacement vehicles to a policy, or refuse to provide changes in limits of liability or refuse in any other manner to service a policy

upon the written request of the agent, provided that the agent maintains a valid New Jersey insurance producer's license and has not been replaced as the broker of record by the insured. The bill requires the payment of commissions to terminated agents who continue to service policies at the same rate as was provided for in the agency contract which was in effect before termination.

The bill provides that a terminated agent who continues to service automobile insurance policies for his former company does so on a brokerage basis, but with binding authority which is the same as an active agent's. If such a terminated agent violates the company's current underwriting guidelines in such a manner as to substantially affect the company's ability to underwrite or provide coverage, the company may, upon 45 days' notice, cease doing business with the terminated agent. These provisions of the bill concerning private passenger automobile insurance apply to voluntary market private passenger automobile insurance business and not to the New Jersey Automobile Full Insurance Underwriting Association ("JUA") created pursuant to P.L.1983, c.65 (C.17:30E-1 et seq.).