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Identical to Senate statement to S2428

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SENATE, No. 2428

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED MAY 24, 2001

Sponsored by:
Senator GERALD CARDINALE
District 39 (Bergen)

SYNOPSIS

The "New Jersey Insurance Producer Licensing Act of 2001."

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the licensure of insurance producers,
2 supplementing Title 17 of the Revised Statutes, and repealing parts
3 of the statutory law.

4

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

7

8 1. This act shall be known and may be cited as the "New Jersey
9 Insurance Producer Licensing Act of 2001."

10

11 2. This act governs the qualifications and procedures for the
12 licensing of insurance producers. It simplifies and organizes the
13 statutory law to improve efficiency, permits the use of new technology
14 and reduces costs associated with issuing and renewing insurance
15 producer licenses.

16

17 3. As used in this act:

18 "Business entity" means a corporation, association, partnership,
19 limited liability company, limited liability partnership, or other legal
20 entity.

21 "Commissioner" means the Commissioner of Banking and
22 Insurance.

23 "Department" means the Department of Banking and Insurance.

24 "Home state" means the District of Columbia and any state or
25 territory of the United States in which an insurance producer maintains
26 his principal place of residence or principal place of business and is
27 licensed to act as an insurance producer.

28 "Insurance" means any of the lines of insurance in subtitle 3 of Title
29 17 of the Revised Statutes or subtitle 3 of Title 17B of the New Jersey
30 Statutes and includes contracts or policies of life insurance, health
31 insurance, annuities, indemnity, property and casualty, fidelity, surety,
32 guaranty and title insurance.

33 "Insurance producer" means a person required to be licensed under
34 the laws of this State to sell, solicit or negotiate insurance.

35 "Insurer" means a business entity authorized to transact the business
36 of insurance in this State pursuant to subtitle 3 of Title 17 of the
37 Revised Statutes or subtitle 3 of Title 17B of the New Jersey Statutes.

38 "License" means a document issued by the commissioner
39 authorizing a person to act as an insurance producer for the lines of
40 authority specified in the document. The license itself does not create
41 any authority, actual, apparent or inherent, in the holder to represent
42 or commit an insurer.

43 "Limited line credit insurance" includes credit life, credit disability,
44 credit property, credit unemployment, involuntary unemployment,
45 mortgage life, mortgage guaranty, mortgage disability, automobile
46 dealer gap insurance, and any other form of insurance offered in

1 connection with an extension of credit that is limited to partially or
2 wholly extinguishing that credit obligation that the commissioner
3 determines should be designated a form of limited line credit
4 insurance.

5 "Limited line credit insurance producer" means a person who sells,
6 solicits or negotiates one or more forms of limited line credit insurance
7 coverage to individuals through a master corporate, group or individual
8 contract or policy.

9 "Limited lines insurance producer" means a person who is
10 authorized to sell, solicit or negotiate contracts or policies for a
11 particular line of insurance as an agent for an insurer authorized to
12 write that line in this State which, by the nature of the line of business
13 and the manner by which it is marketed to the public, does not require
14 the professional competency demanded for an insurance producer
15 license.

16 "NAIC" means the National Association of Insurance
17 Commissioners, its affiliates or subsidiaries, or any agency or
18 committee thereof.

19 "Negotiate" means the act of conferring directly with or offering
20 advice directly to a purchaser or prospective purchaser of a particular
21 contract or policy of insurance concerning any of the substantive
22 benefits, terms or conditions of the contract or policy, provided that
23 the person engaged in that act either: sells insurance or obtains
24 insurance from insurers for purchasers.

25 "Person" means an individual or a business entity.

26 "Sell" means to exchange a contract or policy of insurance by any
27 means, for money or its equivalent, on behalf of an insurer.

28 "Solicit" means attempting to sell insurance or asking or urging a
29 person to apply for a particular kind of insurance from a particular
30 insurer.

31 "Surplus lines insurance producer" means a person who is
32 authorized to sell, solicit or negotiate contracts or policies of
33 insurance coverage on behalf of unauthorized insurers pursuant to "the
34 surplus lines law," P.L.1960, c.32 (C.17:22-6.40 et seq.); and "surplus
35 lines" shall have the same meaning as generally accorded to it by that
36 act.

37 "Terminate" means the cancellation of the relationship between an
38 insurance producer and the insurer or the termination of a producer's
39 authority to transact insurance.

40 "Uniform business entity application" means the current version of
41 the NAIC uniform business entity application for resident and
42 nonresident business entities.

43 "Uniform application" means the current version of the NAIC
44 uniform application for resident and nonresident insurance producer
45 licensing.

1 4. A person shall not sell, solicit or negotiate insurance in this State
2 unless the person is licensed for that line of authority in accordance
3 with this act.

4

5 5. a. Nothing in this act shall be construed to require an insurer to
6 obtain an insurance producer license.

7 b. A license as an insurance producer shall not be required of the
8 following:

9 (1) An officer, director or employee of an insurer or of an
10 insurance producer, provided that the officer, director or employee
11 does not receive any commission on contracts or policies written or
12 sold to insure risks residing, located or to be performed in this State
13 and:

14 (a) The officer's, director's or employee's activities are executive,
15 administrative, managerial, clerical or a combination of these, and are
16 only indirectly related to the sale, solicitation or negotiation of
17 insurance; or

18 (b) The officer's, director's or employee's function relates to
19 underwriting, loss control, inspection or the processing, adjusting,
20 investigating or settling of a claim on a contract or policy of insurance;
21 or

22 (c) The officer, director or employee is acting in the capacity of a
23 special agency or agency supervisor assisting insurance producers and
24 those activities are limited to providing technical advice and assistance
25 to licensed insurance producers and do not include the sale,
26 solicitation or negotiation of insurance;

27 (2) A person who secures and furnishes information for the
28 purpose of group life insurance, group property and casualty
29 insurance, group annuities, group or blanket accident and health
30 insurance; or for the purpose of enrolling individuals under insurance
31 plans, issuing certificates under insurance plans or otherwise assisting
32 in administering insurance plans; or performs administrative services
33 related to mass marketed property and casualty insurance; where no
34 commission is paid to the person for the service;

35 (3) An employer or association or its officers, directors,
36 employees, or the trustees of an employee trust plan, to the extent that
37 the employers, officers, employees, directors or trustees are engaged
38 in the administration or operation of a program of employee benefits
39 for the employer's or association's own employees or the employees of
40 its subsidiaries or affiliates, which program involves the use of
41 insurance issued by an insurer, as long as the employers, associations,
42 officers, directors, employees or trustees are not in any manner
43 compensated, directly or indirectly, by the insurer issuing the contracts
44 or policies;

45 (4) Employees of insurers or organizations employed by insurers
46 who are engaging in the inspection, rating or classification of risks, or

1 in the supervision of the training of insurance producers and who are
2 not individually engaged in the sale, solicitation or negotiation of
3 insurance;

4 (5) A person whose activities in this State are limited to advertising
5 without the intent to solicit insurance in this State through
6 communications in printed publications or other forms of electronic
7 mass media whose distribution is not limited to residents of this State,
8 provided that the person does not sell, solicit or negotiate insurance
9 that would insure risks residing, located or to be performed in this
10 State;

11 (6) A person who is not a resident of this State who sells, solicits
12 or negotiates a contract or policy of insurance for commercial property
13 and casualty risks to an insured with risks located in more than one
14 state insured under that contract or policy, so long as that person is
15 otherwise licensed as an insurance producer to sell, solicit or negotiate
16 that insurance in the state in which the insured maintains its principal
17 place of business and the contract or policy of insurance insures risks
18 located in that state;

19 (7) A salaried full-time employee who counsels or advises his
20 employer relative to the insurance interests of the employer or of the
21 subsidiaries or business affiliates of the employer if the employee does
22 not sell or solicit insurance or receive a commission; or

23 (8) Employees of an insurer or insurance producer who respond to
24 requests from contract or policyholders on existing contracts or
25 policies if those employees are not directly compensated based on the
26 volume of premiums that may result from these services and if those
27 employees do not otherwise sell, solicit or negotiate insurance.

28

29 6. a. An individual residing in this State and applying for an
30 insurance producer license shall pass a written examination unless
31 exempt pursuant to section 10 of this act. The examination shall test
32 the knowledge of the individual concerning the lines of authority for
33 which application is made, the duties and responsibilities of an
34 insurance producer and the insurance laws and regulations of this
35 State. Examinations required by this section shall be developed and
36 conducted under rules and regulations prescribed by the commissioner.

37 b. The commissioner may make arrangements, including
38 contracting with an outside testing service, for administering
39 examinations and collecting the nonrefundable fee set forth in section
40 19 of this act.

41 c. Each individual applying for an examination shall remit a
42 nonrefundable fee as prescribed by the commissioner as set forth in
43 section 19 of this act.

44 d. An individual who fails to appear for the examination as
45 scheduled or fails to pass the examination, may reapply for an
46 examination and shall remit all required fees and forms before being

1 rescheduled for another examination.

2

3 7. a. An individual applying for a resident insurance producer
4 license shall make application to the commissioner on the uniform
5 application and declare under penalty of refusal, suspension or
6 revocation of the license that the statements made in the application
7 are true, correct and complete to the best of the individual's
8 knowledge and belief. Before approving the application, the
9 commissioner shall find that the individual:

10 (1) Is at least 18 years of age;

11 (2) Has not committed any act that is a ground for denial,
12 suspension or revocation set forth in section 15 of this act;

13 (3) Has completed a preclicensing course of study for the lines of
14 authority for which the individual has applied as prescribed by the
15 commissioner by regulation;

16 (4) Has paid the fees set forth in section 19 of this act; and

17 (5) Has successfully passed the examinations for the lines of
18 authority for which the individual has applied.

19 b. A business entity acting as an insurance producer shall obtain an
20 insurance producer license. Application shall be made using the
21 uniform business entity application. Before approving the application,
22 the commissioner shall find that:

23 (1) The business entity has paid the fees set forth in section 19 of
24 this act; and

25 (2) The business entity has designated a licensed insurance
26 producer responsible for the business entity's compliance with the
27 insurance laws, rules and regulations of this State.

28 c. The commissioner may require any documents reasonably
29 necessary to verify the information contained in an application.

30 d. Each insurer that sells, solicits or negotiates any form of limited
31 line credit insurance shall provide to each individual whose duties will
32 include selling, soliciting or negotiating limited line credit insurance a
33 program of instruction that is approved by the commissioner.

34

35 8. a. Unless denied licensure pursuant to section 15 of this act,
36 persons who have met the requirements of sections 6 and 7 of this act
37 shall be issued a resident insurance producer license. An insurance
38 producer may receive qualification for a license in one or more of the
39 following lines of authority:

40 (1) Life-insurance coverage on human lives, including benefits of
41 endowment and annuities, and which may include benefits in the event
42 of death or dismemberment by accident and benefits for disability
43 income;

44 (2) Accident and health or sickness-insurance coverage for
45 sickness, bodily injury or accidental death, and which may include
46 benefits for disability income;

- 1 (3) Property-insurance coverage for the direct or consequential
2 loss or damage to property of every kind;
- 3 (4) Casualty-insurance coverage against legal liability, including
4 that for death, injury or disability or damage to real or personal
5 property;
- 6 (5) Variable life and variable annuity products-insurance coverage
7 provided under variable life insurance contracts, variable annuities or
8 any other life insurance or annuity product that reflects the investment
9 experience of a separate account;
- 10 (6) Credit-limited line credit insurance;
- 11 (7) Any other line of insurance permitted under State law or
12 regulation.
- 13 b. An insurance producer license shall remain in effect unless
14 revoked or suspended as long as the fee set forth in section 19 of this
15 act is timely paid and in the case of resident individual insurance
16 producers, education requirements are timely satisfied.
- 17 c. An individual insurance producer who allows his license to lapse
18 may, within 12 months from the due date of the renewal fee, reinstate
19 the same license without the necessity of passing a written
20 examination. However, a penalty in the amount of double the unpaid
21 renewal fee shall be required for any renewal fee received after the due
22 date.
- 23 d. A licensed insurance producer who is unable to comply with
24 license renewal procedures due to military service or some other
25 extenuating circumstance, such as long-term medical disability, may
26 request a waiver of those procedures. The producer may also request
27 a waiver of any examination requirement or any other fine or sanction
28 imposed for failure to comply with renewal procedures.
- 29 e. The license shall contain the licensee's name, address, personal
30 identification number, and the date of issuance, the lines of authority,
31 the expiration date and any other information the commissioner deems
32 necessary.
- 33 f. Licensees shall inform the commissioner by any means acceptable
34 to the commissioner of a change of address within 30 days of the
35 change.
- 36
- 37 9. a. Unless denied licensure pursuant to section 15 of this act, a
38 nonresident person shall receive a nonresident insurance producer
39 license if:
- 40 (1) The person is currently licensed as a resident insurance
41 producer in good standing in his home state;
- 42 (2) The person has submitted the proper request for licensure and
43 has paid the fees required by section 19 of this act;
- 44 (3) The person has submitted or transmitted to the commissioner
45 the application for licensure that the person submitted to his home
46 state, or in lieu of the same, a completed uniform application; and

1 (4) The person's home state awards nonresident insurance producer
2 licenses to residents of this State on the same basis.

3 b. The commissioner may verify the nonresident insurance
4 producer's licensing status through the Producer Database maintained
5 by the NAIC.

6 c. A nonresident insurance producer who moves from one state to
7 another state or a resident insurance producer who moves from this
8 State to another state shall file a change of address and provide
9 certification from the new resident state within 30 days of the change
10 of legal residence. No fee or license application shall be required.

11 d. Subject to section 13 of this act, a person licensed as a surplus
12 lines insurance producer in his home state shall receive a nonresident
13 surplus lines insurance producer license pursuant to subsection a. of
14 this section.

15 e. Subject to section 14 of this act, a person licensed as a limited
16 line credit insurance or other type of limited lines insurance producer
17 in his home state shall receive a nonresident limited lines insurance
18 producer license, pursuant to subsection a. of this section, granting the
19 same scope of authority as granted under the license issued by the
20 producer's home state.

21

22 10. a. An individual who applies for an insurance producer license
23 in this State who was previously licensed for the same lines of
24 authority in another state shall not be required to complete any
25 prelicensing education or examination. This exemption is only
26 available if the person is currently licensed in that state or if the
27 application is received within 90 days of the cancellation of the
28 applicant's previous license and if the prior state issues a certification
29 that, at the time of cancellation, the applicant was in good standing in
30 that state or the state's Producer Database records, maintained by the
31 NAIC, indicate that the producer is or was licensed in good standing
32 for the lines of authority requested.

33 b. A person licensed as an insurance producer in another state who
34 moves to this State shall make application within 90 days of
35 establishing legal residence to become a resident licensee pursuant to
36 section 7 of this act. No prelicensing education or examination shall
37 be required of that person to obtain any lines of authority previously
38 held in the prior state except in cases in which the commissioner
39 determines otherwise by regulation.

40

41 11. An insurance producer doing business under any name other
42 than the producer's legal name shall notify the commissioner prior to
43 using the assumed name.

44

45 12. a. The commissioner may issue a temporary insurance
46 producer license for a period not to exceed 180 days without requiring

1 an examination if the commissioner determines that the temporary
2 license is necessary for the servicing of an insurance business in the
3 following cases:

4 (1) To the surviving spouse or court-appointed personal
5 representative of a licensed insurance producer, upon the death or
6 disability of that producer, to allow adequate time for the sale of the
7 insurance business owned by the producer or for the recovery or
8 return of the producer to the business or to provide for the training
9 and licensing of new personnel to operate the producer's business;

10 (2) To a member or employee of a business entity licensed as an
11 insurance producer, upon the death or disability of an individual
12 designated in the business entity application or the license as
13 responsible for the business entity's compliance with the insurance
14 laws, rules and regulations of this State;

15 (3) To the designee of a licensed insurance producer entering
16 active service in the armed forces of the United States of America; or

17 (4) In any other circumstance in which the commissioner
18 determines that the public interest will best be served by the issuance
19 of a temporary insurance producer license.

20 b. The commissioner may, by order, limit the authority of any
21 temporary licensee in any way necessary to protect insureds and the
22 public. The commissioner may require the temporary licensee to have
23 a suitable sponsor who is a licensed insurance producer or insurer and
24 who assumes responsibility for all acts of the temporary licensee and
25 may impose other similar requirements designed to protect insureds
26 and the public. The commissioner may by order revoke a temporary
27 license if the interest of insureds or the public are endangered. A
28 temporary license shall not continue after the owner or the personal
29 representative disposes of the insurance producer's business.

30

31 13 a. No license granting surplus lines authority shall be issued or
32 renewed unless the applicant:

33 (1) Maintains a bona fide office in this State;

34 (2) Holds or will hold property/casualty authority; and

35 (3) Has filed with the commissioner a bond in favor of the
36 commissioner or his successors in office in an amount of not less than
37 \$25,000, aggregate liability, with a surety approved by the
38 commissioner. The commissioner may, in his discretion, require a
39 bond in a larger amount commensurate with the volume of surplus
40 lines business transacted or to be transacted by the licensee. The bond
41 shall become payable to the commissioner upon failure of the licensee
42 to comply with any of the requirements of subtitle 3 of Title 17 of the
43 Revised Statutes, and shall continue in effect as long as the licensee
44 holds surplus lines authority.

45 b. No surplus lines producer shall charge any fee to an originating
46 broker in connection with the negotiation or procurement of any

1 contract of surplus lines insurance that shall exceed \$50 plus the actual
2 costs incurred for any services performed by a person that is not
3 associated with the surplus lines producer, such as inspection services.
4

5 14. a. The commissioner shall establish, by rule or regulation, the
6 line or lines of insurance that may be marketed through a limited lines
7 insurance producer. A person may act as a limited lines insurance
8 producer for the lines of insurance authorized, from the date on which
9 he is registered and until the date of termination, pursuant to the
10 provisions of this act.

11 b. Any insurer authorized in this State to transact the line or lines
12 of insurance that may be marketed through a limited lines insurance
13 producer, may contract, in writing, with any person to act as its limited
14 lines insurance producer. An insurer shall register with the
15 commissioner the name and business address of each limited lines
16 insurance producer, together with any other information that the
17 commissioner may require. The insurer shall provide written notice to
18 the commissioner when any limited lines insurance producer contract
19 is terminated.

20 c. Prior to contracting with any person to act as a limited lines
21 insurance producer pursuant to subsection b. of this section, the
22 insurer shall satisfy itself that the person to be registered is capable,
23 competent and worthy; has established a permanent, bona fide office
24 in this State; and has successfully completed any educational and
25 examination requirements that the commissioner may require by rule
26 or regulation.

27 d. A limited lines insurance producer shall be subject to suspension
28 or revocation of registration privileges, or imposition of a fine, for any
29 violation of applicable standards of conduct contained in section 15 of
30 this act, or violation of any other specific standards of conduct that the
31 commissioner may provide by rule or regulation for limited lines
32 insurance producers.

33 e. A limited lines insurance producer shall maintain a permanent
34 office in this State in which the following items shall be kept:

35 (1) A copy of the written agreement between himself and the
36 insurer for which he serves as a limited lines insurance producer;

37 (2) Evidence of the completion of educational and examination
38 requirements as prescribed by the commissioner by rule or regulation;

39 (3) A prominently displayed sign advising the public of the name
40 of the insurer represented and the lines of insurance available;

41 (4) Records of every insurance contract or policy written by the
42 limited lines insurance producer; and

43 (5) Any other items or records that the commissioner may require
44 by rule or regulation.

45
46 15. a. The commissioner may place on probation, suspend, revoke

1 or refuse to issue or renew an insurance producer's license or may levy
2 a civil penalty in accordance with subsection c. of section 20 of this
3 act or any combination of actions, for any one or more of the
4 following causes:

5 (1) Providing incorrect, misleading, incomplete or materially untrue
6 information in the license application;

7 (2) Violating any insurance laws, or violating any regulation,
8 subpoena or order of the commissioner or of another state's insurance
9 regulator;

10 (3) Obtaining or attempting to obtain a license through
11 misrepresentation or fraud;

12 (4) Improperly withholding, misappropriating or converting any
13 monies or properties received in the course of doing insurance
14 business;

15 (5) Intentionally misrepresenting the terms of an actual or
16 proposed insurance contract, policy or application for insurance;

17 (6) Having been convicted of a felony or crime of the fourth degree
18 or higher;

19 (7) Having admitted or been found to have committed any
20 insurance unfair trade practice or fraud;

21 (8) Using fraudulent, coercive or dishonest practices, or
22 demonstrating incompetence, untrustworthiness or financial
23 irresponsibility in the conduct of insurance business in this State or
24 elsewhere;

25 (9) Having an insurance producer license, or its equivalent, denied,
26 suspended or revoked in any other state, province, district or territory;

27 (10) Forging another's name to an application for insurance or to
28 any document related to an insurance transaction;

29 (11) Improperly using notes or any other reference material to
30 complete an examination for an insurance producer license;

31 (12) Knowingly accepting insurance business from an individual
32 who is not a licensed insurance producer;

33 (13) Failing to comply with an administrative or court order
34 imposing a child support obligation; or

35 (14) Failing to pay income tax or comply with any administrative
36 or court order directing payment of income tax pursuant to Title 54A
37 of the New Jersey Statutes.

38 b. If the action by the commissioner is to nonrenew or to deny an
39 application for an insurance producer license, the commissioner shall
40 notify the applicant or licensee and advise, in writing, the applicant or
41 licensee of the reason for the denial or nonrenewal of the license. The
42 applicant or licensee may make written demand upon the commissioner
43 for a hearing before the commissioner, or his designee, to determine
44 the reasonableness of the commissioner's action. The hearing shall be
45 held pursuant to the "Administrative Procedure Act," P.L.1968, c.410
46 (C.52:14B-1 et seq.).

1 c. The insurance producer license of a business entity may be
2 suspended, revoked or refused if the commissioner finds, after hearing,
3 that an individual licensee's violation was known or should have been
4 known by one or more of the partners, officers or managers acting on
5 behalf of the business entity and the violation was neither reported to
6 the commissioner nor corrective action taken.

7 d. The commissioner shall retain the authority to enforce the
8 provisions of and impose any penalty or remedy authorized by this act
9 and Title 17 of the Revised Statutes or Title 17B of the New Jersey
10 Statutes against any person who is under investigation for or charged
11 with a violation of this act or Title 17 of the Revised Statutes or Title
12 17B of the New Jersey Statutes even if the person's license or
13 registration has been surrendered or has lapsed by operation of law.
14

15 16. a. An insurer or insurance producer shall not pay a
16 commission, service fee, brokerage or other valuable consideration to
17 a person for selling, soliciting or negotiating insurance in this State if
18 that person is required to be licensed under this act and is not so
19 licensed.

20 b. A person shall not accept a commission, service fee, brokerage
21 or other valuable consideration for selling, soliciting or negotiating
22 insurance in this State if that person is required to be licensed under
23 this act and is not so licensed.

24 c. Renewal or other deferred commissions may be paid to a person
25 for selling, soliciting or negotiating insurance in this State if the person
26 was required to be licensed under this act at the time of the sale,
27 solicitation or negotiation and was so licensed at that time.

28 d. An insurer or insurance producer may pay or assign
29 commissions, service fees, brokerages or other valuable consideration
30 to an insurance agency or to persons who do not sell, solicit or
31 negotiate insurance in this State, unless the payment would violate
32 section 15 of P.L.1944, c.27 (C.17:29A-15), section 14 of P.L.1982,
33 c.114 (C.17:29AA-14), section 4 of P.L.1947, c.379 (C.17:29B-4),
34 section 5 of P.L.1968, c.248 (C.17:46A-5), section 34 or 35 of
35 P.L.1975, c.106 (C.17:46B-34 or 17:46B-35) or N.J.S.17B:30-13 or
36 any other provision of law.
37

38 17. a. An insurance producer shall not act as an agent of an insurer
39 unless the insurance producer becomes an appointed agent of that
40 insurer. An insurance producer who is not acting as an agent of an
41 insurer is not required to become appointed.

42 b. To appoint an insurance producer as its agent, the appointing
43 insurer shall file, in a format approved by the commissioner, a notice
44 of appointment within 15 days from the date the agency contract is
45 executed or the first insurance application is submitted by the
46 insurance producer. An insurer may also elect to appoint an insurance

1 producer to all or some insurers within the insurer's holding company
2 system or group by the filing of a single appointment request.

3 c. Upon receipt of the notice of appointment, the commissioner
4 shall verify within 30 days that the insurance producer is eligible for
5 appointment. If the insurance producer is determined to be ineligible
6 for appointment, the commissioner shall notify the insurer within five
7 days of his determination.

8 d. An insurer shall pay an appointment fee, in the amount and
9 method of payment set forth in section 19 of this act for each
10 insurance producer appointed by the insurer.

11 e. An insurer shall remit, in a manner prescribed by the
12 commissioner, a renewal appointment fee in the amount set forth in
13 section 19 of this act.

14

15 18. a. An insurer or authorized producer of the insurer that
16 terminates the appointment, employment, contract or other insurance
17 business relationship with an insurance producer shall notify the
18 commissioner within 30 days following the effective date of the
19 termination, using a format prescribed by the commissioner, if the
20 reason for termination is one of the reasons set forth in section 15 of
21 this act or if the insurer has knowledge that the producer was found by
22 a court, government body, or self-regulatory organization authorized
23 by law, to have engaged in any of the activities in section 15 of this
24 act. Upon the written request of the commissioner, the insurer shall
25 provide additional information, documents, records or other data
26 pertaining to the termination or activity of the producer.

27 b. An insurer or authorized producer of the insurer that terminates
28 the appointment, employment or contract with an insurance producer,
29 for any reason not set forth in section 15 of this act, shall notify the
30 commissioner within 30 days following the effective date of the
31 termination, using a format prescribed by the commissioner. Upon
32 written request of the commissioner, the insurer shall provide
33 additional information, documents, records or other data pertaining to
34 the termination.

35 c. The insurer or the authorized producer of the insurer shall
36 promptly notify the commissioner in a format acceptable to the
37 commissioner if, upon further review or investigation, the insurer
38 discovers additional information that would have been reportable to
39 the commissioner in accordance with subsection a. of this section had
40 the insurer then known of its existence.

41 d. (1) Within 15 days after making the notification required by this
42 section, the insurer shall mail a copy of the notification to the
43 insurance producer at his last known address. If the producer is
44 terminated for any of the reasons listed in section 15 of this act, the
45 insurer shall provide a copy of the notification to the producer at his
46 last known address by certified mail, return receipt requested, postage

1 prepaid or by overnight delivery using a nationally recognized carrier.

2 (2) Within 30 days after the insurance producer has received the
3 original or additional notification, the producer may file written
4 comments concerning the substance of the notification with the
5 commissioner. The producer shall, by the same means, simultaneously
6 send a copy of the comments to the reporting insurer, and the
7 comments shall become a part of the commissioner's file and
8 accompany every copy of a report distributed or disclosed for any
9 reason about the producer as permitted under subsection f. of this
10 section.

11 e. (1) In the absence of actual malice, an insurer, the authorized
12 representative of the insurer, an insurance producer, the commissioner,
13 or an organization of which the commissioner is a member and that
14 compiles the information and makes it available to other insurance
15 commissioners or regulatory or law enforcement agencies, shall not be
16 subject to civil liability, and a civil cause of action of any nature shall
17 not arise against these entities or their respective agents or employees,
18 as a result of any statement or information required by or provided
19 pursuant to this section or any information relating to any statement
20 that may be requested in writing by the commissioner, from an insurer
21 or insurance producer; or a statement by a terminating insurer or
22 insurance producer to an insurer or insurance producer limited solely
23 and exclusively to whether a termination for cause under subsection a.
24 of this section was reported to the commissioner, provided that the
25 propriety of any termination for cause under subsection a. is certified
26 in writing by an officer or authorized representative of the insurer or
27 insurance producer terminating the relationship.

28 (2) In any action brought against a person that has immunity under
29 paragraph (1) of this subsection for making any statement required by
30 this section or providing any information relating to any statement that
31 may be requested by the commissioner, the party bringing the action
32 shall plead specifically in any allegation that paragraph (1) does not
33 apply because the person making the statement or providing the
34 information did so with actual malice.

35 (3) Paragraph (1) or (2) of this subsection shall not abrogate or
36 modify any existing statutory or common law privileges or immunities.

37 f. (1) Any documents, materials or other information in the control
38 or possession of the department furnished by an insurer, insurance
39 producer or an employee or agent thereof acting on behalf of the
40 insurer or insurance producer, or obtained by the commissioner in an
41 investigation pursuant to this section, shall be confidential by law and
42 privileged, shall not be subject to any State or federal freedom of
43 information law, shall not be subject to subpoena, and shall not be
44 subject to discovery or admissible in evidence in any private civil
45 action. However, the commissioner is authorized to use the
46 documents, materials or other information in the furtherance of any

1 regulatory or legal action brought as a part of the commissioner's
2 duties.

3 (2) Neither the commissioner, nor any person who received
4 documents, materials or other information while acting under the
5 authority of the commissioner, shall be permitted or required to testify
6 in any private civil action concerning any confidential documents,
7 materials, or information subject to paragraph (1) of this subsection.

8 (3) In order to assist in the performance of the commissioner's
9 duties under this act, the commissioner:

10 (a) May share documents, materials or other information, including
11 the confidential and privileged documents, materials or information
12 subject to paragraph (1) of this subsection, with other state, federal,
13 and international regulatory agencies, with the NAIC, and with state,
14 federal, and international law enforcement authorities, provided that
15 the recipient agrees to maintain the confidentiality and privileged
16 status of the document, material or other information pursuant to this
17 section;

18 (b) May receive documents, materials or information, including
19 otherwise confidential and privileged documents, materials or
20 information, from the NAIC and from regulatory and law enforcement
21 officials of other foreign or domestic jurisdictions, and shall maintain
22 as confidential or privileged any document, material or information
23 received with notice or the understanding that it is confidential or
24 privileged under the laws of the jurisdiction that is the source of the
25 document, material or information; and

26 (c) May enter into agreements governing sharing and use of
27 information consistent with this subsection.

28 (4) No waiver of any applicable privilege or claim of confidentiality
29 in the documents, materials or information shall occur as a result of
30 disclosure to the commissioner under this section or as a result of
31 sharing as authorized in paragraph (3) of this subsection.

32 (5) Nothing in this act shall prohibit the commissioner from
33 releasing final, adjudicated actions including terminations for cause
34 that are open to public inspection pursuant to P.L.1963, c.73
35 (C.47:1A-1 et seq.) to a database or other clearinghouse service
36 maintained by the NAIC.

37 g. An insurer, the authorized representative of the insurer, or an
38 insurance producer that fails to report as required under the provisions
39 of this section or that is found by a court of competent jurisdiction to
40 have reported with actual malice may, after notice and hearing, have
41 its license or certificate of authority suspended or revoked and may be
42 fined in accordance with section 20 of this act.

43

44 19. a. The commissioner shall, by regulation, set reasonable,
45 necessary and appropriate fees to be charged for licensing insurance
46 producers, filing agency appointments, filing limited insurance

1 producer registrations, filing fictitious, trade or firm names, issuing
2 certification of license status and processing any document required to
3 be submitted pursuant to this act, except that the total annual revenue
4 generated from these fees shall not be less than the total annual
5 revenue generated from equivalent fees for the preceding fiscal year.

6 b. Applicants may be charged a fee for any licensing examination
7 conducted pursuant to this act in an amount designated or approved
8 by the commissioner.

9 c. All fees payable to the commissioner pursuant to this section are
10 nonrefundable.

11 d. The commissioner may, by rule or regulation, provide for the
12 waiving of fees for disabled war veterans of the United States military
13 service.

14

15 20. a. The commissioner shall have the power to conduct
16 investigations, to administer oaths, to interrogate licensees and others,
17 and to issue subpoenas to any licensee or any other person in
18 connection with any investigation, hearing or other proceeding
19 pursuant to this act, without fee.

20 b. Subpoenas shall be issued in the name of the commissioner, the
21 deputy commissioner or other employee designated by the
22 commissioner, but no subpoena shall be issued except for good cause.
23 Any person failing or refusing to comply with a subpoena may be
24 ordered by a judge of the Superior Court, on application made by the
25 commissioner or by the person at whose instance the subpoena was
26 issued, to comply with the terms of the subpoena or be punished by the
27 court for contempt. The court may proceed in a summary manner.

28 c. Any person violating any provision of this act shall be liable to
29 a penalty not exceeding \$5,000 for the first offense and not exceeding
30 \$10,000 for each subsequent offense to be recovered in a summary
31 proceeding in accordance with the "Penalty Enforcement Law of
32 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). In addition, the
33 commissioner or the court, as the case may be, may order restitution
34 of moneys owed any person and reimbursement of the costs of
35 investigation and prosecution, as appropriate.

36 d. In any formal proceeding, if the commissioner finds that the
37 interests of the public require that immediate action be taken prior to
38 completion of the hearing, the making of a determination and the entry
39 of a final order, he may enter an appropriate order to be effective
40 pending completion of the hearing and entry of a final order. These
41 orders may be entered on ex parte proofs if the proofs indicate that the
42 commissioner's withholding of any action until completion of a full
43 hearing will be harmful to the public interest. Orders issued pursuant
44 to this section shall be subject to an application to vacate upon 10
45 days' notice, and a preliminary hearing on the ex parte order shall be
46 held in any event within 20 days after it is entered. In the alternative,

1 or in addition, the commissioner is authorized to institute a proceeding
2 in the Superior Court, to be conducted in a summary manner, for an
3 injunction against specified acts or conduct in aid of the proceedings
4 pending before him, including temporary injunctions and interim
5 restraints.

6
7 21. a. The commissioner shall not assess a greater fee for an
8 insurance producer license or related service to a person not residing
9 in this State based solely on the fact that the person does not reside in
10 this State.

11 b. The commissioner shall waive any license application
12 requirements for a nonresident insurance producer license applicant
13 with a valid license from his home state, except the requirements
14 imposed by section 9 of this act, if the applicant's home state awards
15 nonresident insurance producer licenses to licensees of this State on
16 the same basis.

17 c. A nonresident insurance producer's satisfaction of his home
18 state's continuing education requirements for licensed insurance
19 producers shall constitute satisfaction of this State's continuing
20 education requirements if the nonresident producer's home state
21 recognizes the satisfaction of its continuing education requirements
22 imposed upon insurance producers from this State on the same basis.

23
24 22. a. An insurance producer shall report to the commissioner any
25 administrative action taken against the insurance producer in another
26 jurisdiction or by another governmental agency in this State within 30
27 days of the final disposition of the matter. This report shall include a
28 copy of the order, consent order or other relevant legal documents.

29 b. Within 30 days of the initial pretrial hearing date, an insurance
30 producer shall report to the commissioner any criminal prosecution of
31 the producer taken in any jurisdiction. The report shall include a copy
32 of the initial complaint filed, the order resulting from the hearing and
33 any other relevant legal documents.

34
35 23. The commissioner may, in accordance with "Administrative
36 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) promulgate
37 rules and regulations necessary to effectuate the purposes of this act.

38
39 24. P.L.1987, c.293 (C.17:22A-1 et seq.); section 13 of P.L.1996,
40 c.69 (C.17:22A-14.1); and P.L.1997, c.429 (C.17:22A-16.1) are
41 repealed.

42
43 25. This act shall take effect on the 180th day following enactment.

STATEMENT

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This bill, the "New Jersey Insurance Producer Licensing Act of 2001," repeals the existing insurance producer licensing statute and replaces it with a revised scheme, based on model legislation ("Model Act") drafted by the National Association of Insurance Commissioners (NAIC) in response to recent federal legislation.

On November 2, 1999, President Clinton signed into law the Financial Services Modernization Act, Pub. L.106-102, more commonly known as the "Gramm-Leach-Bliley Act," the primary purpose of which was to repeal restrictions on banks affiliating with securities firms and to facilitate affiliation among banks, securities firms and insurance companies. That act authorizes the creation of a new federal bureaucracy, the National Association of Registered Agents and Brokers (NARAB) unless, within three years of enactment, or November 12, 2002, a majority of states have enacted uniform laws and regulations governing the licensure of insurance producers, or a majority of states have enacted reciprocal laws and regulations governing the licensure of nonresident producers. NARAB would be a national licensing authority that would draw on existing state laws to devise uniform licensing requirements and would serve as the mechanism through which insurance producers (agents and brokers) could obtain licenses for any state in which they wish to do business. The ultimate effect, however, would be that the new federal scheme would preempt the traditional responsibilities of the states in the area of insurance regulation authorized by the federal McCarran-Ferguson Act of 1945.

In response to the NARAB provisions of Gramm-Leach-Bliley, the NAIC adopted the Producer Licensing Model Act in January of 2000. The Model Act establishes uniform standards for insurance producer licensing among the states and creates a system of reciprocity for nonresident insurance producer licensing. It allows insurance producers licensed in one jurisdiction to conduct business in all other participating jurisdictions.

State enactment of the uniformity and reciprocity provisions of the Model Act will help assure the continued primacy of the states to regulate the business of insurance. By preventing NARAB from taking effect, it will also help spur the speedy and cost effective operation of the U.S. insurance market and, in turn, help gain and maintain the access of American business to international insurance markets. In several states, legislation has already been introduced or enacted in response to the NARAB provisions of Gramm-Leach-Bliley. In some cases, the legislative proposals adopt only the reciprocity provisions necessary to preempt NARAB; in others, the NAIC Model Act is adopted in its entirety.

Specifically, the bill defines key terms (section 3) and establishes

1 examination and licensing requirements, including individual and
2 business entity licenses, using NAIC uniform applications (sections
3 4,6-8). It provides for nonresident licensing and reciprocity among
4 state licensees, through the NAIC Producer Database (sections 9 and
5 10). It lists individuals and entities who are exempt from its licensing
6 provisions (section 5) and allows for temporary licenses under certain
7 circumstances (section 12). The bill further provides for the licensing
8 of surplus lines insurance producers and for the registration of limited
9 lines insurance producers, which lines may be established by the
10 Commissioner of Banking and Insurance by regulation (sections 13
11 and 14).

12 Under the bill, the commissioner is authorized to place on
13 probation, suspend or revoke, or refuse to issue or renew, an insurance
14 producer's license, or may levy civil penalties for one or more of
15 several specified causes (section 15). Additionally, the bill provides for
16 agency appointments and termination of those appointments (sections
17 16, 17 and 18). The bill also authorizes the commissioner to set fees
18 for examination, licensing, filings and document processing; to
19 conduct investigations; and to promulgate regulations to administer
20 the bill's provisions (section 19, 20 and 23). Finally, the existing "New
21 Jersey Insurance Producer Licensing Act," P.L.1987, c.293, is
22 repealed (section 24).

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 2428

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 11, 2001

The Senate Commerce Committee reports favorably and with committee amendments Senate Bill No. 2428.

This bill, as amended by the committee, repeals the existing insurance producer licensing statute, enacted in 1987, and replaces it with a revised scheme based on model legislation (Model Act) drafted by the National Association of Insurance Commissioners (NAIC) in response to recent federal legislation, the Financial Services Modernization Act, Pub. L.106-102, more commonly known as the "Gramm-Leach-Bliley Act" or "GLBA." The GLBA would impose a nationwide licensing scheme unless, within three years of its enactment, or November 12, 2002, a majority of states have enacted uniform laws governing the licensure of insurance producers, or have enacted reciprocal laws and regulations governing the licensure of nonresident producers.

The bill defines key terms and establishes examination and licensing requirements, including individual and business entity licenses, using NAIC uniform applications. An applicant for a resident insurance producer license must:

- a. Be at least 18 years of age;
- b. Have not committed any act that is a ground for denial, suspension or revocation of a license;
- c. Have completed a prelicensing course of study for the lines of authority for which the applicant applied; and
- d. Successfully pass the examinations for the lines of authority for which the applicant applied.

An insurance producer may receive qualification for a license in one or more of the following lines of authority: life-insurance coverage; accident and health or sickness-insurance coverage; property-insurance coverage; casualty-insurance coverage; variable life and variable annuity products-insurance coverage; credit-limited line credit insurance; personal lines-property and casualty insurance coverage; and any other line of insurance permitted by law.

A nonresident person shall receive a nonresident insurance producer license if: the person is currently licensed as a resident insurance producer in good standing in his home state and the person's

home state awards nonresident insurance producer licenses to residents of this State on the same basis. An individual who applies for an insurance producer license in this State who is licensed for the same lines of authority in another state is not required to complete any prelicensing education or examination. Each licensed nonresident insurance producer is deemed to have appointed the commissioner as agent to receive service of original legal process in this State in any cause of action or legal proceeding arising within this State out of transactions under the license. A nonresident insurance producer's satisfaction of his home state's continuing education requirements for licensed insurance producers shall constitute satisfaction of this State's continuing education requirements if the nonresident producer's home state recognizes the satisfaction of its continuing education requirements imposed upon insurance producers from this State on the same basis. The bill provides for reciprocity among states for nonresident licensees, one of the principal requirements of the GLBA.

Among the key innovations of the Model Act, the bill defines a producer's "home state" as the state in which the producer either maintains his principal place of residence or principal place of business and is licensed to act as an insurance producer. New Jersey currently requires resident licenses of those producers whose principal residence is in the State and those who have an office in New Jersey. The bill lists individuals and entities who are exempt from its licensing provisions, such as officers, directors and employees of insurers not receiving any commission on policies written or sold and whose activities with the insurer are primarily executive, administrative, managerial or clerical. Employees who respond to requests from policyholders on existing policies and who are not directly compensated based on the volume of premiums that may result, as in the case of "direct writer" insurers, who were exempt from licensure under an earlier version of the Model Act, are not exempted under the bill. The bill continues the current requirement of licensing of surplus lines insurance producers, but in keeping with GLBA reciprocity, eliminates the requirement for maintaining an office in New Jersey. The bill requires, for the first time, licensing of limited lines insurance producers, which lines will be established by the Commissioner of Banking and Insurance by regulation.

Under the bill, the commissioner is authorized to place on probation, suspend or revoke, or refuse to issue or renew, an insurance producer's license, or may levy civil penalties for one or more of several specified causes. Several additional causes for such action are added to the Model Act's provisions from the current New Jersey law. Additionally, the bill provides for agency appointments and termination of those appointments by insurers. The bill also authorizes the commissioner to set fees for examination, licensing, filings and document processing; to conduct investigations; and to promulgate regulations to administer the bill's provisions. The commissioner is

also authorized to provide for the orderly transition of license types and authorities. Amendments to the surplus lines law, made necessary by the revised licensing scheme, are also included.

Finally, the existing "New Jersey Insurance Producer Licensing Act," P.L.1987, c.293, is repealed. The bill will take effect immediately, but its substantive provisions will remain inoperative until the adoption of implementing regulations. In no event, however, shall the bill take effect later than November 12, 2002, the date established by the federal legislation as the date by which a majority of states must pass legislation to avoid the national regulatory scheme contemplated by GLBA.

[First Reprint]

SENATE, No. 2428

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED MAY 24, 2001

Sponsored by:

Senator GERALD CARDINALE

District 39 (Bergen)

Co-Sponsored by:

Assemblywoman Farragher and Assemblyman Corodemus

SYNOPSIS

The "New Jersey Insurance Producer Licensing Act of 2001."

CURRENT VERSION OF TEXT

As reported by the Senate Commerce Committee on June 11, 2001, with amendments.



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

1 AN ACT concerning the licensure of insurance producers, ¹amending
2 P.L.1960, c.32,¹ supplementing Title 17 of the Revised Statutes
3 ¹[,]¹ and repealing parts of the statutory law.

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

7
8 1. ¹(New section)¹ This act shall be known and may be cited as
9 the "New Jersey Insurance Producer Licensing Act of 2001."

10
11 2. ¹(New section)¹ This act governs the qualifications and
12 procedures for the licensing of insurance producers. It simplifies and
13 organizes the statutory law to improve efficiency, permits the use of
14 new technology and reduces costs associated with issuing and
15 renewing insurance producer licenses.

16
17 3. ¹(New section)¹ As used in this act:

18 "Business entity" means a corporation, association, partnership,
19 limited liability company, limited liability partnership, or other legal
20 entity.

21 "Commissioner" means the Commissioner of Banking and
22 Insurance.

23 "Department" means the Department of Banking and Insurance.

24 "Home state" means the District of Columbia and any state or
25 territory of the United States in which an insurance producer maintains
26 his principal place of residence or principal place of business and is
27 licensed to act as an insurance producer.

28 "Insurance" means any of the lines of insurance in subtitle 3 of Title
29 17 of the Revised Statutes or subtitle 3 of Title 17B of the New Jersey
30 Statutes and includes contracts or policies of life insurance, health
31 insurance, annuities, indemnity, property and casualty, fidelity, surety,
32 guaranty and title insurance.

33 ¹"Insurance consultant" means a person, who for a commission,
34 brokerage fee, or other consideration, acts or holds himself out to the
35 public or any licensee as offering any advice, counsel, opinion or
36 service with respect to the benefits, advantages or disadvantages under
37 any insurance policy or contract that is or could be issued in this State,
38 but shall not include bank trust officers, attorneys-at-law and certified
39 public accountants who negotiate contracts on behalf of others or
40 provide general financial counsel if no commission or brokerage fee is
41 paid for those services.¹

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:

¹ Senate SCM committee amendments adopted June 11, 2001.

1 "Insurance producer" means a person required to be licensed under
2 the laws of this State to sell, solicit or negotiate insurance.

3 "Insurer" means a business entity authorized to transact the business
4 of insurance in this State pursuant to subtitle 3 of Title 17 of the
5 Revised Statutes or subtitle 3 of Title 17B of the New Jersey Statutes.

6 "License" means a document issued by the commissioner
7 authorizing a person to act as an insurance producer for the lines of
8 authority specified in the document. The license itself does not create
9 any authority, actual, apparent or inherent, in the holder to represent
10 or commit an insurer.

11 "Limited line credit insurance" includes credit life, credit disability,
12 credit property, credit unemployment, involuntary unemployment,
13 mortgage life, mortgage guaranty, mortgage disability, automobile
14 dealer gap insurance, and any other form of insurance offered in
15 connection with an extension of credit that is limited to partially or
16 wholly extinguishing that credit obligation that the commissioner
17 determines should be designated a form of limited line credit
18 insurance.

19 "Limited line credit insurance producer" means a person who sells,
20 solicits or negotiates one or more forms of limited line credit insurance
21 coverage to individuals though a master corporate, group or individual
22 contract or policy.

23 ¹Limited lines insurance" means those lines of insurance established
24 pursuant to section 14 of this act or any other line of insurance that the
25 commissioner determines is necessary to recognize for the purposes of
26 complying with subsection e. of section 9 of this act.¹

27 "Limited lines insurance producer" means a person who is
28 authorized ¹[to sell, solicit or negotiate contracts or policies for a
29 particular line of insurance as an agent for an insurer authorized to
30 write that line in this State which, by the nature of the line of business
31 and the manner by which it is marketed to the public, does not require
32 the professional competency demanded for an insurance producer
33 license]by the commissioner to sell, solicit or negotiate limited lines
34 insurance or to engage in the business of an insurance consultant¹.

35 "NAIC" means the National Association of Insurance
36 Commissioners, its affiliates or subsidiaries, or any agency or
37 committee thereof.

38 "Negotiate" means the act of conferring directly with or offering
39 advice directly to a purchaser or prospective purchaser of a particular
40 contract or policy of insurance concerning any of the substantive
41 benefits, terms or conditions of the contract or policy, provided that
42 the person engaged in that act either: sells insurance or obtains
43 insurance from insurers for purchasers.

44 "Person" means an individual or a business entity.

45 "Sell" means to exchange a contract or policy of insurance by any
46 means, for money or its equivalent, on behalf of an insurer.

1 "Solicit" means attempting to sell insurance or asking or urging a
2 person to apply for a particular kind of insurance from a particular
3 insurer.

4 "Surplus lines insurance producer" means a person who is
5 authorized to sell, solicit or negotiate contracts or policies of
6 insurance coverage on behalf of unauthorized insurers pursuant to "the
7 surplus lines law," P.L.1960, c.32 (C.17:22-6.40 et seq.); and "surplus
8 lines" shall have the same meaning as generally accorded to it by that
9 act.

10 "Terminate" means the cancellation of the relationship between an
11 insurance producer and the insurer or the termination of a producer's
12 authority to transact insurance.

13 "Uniform business entity application" means the current version of
14 the NAIC uniform business entity application for resident and
15 nonresident business entities.

16 "Uniform application" means the current version of the NAIC
17 uniform application for resident and nonresident insurance producer
18 licensing.

19

20 4. ¹(New section)¹ A person shall not sell, solicit or negotiate
21 insurance in this State unless the person is licensed for that line of
22 authority in accordance with this act.

23

24 5. ¹(New section)¹ a. Nothing in this act shall be construed to
25 require an insurer to obtain an insurance producer license. ¹In this
26 section, the term "insurer" does not include an insurer's officers,
27 directors, employees, subsidiaries or affiliates.¹

28 b. A license as an insurance producer shall not be required of the
29 following:

30 (1) An officer, director or employee of an insurer or of an
31 insurance producer, provided that the officer, director or employee
32 does not receive any commission on contracts or policies written or
33 sold to insure risks residing, located or to be performed in this State
34 and:

35 (a) The officer's, director's or employee's activities are executive,
36 administrative, managerial, clerical or a combination of these, and are
37 only indirectly related to the sale, solicitation or negotiation of
38 insurance; or

39 (b) The officer's, director's or employee's function relates to
40 underwriting, loss control, inspection or the processing, adjusting,
41 investigating or settling of a claim on a contract or policy of insurance;
42 or

43 (c) The officer, director or employee is acting in the capacity of a
44 special agency or agency supervisor assisting insurance producers and
45 those activities are limited to providing technical advice and assistance
46 to licensed insurance producers and do not include the sale,

1 solicitation or negotiation of insurance;

2 (2) A person who secures and furnishes information for the
3 purpose of group life insurance, group property and casualty
4 insurance, group annuities, group or blanket accident and health
5 insurance; or for the purpose of enrolling individuals under insurance
6 plans, issuing certificates under insurance plans or otherwise assisting
7 in administering insurance plans; or performs administrative services
8 related to mass marketed property and casualty insurance; where no
9 commission is paid to the person for the service;

10 (3) An employer or association or its officers, directors,
11 employees, or the trustees of an employee trust plan, to the extent that
12 the employers, officers, employees, directors or trustees are engaged
13 in the administration or operation of a program of employee benefits
14 for the employer's or association's own employees or the employees of
15 its subsidiaries or affiliates, which program involves the use of
16 insurance issued by an insurer, as long as the employers, associations,
17 officers, directors, employees or trustees are not in any manner
18 compensated, directly or indirectly, by the insurer issuing the contracts
19 or policies;

20 (4) Employees of insurers or organizations employed by insurers
21 who are engaging in the inspection, rating or classification of risks, or
22 in the supervision of the training of insurance producers and who are
23 not individually engaged in the sale, solicitation or negotiation of
24 insurance;

25 (5) A person whose activities in this State are limited to advertising
26 without the intent to solicit insurance in this State through
27 communications in printed publications or other forms of electronic
28 mass media whose distribution is not limited to residents of this State,
29 provided that the person does not sell, solicit or negotiate insurance
30 that would insure risks residing, located or to be performed in this
31 State;

32 (6) A person who is not a resident of this State who sells, solicits
33 or negotiates a contract or policy of insurance for commercial property
34 and casualty risks to an insured with risks located in more than one
35 state insured under that contract or policy, so long as that person is
36 otherwise licensed as an insurance producer to sell, solicit or negotiate
37 that insurance in the state in which the insured maintains its principal
38 place of business and the contract or policy of insurance insures risks
39 located in that state; ¹or¹

40 (7) A salaried full-time employee who counsels or advises his
41 employer relative to the insurance interests of the employer or of the
42 subsidiaries or business affiliates of the employer if the employee does
43 not sell or solicit insurance or receive a commission¹; or

44 (8) Employees of an insurer or insurance producer who respond to
45 requests from contract or policyholders on existing contracts or
46 policies if those employees are not directly compensated based on the

1 volume of premiums that may result from these services and if those
2 employees do not otherwise sell, solicit or negotiate insurance]¹.

3
4 6. ¹(New section)¹ a. ¹[An] A resident¹ individual ¹[residing in
5 this State and]¹ applying for an insurance producer license shall pass
6 a written examination unless exempt pursuant to section 10 of this act.
7 The examination shall test the knowledge of the individual concerning
8 the lines of authority for which application is made, the duties and
9 responsibilities of an insurance producer and the insurance laws and
10 regulations of this State. Examinations required by this section shall
11 be developed and conducted under rules and regulations prescribed by
12 the commissioner.

13 b. The commissioner may make arrangements, including contracting
14 with an outside testing service, for administering examinations and
15 collecting the nonrefundable fee set forth in section 19 of this act.

16 c. Each individual applying for an examination shall remit a
17 nonrefundable fee as prescribed by the commissioner as set forth in
18 section 19 of this act.

19 d. An individual who fails to appear for the examination as
20 scheduled or fails to pass the examination, may reapply for an
21 examination and shall remit all required fees and forms before being
22 rescheduled for another examination.

23
24 7. ¹(New section)¹ a. An individual applying for a resident
25 insurance producer license shall make application to the commissioner
26 on the uniform application and declare under penalty of refusal,
27 suspension or revocation of the license that the statements made in the
28 application are true, correct and complete to the best of the
29 individual's knowledge and belief. Before approving the application,
30 the commissioner shall find that the individual:

31 (1) Is at least 18 years of age;

32 (2) Has not committed any act that is a ground for denial,
33 suspension or revocation set forth in section 15 of this act;

34 (3) Has completed a prelicensing course of study for the lines of
35 authority for which the individual has applied as prescribed by the
36 commissioner by regulation;

37 (4) Has paid the fees set forth in section 19 of this act; and

38 (5) Has successfully passed the examinations for the lines of
39 authority for which the individual has applied.

40 b. A business entity acting as an insurance producer shall obtain an
41 insurance producer license. Application shall be made using the
42 uniform business entity application. Before approving the application,
43 the commissioner shall find that:

44 (1) The business entity has paid the fees set forth in section 19 of
45 this act; and

46 (2) The business entity has designated a licensed insurance

1 producer ¹or producers¹ responsible for the business entity's
2 compliance with the insurance laws, rules and regulations of this State.

3 c. The commissioner may require any documents reasonably
4 necessary to verify the information contained in an application.

5 d. Each insurer that sells, solicits or negotiates any form of limited
6 line credit insurance shall provide to each individual whose duties will
7 include selling, soliciting or negotiating limited line credit insurance a
8 program of instruction that is approved by the commissioner.

9

10 8. ¹(New section)¹ a. Unless denied licensure pursuant to section
11 15 of this act, persons who have met the requirements of sections 6
12 and 7 of this act shall be issued a resident insurance producer license.
13 An insurance producer may receive qualification for a license in one or
14 more of the following lines of authority:

15 (1) Life-insurance coverage on human lives, including benefits of
16 endowment and annuities, and which may include benefits in the event
17 of death or dismemberment by accident and benefits for disability
18 income;

19 (2) Accident and health or sickness-insurance coverage for
20 sickness, bodily injury or accidental death, and which may include
21 benefits for disability income;

22 (3) Property-insurance coverage for the direct or consequential
23 loss or damage to property of every kind;

24 (4) Casualty-insurance coverage against legal liability, including
25 that for death, injury or disability or damage to real or personal
26 property;

27 (5) Variable life and variable annuity products-insurance coverage
28 provided under variable life insurance contracts, variable annuities or
29 any other life insurance or annuity product that reflects the investment
30 experience of a separate account;

31 (6) Credit-limited line credit insurance;

32 (7) ¹Personal lines - property and casualty insurance coverage sold
33 to individuals and families for primarily noncommercial purposes:

34 ⁽⁸⁾¹ Any other line of insurance permitted under ¹[State] any¹ law
35 or regulation ¹of this State¹.

36 b. An insurance producer license shall remain in effect unless
37 revoked or suspended as long as the fee set forth in section 19 of this
38 act is timely paid and in the case of resident individual insurance
39 producers, education requirements are timely satisfied.

40 c. An individual insurance producer who allows his license to lapse
41 may, within 12 months from the due date of the renewal fee, reinstate
42 the same license without the necessity of passing a written
43 examination. However, a penalty in ¹[the] an¹ amount ¹[of] not to
44 exceed¹ double the unpaid renewal fee shall be required for any
45 renewal fee received after the due date.

46 d. A licensed insurance producer who is unable to comply with

1 license renewal procedures due to military service or some other
2 extenuating circumstance, such as long-term medical disability, may
3 request a waiver of those procedures. The producer may also request
4 a waiver of any examination requirement or any other fine or sanction
5 imposed for failure to comply with renewal procedures.

6 e. The license shall contain the licensee's name, address, personal
7 identification number, and the date of issuance, the lines of authority,
8 the expiration date and any other information the commissioner deems
9 necessary.

10 f. Licensees shall inform the commissioner by any means acceptable
11 to the commissioner of a change of address within 30 days of the
12 change.

13
14 9. ¹(New section)¹ a. Unless denied licensure pursuant to section
15 15 of this act, a nonresident person shall receive a nonresident
16 insurance producer license if:

17 (1) The person is currently licensed as a resident insurance
18 producer in good standing in his home state;

19 (2) The person has submitted the proper request for licensure and
20 has paid the fees required by section 19 of this act;

21 (3) The person has submitted or transmitted to the commissioner
22 the application for licensure that the person submitted to his home
23 state, or in lieu of the same, a completed uniform application; and

24 (4) The person's home state awards nonresident insurance producer
25 licenses to residents of this State on the same basis.

26 b. The commissioner may verify the nonresident insurance
27 producer's licensing status through the Producer Database maintained
28 by the NAIC.

29 c. A nonresident insurance producer who moves from one state to
30 another state or a resident insurance producer who moves from this
31 State to another state shall file a change of address and provide
32 certification from the new resident state within 30 days of the change
33 of legal residence. No fee or license application shall be required.

34 d. Subject to section 13 of this act, a person licensed as a surplus
35 lines insurance producer in his home state shall receive a nonresident
36 surplus lines insurance producer license pursuant to subsection a. of
37 this section.

38 e. Subject to section 14 of this act, a person licensed as a limited
39 line credit insurance or other type of limited lines insurance producer
40 in his home state shall receive a nonresident limited lines insurance
41 producer license, pursuant to subsection a. of this section, granting the
42 same scope of authority as granted under the license issued by the
43 producer's home state.

44 ¹f. Each licensed nonresident insurance producer shall, by
45 application for and issuance of, a license be deemed to have appointed
46 the commissioner as agent to receive service of original legal process

1 in this State in any cause of action or legal proceedings arising within
2 this State out of transactions under the license. Service upon the
3 commissioner shall be of the same force and effect as if served on the
4 nonresident insurance producer. This appointment shall be irrevocable
5 for as long as there can be any cause of action against the nonresident
6 insurance producer arising out of insurance transactions for which a
7 nonresident insurance producer license is required. Duplicate copies
8 of the legal process shall be served upon the commissioner. At the time
9 of service the commissioner shall be paid a fee established pursuant to
10 section 19 of this act payable as costs in the action. Upon receiving
11 service, the commissioner shall send one of the copies by registered or
12 certified mail, return receipt requested, to the named nonresident
13 insurance producer at his last known business or residence address.

14 g. The commissioner shall be immune from all civil actions
15 resulting from the licensee's failure to receive service of process if the
16 commissioner, pursuant to subsection f. of this section, forwards the
17 service to the last business or residence address filed by the licensee
18 as his address. Immunity under this subsection is in no way intended
19 to diminish or otherwise affect the immunity available to the
20 commissioner pursuant to the "New Jersey Tort Claims Act,"
21 N.J.S.59:1-1 et seq.¹

22
23 10. ¹(New section)¹ a. An individual who applies for an insurance
24 producer license in this State who was previously licensed for the same
25 lines of authority in another state shall not be required to complete any
26 prelicensing education or examination. This exemption is only
27 available if the person is currently licensed in that state or if the
28 application is received within 90 days of the cancellation of the
29 applicant's previous license and if the prior state issues a certification
30 that, at the time of cancellation, the applicant was in good standing in
31 that state or the state's Producer Database records, maintained by the
32 NAIC, indicate that the producer is or was licensed in good standing
33 for the lines of authority requested.

34 b. A person licensed as an insurance producer in another state who
35 moves to this State shall make application within 90 days of
36 establishing legal residence to become a resident licensee pursuant to
37 section 7 of this act. No prelicensing education or examination shall
38 be required of that person to obtain any lines of authority previously
39 held in the prior state except in cases in which the commissioner
40 determines otherwise by regulation.

41
42 11. ¹(Newsection)¹ An insurance producer doing business under
43 any name other than the producer's legal name shall notify the
44 commissioner prior to using the assumed name.

1 12. ¹(New section)¹ a. The commissioner may issue a temporary
2 insurance producer license for a period not to exceed 180 days without
3 requiring an examination if the commissioner determines that the
4 temporary license is necessary for the servicing of an insurance
5 business in the following cases:

6 (1) To the surviving spouse or court-appointed personal
7 representative of a licensed insurance producer, upon the death or
8 disability of that producer, to allow adequate time for the sale of the
9 insurance business owned by the producer or for the recovery or
10 return of the producer to the business or to provide for the training
11 and licensing of new personnel to operate the producer's business;

12 (2) To a member or employee of a business entity licensed as an
13 insurance producer, upon the death or disability of an individual
14 designated in the business entity application or the license as
15 responsible for the business entity's compliance with the insurance
16 laws, rules and regulations of this State;

17 (3) To the designee of a licensed insurance producer entering
18 active service in the armed forces of the United States of America; or

19 (4) In any other circumstance in which the commissioner determines
20 that the public interest will best be served by the issuance of a
21 temporary insurance producer license.

22 b. The commissioner may, by order, limit the authority of any
23 temporary licensee in any way necessary to protect insureds and the
24 public. The commissioner may require the temporary licensee to have
25 a suitable sponsor who is a licensed insurance producer or insurer and
26 who assumes responsibility for all acts of the temporary licensee and
27 may impose other similar requirements designed to protect insureds
28 and the public. The commissioner may by order revoke a temporary
29 license if the interest of insureds or the public are endangered. A
30 temporary license shall not continue after the owner or the personal
31 representative disposes of the insurance producer's business.

32
33 13. ¹(New section)¹ a. No license granting surplus lines authority
34 shall be issued or renewed unless the applicant¹[:

35 (1) Maintains a bona fide office in this State;

36 (2) Holds] holds¹ or will hold ¹[property/casualty authority; and

37 (3) Has filed with the commissioner a bond in favor of the
38 commissioner or his successors in office in an amount of not less than
39 \$25,000, aggregate liability, with a surety approved by the
40 commissioner. The commissioner may, in his discretion, require a
41 bond in a larger amount commensurate with the volume of surplus
42 lines business transacted or to be transacted by the licensee. The bond
43 shall become payable to the commissioner upon failure of the licensee
44 to comply with any of the requirements of subtitle 3 of Title 17 of the
45 Revised Statutes, and shall continue in effect as long as the licensee
46 holds surplus lines authority] property and casualty authorities¹.

1 b. No surplus lines producer shall charge any fee to an originating
2 broker in connection with the negotiation or procurement of any
3 contract of surplus lines insurance that shall exceed \$50 plus the actual
4 costs incurred for any services performed by a person that is not
5 associated with the surplus lines producer, such as inspection services.

6
7 14. ¹[a.] (New section)¹ The commissioner shall establish, by rule
8 or regulation, the line or lines of insurance that may be marketed
9 through a limited lines insurance producer. ¹[A person may act as a
10 limited lines insurance producer for the lines of insurance authorized,
11 from the date on which he is registered and until the date of
12 termination, pursuant to the provisions of this act.

13 b. Any insurer authorized in this State to transact the line or lines
14 of insurance that may be marketed through a limited lines insurance
15 producer, may contract, in writing, with any person to act as its limited
16 lines insurance producer. An insurer shall register with the
17 commissioner the name and business address of each limited lines
18 insurance producer, together with any other information that the
19 commissioner may require. The insurer shall provide written notice to
20 the commissioner when any limited lines insurance producer contract
21 is terminated.

22 c. Prior to contracting with any person to act as a limited lines
23 insurance producer pursuant to subsection b. of this section, the
24 insurer shall satisfy itself that the person to be registered is capable,
25 competent and worthy; has established a permanent, bona fide office
26 in this State; and has successfully completed any educational and
27 examination requirements that the commissioner may require by rule
28 or regulation.

29 d. A limited lines insurance producer shall be subject to suspension
30 or revocation of registration privileges, or imposition of a fine, for any
31 violation of applicable standards of conduct contained in section 15 of
32 this act, or violation of any other specific standards of conduct that the
33 commissioner may provide by rule or regulation for limited lines
34 insurance producers.

35 e. A limited lines insurance producer shall maintain a permanent
36 office in this State in which the following items shall be kept:

37 (1) A copy of the written agreement between himself and the
38 insurer for which he serves as a limited lines insurance producer;

39 (2) Evidence of the completion of educational and examination
40 requirements as prescribed by the commissioner by rule or regulation;

41 (3) A prominently displayed sign advising the public of the name
42 of the insurer represented and the lines of insurance available;

43 (4) Records of every insurance contract or policy written by the
44 limited lines insurance producer; and

45 (5) Any other items or records that the commissioner may require
46 by rule or regulation.]¹.

1 15. ¹(New section)¹ a. The commissioner may place on probation,
2 suspend, revoke or refuse to issue or renew an insurance producer's
3 license or may levy a civil penalty in accordance with subsection c. of
4 section 20 of this act or any combination of actions, for any one or
5 more of the following causes:

6 (1) Providing incorrect, misleading, incomplete or materially untrue
7 information in the license application;

8 (2) Violating any insurance laws, or violating any regulation,
9 subpoena or order of the commissioner or of another state's insurance
10 regulator;

11 (3) Obtaining or attempting to obtain a license through
12 misrepresentation or fraud;

13 (4) Improperly withholding, misappropriating or converting any
14 monies or properties received in the course of doing insurance
15 business;

16 (5) Intentionally misrepresenting the terms of an actual or
17 proposed insurance contract, policy or application for insurance;

18 (6) Having been convicted of a felony or crime of the fourth degree
19 or higher;

20 (7) Having admitted or been found to have committed any
21 insurance unfair trade practice or fraud;

22 (8) Using fraudulent, coercive or dishonest practices, or
23 demonstrating incompetence, untrustworthiness or financial
24 irresponsibility in the conduct of insurance business in this State or
25 elsewhere;

26 (9) Having an insurance producer license, or its equivalent, denied,
27 suspended or revoked in any other state, province, district or territory;

28 (10) Forging another's name to an application for insurance or to
29 any document related to an insurance transaction;

30 (11) Improperly using notes or any other reference material to
31 complete an examination for an insurance producer license;

32 (12) Knowingly accepting insurance business from an ¹[individual
33 who is not a licensed] unlicensed¹ insurance producer;

34 (13) Failing to comply with an administrative or court order
35 imposing a child support obligation; ¹[or]¹

36 (14) Failing to pay income tax or comply with any administrative
37 or court order directing payment of income tax pursuant to Title 54A
38 of the New Jersey Statutes¹;

39 (15) Intentionally withholding material information or making a
40 material misstatement in an application for a license;

41 (16) Committing any fraudulent act;

42 (17) Knowingly facilitating or assisting another person in violating
43 any insurance laws; or

44 (18) Failing to notify the commissioner within 30 days of his
45 conviction of any crime, indictment or the filing of any formal criminal
46 charges, or the suspension or revocation of any insurance license or

1 authority by a state, other than this State, or the initiation of formal
2 disciplinary proceedings in a state, other than this State, affecting the
3 producer's insurance license; or failing to obtain the written consent
4 pursuant to 18 U.S.C. sections 1033 and 1034; or failing to supply any
5 documentation that the commissioner may request in connection
6 therewith¹.

7 b. If the action by the commissioner is to nonrenew or to deny an
8 application for an insurance producer license, the commissioner shall
9 notify the applicant or licensee and advise, in writing, the applicant or
10 licensee of the reason for the denial or nonrenewal of the license. The
11 applicant or licensee may make written demand upon the commissioner
12 for a hearing before the commissioner, or his designee, to determine
13 the reasonableness of the commissioner's action. The hearing shall be
14 held pursuant to the "Administrative Procedure Act," P.L.1968, c.410
15 (C.52:14B-1 et seq.).

16 c. The insurance producer license of a business entity may be
17 suspended, revoked or refused if the commissioner finds, after hearing,
18 that an individual licensee's violation was known or should have been
19 known by one or more of the partners, officers or managers acting on
20 behalf of the business entity and the violation was neither reported to
21 the commissioner nor corrective action taken.

22 d. The commissioner shall retain the authority to enforce the
23 provisions of and impose any penalty or remedy authorized by this act
24 and Title 17 of the Revised Statutes or Title 17B of the New Jersey
25 Statutes against any person who is under investigation for or charged
26 with a violation of this act or Title 17 of the Revised Statutes or Title
27 17B of the New Jersey Statutes even if the person's license or
28 registration has been surrendered or has lapsed by operation of law.

29
30 16. ¹(New section)¹ a. An insurer or insurance producer shall not
31 pay a commission, service fee, brokerage or other valuable
32 consideration to a person for selling, soliciting or negotiating
33 insurance in this State if that person is required to be licensed under
34 this act and is not so licensed.

35 b. A person shall not accept a commission, service fee, brokerage
36 or other valuable consideration for selling, soliciting or negotiating
37 insurance in this State if that person is required to be licensed under
38 this act and is not so licensed.

39 c. Renewal or other deferred commissions may be paid to a person
40 for selling, soliciting or negotiating insurance in this State if the person
41 was required to be licensed under this act at the time of the sale,
42 solicitation or negotiation and was so licensed at that time.

43 d. An insurer or insurance producer may pay or assign commissions,
44 service fees, brokerages or other valuable consideration to an
45 insurance agency or to persons who do not sell, solicit or negotiate
46 insurance in this State, unless the payment would violate section 15 of

1 P.L.1944, c.27 (C.17:29A-15), section 14 of P.L.1982, c.114
2 (C.17:29AA-14), section 4 of P.L.1947, c.379 (C.17:29B-4), section
3 5 of P.L.1968, c.248 (C.17:46A-5), section 34 or 35 of P.L.1975,
4 c.106 (C.17:46B-34 or 17:46B-35) or N.J.S.17B:30-13 or any other
5 provision of law.

6
7 17. ¹[a. An insurance producer shall not act as an agent of an
8 insurer unless the insurance producer becomes an appointed agent of
9 that insurer. An insurance producer who is not acting as an agent of
10 an insurer is not required to become appointed.

11 b. To appoint an insurance producer as its agent, the appointing
12 insurer shall file, in a format approved by the commissioner, a notice
13 of appointment within 15 days from the date the agency contract is
14 executed or the first insurance application is submitted by the
15 insurance producer. An insurer may also elect to appoint an insurance
16 producer to all or some insurers within the insurer's holding company
17 system or group by the filing of a single appointment request.

18 c. Upon receipt of the notice of appointment, the commissioner
19 shall verify within 30 days that the insurance producer is eligible for
20 appointment. If the insurance producer is determined to be ineligible
21 for appointment, the commissioner shall notify the insurer within five
22 days of his determination.

23 d. An insurer shall pay an appointment fee, in the amount and
24 method of payment set forth in section 19 of this act for each
25 insurance producer appointed by the insurer.

26 e. An insurer shall remit, in a manner prescribed by the
27 commissioner, a renewal appointment fee in the amount set forth in
28 section 19 of this act.]

29 (New section) a. Any insurer authorized to transact business in
30 this State may, by written contract, appoint as its agent, a person that
31 holds a valid insurance producer license issued in accordance with the
32 provisions of this act. The contract shall authorize the insurance
33 producer to act as an agent for the appointing insurer for all lines of
34 insurance for which the insurer is authorized in this State and the agent
35 holds authority in this State, unless specifically limited. The contract
36 shall contain the duties, responsibilities and limitations of authority
37 between the agent and the appointing insurer, and the agent shall abide
38 by its terms. While the agent is properly licensed, an agency
39 appointment shall continue in effect until termination in accordance
40 with this act. Both the appointing insurer and the appointed agent
41 shall maintain a copy of the agency contract in their office, and shall
42 make the contract available for inspection by the commissioner upon
43 request. Nothing contained in this subsection shall be construed as
44 granting the commissioner the authority to determine contractual
45 disputes between an appointing insurer and an appointed agent.

46 b. Upon the cancellation of an agency contract in accordance with

1 section 1 of P.L.1970, c.217 (C.17:22-6.14a), the insurer shall within
2 15 days file written notice of cancellation with the commissioner.
3 Notice of cancellation shall be on a form prescribed by the
4 commissioner and shall indicate the date of cancellation and the reason
5 therefor. Agency appointment shall not terminate until the notice of
6 cancellation has been filed with the commissioner. The requirements
7 of this subsection shall not affect any notice or filing requirements
8 otherwise established by law.

9 c. Any insurer appointing an agent pursuant to this section shall file
10 with the commissioner, on a form prescribed by the commissioner, a
11 notice of appointment providing the names and business addresses of
12 its agents, including notice of any limitations on the agent's authority.
13 The filing of a single notice of appointment by each insurer
14 represented by a licensed business entity shall cover all of its licensed
15 producers.

16 d. The filing of notice of appointment pursuant to subsection c. of
17 this section shall constitute notice that the named insurance producer
18 has been appointed an agent for any subsidiary or affiliate company of
19 the insurer if certified copies of any resolution duly adopted by the
20 board of directors of each insurer requesting that authority are filed
21 with the commissioner. The resolution shall also designate the primary
22 insurer for which all of the insurer's agents shall be appointed.¹

23

24 18. ¹(New section)¹ a. ¹[An insurer or authorized producer of the
25 insurer that terminates the appointment, employment, contract or other
26 insurance business relationship with an insurance producer shall notify
27 the commissioner within 30 days following the effective date of the
28 termination, using a format prescribed by the commissioner, if the
29 reason for termination is one of the reasons set forth in section 15 of
30 this act or if the insurer has knowledge that the producer was found by
31 a court, government body, or self-regulatory organization authorized
32 by law, to have engaged in any of the activities in section 15 of this
33 act. Upon the written request of the commissioner, the insurer shall
34 provide additional information, documents, records or other data
35 pertaining to the termination or activity of the producer.

36 b. An insurer or authorized producer of the insurer that terminates
37 the appointment, employment or contract with an insurance producer,
38 for any reason not set forth in section 15 of this act, shall notify the
39 commissioner within 30 days following the effective date of the
40 termination, using a format prescribed by the commissioner. Upon
41 written request of the commissioner, the insurer shall provide
42 additional information, documents, records or other data pertaining to
43 the termination.

44 c. The insurer or the authorized producer of the insurer shall
45 promptly notify the commissioner in a format acceptable to the
46 commissioner if, upon further review or investigation, the insurer

1 discovers additional information that would have been reportable to
2 the commissioner in accordance with subsection a. of this section had
3 the insurer then known of its existence.

4 d. (1) Within 15 days after making the notification required by this
5 section, the insurer shall mail a copy of the notification to the
6 insurance producer at his last known address. If the producer is
7 terminated for any of the reasons listed in section 15 of this act, the
8 insurer shall provide a copy of the notification to the producer at his
9 last known address by certified mail, return receipt requested, postage
10 prepaid or by overnight delivery using a nationally recognized carrier.

11 (2) Within 30 days after the insurance producer has received the
12 original or additional notification, the producer may file written
13 comments concerning the substance of the notification with the
14 commissioner. The producer shall, by the same means, simultaneously
15 send a copy of the comments to the reporting insurer, and the
16 comments shall become a part of the commissioner's file and
17 accompany every copy of a report distributed or disclosed for any
18 reason about the producer as permitted under subsection f. of this
19 section.

20 e.]¹ (1) In the absence of actual malice, an insurer, the authorized
21 representative of the insurer, an insurance producer, the commissioner,
22 or an organization of which the commissioner is a member and that
23 compiles the information and makes it available to other insurance
24 commissioners or regulatory or law enforcement agencies, shall not be
25 subject to civil liability, and a civil cause of action of any nature shall
26 not arise against these entities or their respective agents or employees,
27 as a result of any statement or information required by or provided
28 pursuant to ¹section 17 of this act or¹ this section or any information
29 relating to any statement that may be requested in writing by the
30 commissioner, from an insurer or insurance producer; or a statement
31 by a terminating insurer or insurance producer to an insurer or
32 insurance producer limited solely and exclusively to whether a
33 termination for cause under subsection ¹[a.]¹b.¹ of ¹[this]¹ section ¹17
34 of this act¹ was reported to the commissioner, provided that the
35 propriety of any termination for cause ¹[under subsection a.]¹ is
36 certified in writing by an officer or authorized representative of the
37 insurer or insurance producer terminating the relationship.

38 (2) In any action brought against a person that has immunity under
39 paragraph (1) of this subsection for making any statement required by
40 this section or providing any information relating to any statement that
41 may be requested by the commissioner, the party bringing the action
42 shall plead specifically in any allegation that paragraph (1) does not
43 apply because the person making the statement or providing the
44 information did so with actual malice.

45 (3) Paragraph (1) or (2) of this subsection shall not abrogate or
46 modify any existing statutory or common law privileges or immunities.

1 ¹[f.] b.¹ (1) Any documents, materials or other information in the
2 control or possession of the department furnished by an insurer,
3 insurance producer or an employee or agent thereof acting on behalf
4 of the insurer or insurance producer, or obtained by the commissioner
5 in an investigation pursuant to this section, shall be confidential by law
6 and privileged, shall not be subject to any State or federal freedom of
7 information law, shall not be subject to subpoena, and shall not be
8 subject to discovery or admissible in evidence in any private civil
9 action. However, the commissioner is authorized to use the
10 documents, materials or other information in the furtherance of any
11 regulatory or legal action brought as a part of the commissioner's
12 duties.

13 (2) Neither the commissioner, nor any person who received
14 documents, materials or other information while acting under the
15 authority of the commissioner, shall be permitted or required to testify
16 in any private civil action concerning any confidential documents,
17 materials, or information subject to paragraph (1) of this subsection.

18 (3) In order to assist in the performance of the commissioner's
19 duties under this act, the commissioner:

20 (a) May share documents, materials or other information, including
21 the confidential and privileged documents, materials or information
22 subject to paragraph (1) of this subsection, with other state, federal,
23 and international regulatory agencies, with the NAIC, and with state,
24 federal, and international law enforcement authorities, provided that
25 the recipient agrees to maintain the confidentiality and privileged
26 status of the document, material or other information pursuant to this
27 section;

28 (b) May receive documents, materials or information, including
29 otherwise confidential and privileged documents, materials or
30 information, from the NAIC and from regulatory and law enforcement
31 officials of other foreign or domestic jurisdictions, and shall maintain
32 as confidential or privileged any document, material or information
33 received with notice or the understanding that it is confidential or
34 privileged under the laws of the jurisdiction that is the source of the
35 document, material or information; and

36 (c) May enter into agreements governing sharing and use of
37 information consistent with this subsection.

38 (4) No waiver of any applicable privilege or claim of confidentiality
39 in the documents, materials or information shall occur as a result of
40 disclosure to the commissioner under this section or as a result of
41 sharing as authorized in paragraph (3) of this subsection.

42 (5) Nothing in this act shall prohibit the commissioner from
43 releasing final, adjudicated actions including terminations for cause
44 that are open to public inspection pursuant to P.L.1963, c.73
45 (C.47:1A-1 et seq.) to a database or other clearinghouse service
46 maintained by the NAIC.

1 ¹[g.] c.¹ An insurer, the authorized representative of the insurer,
2 or an insurance producer that fails to report as required under the
3 provisions of this section or that is found by a court of competent
4 jurisdiction to have reported with actual malice may, after notice and
5 hearing, have its license or certificate of authority suspended or
6 revoked and may be fined in accordance with section 20 of this act.

7
8 19. ¹(New section)¹ a. The commissioner shall, by regulation, set
9 reasonable, necessary and appropriate fees to be charged for licensing
10 insurance producers, filing agency appointments, filing limited
11 insurance producer registrations, filing fictitious, trade or firm names,
12 issuing certification of license status and processing any document
13 required to be submitted pursuant to this act, except that the total
14 annual revenue generated from these fees shall not be less than the
15 total annual revenue generated from equivalent fees for the preceding
16 fiscal year.

17 b. Applicants may be charged a fee for any licensing examination
18 conducted pursuant to this act in an amount designated or approved
19 by the commissioner.

20 c. All fees payable to the commissioner pursuant to this section are
21 nonrefundable.

22 d. The commissioner may, by rule or regulation, provide for the
23 waiving of fees for disabled war veterans of the United States military
24 service.

25
26 20. ¹(New section)¹ a. The commissioner shall have the power to
27 conduct investigations, to administer oaths, to interrogate licensees
28 and others, and to issue subpoenas to any licensee or any other person
29 in connection with any investigation, hearing or other proceeding
30 pursuant to this act, without fee.

31 b. Subpoenas shall be issued in the name of the commissioner, the
32 deputy commissioner or other employee designated by the
33 commissioner, but no subpoena shall be issued except for good cause.
34 Any person failing or refusing to comply with a subpoena may be
35 ordered by a judge of the Superior Court, on application made by the
36 commissioner or by the person at whose instance the subpoena was
37 issued, to comply with the terms of the subpoena or be punished by the
38 court for contempt. The court may proceed in a summary manner.

39 c. Any person violating any provision of this act shall be liable to
40 a penalty not exceeding \$5,000 for the first offense and not exceeding
41 \$10,000 for each subsequent offense to be recovered in a summary
42 proceeding in accordance with the "Penalty Enforcement Law of
43 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). In addition, the
44 commissioner or the court, as the case may be, may order restitution
45 of moneys owed any person and reimbursement of the costs of
46 investigation and prosecution, as appropriate.

1 d. In any formal proceeding, if the commissioner finds that the
2 interests of the public require that immediate action be taken prior to
3 completion of the hearing, the making of a determination and the entry
4 of a final order, he may enter an appropriate order to be effective
5 pending completion of the hearing and entry of a final order. These
6 orders may be entered on ex parte proofs if the proofs indicate that the
7 commissioner's withholding of any action until completion of a full
8 hearing will be harmful to the public interest. Orders issued pursuant
9 to this section shall be subject to an application to vacate upon 10
10 days' notice, and a preliminary hearing on the ex parte order shall be
11 held in any event within 20 days after it is entered. In the alternative,
12 or in addition, the commissioner is authorized to institute a proceeding
13 in the Superior Court, to be conducted in a summary manner, for an
14 injunction against specified acts or conduct in aid of the proceedings
15 pending before him, including temporary injunctions and interim
16 restraints.

17

18 21. ¹(New section)¹ a. The commissioner shall not assess a greater
19 fee for an insurance producer license or related service to a person not
20 residing in this State based solely on the fact that the person does not
21 reside in this State.

22 b. The commissioner shall waive any license application
23 requirements for a nonresident insurance producer license applicant
24 with a valid license from his home state, except the requirements
25 imposed by section 9 of this act, if the applicant's home state awards
26 nonresident insurance producer licenses to licensees of this State on
27 the same basis.

28 c. A nonresident insurance producer's satisfaction of his home
29 state's continuing education requirements for licensed insurance
30 producers shall constitute satisfaction of this State's continuing
31 education requirements if the nonresident producer's home state
32 recognizes the satisfaction of its continuing education requirements
33 imposed upon insurance producers from this State on the same basis.

34

35 22. ¹(New section)¹ a. An insurance producer shall report to the
36 commissioner any administrative action taken against the insurance
37 producer in another jurisdiction or by another governmental agency in
38 this State within 30 days of the final disposition of the matter. This
39 report shall include a copy of the order, consent order or other
40 relevant legal documents.

41 b. Within 30 days of the initial pretrial hearing date, an insurance
42 producer shall report to the commissioner any criminal prosecution of
43 the producer taken in any jurisdiction. The report shall include a copy
44 of the initial complaint filed, the order resulting from the hearing and
45 any other relevant legal documents.

1 ¹23. Section 8 of P.L.1960, c.32 (C.17:22-6.42) is amended to
2 read as follows:

3 8. If certain insurance coverages of subjects resident, located, or
4 to be performed in this State cannot be procured from authorized
5 insurers, such coverages, hereinafter designated "surplus lines," may
6 be procured from unauthorized insurers, subject to the following
7 conditions:

8 (a) The insurance must be eligible for export under section 9 of
9 P.L.1960, c.32 (C.17:22-6.43);

10 (b) The insurer must be an eligible surplus lines insurer under
11 section 11 of P.L.1960, c.32 (C.17:22-6.45);

12 (c) The insurance must be so placed through a licensed New Jersey
13 surplus lines agent [whose office and records are maintained in New
14 Jersey]; and

15 (d) Other applicable provisions of this surplus lines law must be
16 complied with.

17 (e) No surplus lines agent shall exercise binding authority in this
18 State on behalf of any insurer unless the agent has first filed with the
19 commissioner for informational purposes and not for the purpose of
20 approval or disapproval the written agreement between the agent and
21 the insurer setting forth the terms, conditions and limitations
22 governing the exercise of the binding authority by the agent. A copy
23 of any amendments to the agreement and of any notice of cancellation
24 or termination of the agreement shall be filed by the agent with the
25 commissioner no later than 10 days after adoption thereof.

26 The agreement filed pursuant to this section shall be considered and
27 treated as a confidential document, and shall not be available for
28 inspection by the public.

29 The agreement shall include the following items:

30 (1) A description of the classes of insurance for which the agent
31 holds binding authority;

32 (2) The geographical limits upon the exercise of binding authority
33 by the agent;

34 (3) The maximum dollar limitation on the binding authority of the
35 agent for any one risk for each class of insurance written by the agent;

36 (4) The maximum policy period for which the agent may bind a
37 risk;

38 (5) If the binding authority is delegable by the agent, a prohibition
39 against the delegation without the prior written approval of the
40 insurer.

41 If an agent who is qualified in accordance with this section to
42 exercise binding authority on behalf of an insurer delegates the binding
43 authority to any other agent, the agent to whom the authority is
44 delegated shall not exercise the same until a copy of the instrument
45 delegating the binding authority shall first have been filed with the
46 commissioner for informational purposes and not for the purpose of

1 approval or disapproval. The instrument delegating the binding
2 authority shall include an identification of the binding authority
3 agreement between the delegating agent and the insurer.¹

4 (cf: P.L.1996, c.69, s.2)

5
6 ¹24. Section 23 of P.L.1960, c.32 (C. 17:22-6.57) is amended to
7 read as follows:

8 23. Each surplus lines agent shall keep in his office [in this State]
9 a full and true record of each surplus lines contract procured by him,
10 including a copy of the daily report, if any, and showing such of the
11 following items as may be applicable:

12 (a) Amount of the insurance and perils insured against;

13 (b) Brief general description of property insured and where
14 located;

15 (c) Gross premium charged;

16 (d) Return premium paid, if any;

17 (e) Rate of premium charged upon the several items of property;

18 (f) Effective date of the contract, and the terms thereof;

19 (g) Name and post-office address of the insured;

20 (h) Name and home office address of the insurer;

21 (i) Amount collected from the insured; and

22 (j) Other information as may be required by the commissioner.

23 The record shall at all times be open to examination by the
24 commissioner without notice, and shall be so kept available and open
25 to the commissioner for five years next following expiration or
26 cancellation of the contract.¹

27 (cf: P.L.1996, c.69, s.6)

28
29 ¹25. Section 27 of P.L.1960, c.32 (C.17:22-6.61) is amended to
30 read as follows:

31 27. The commissioner may suspend, revoke, or refuse to renew the
32 license of a surplus lines agent and all other licenses and permits held
33 by the licensee under this Title, upon any one or more of the following
34 grounds:

35 (a) [Removal of the licensee's office from the State] (~~Deleted by~~
36 amendment, P.L. , c.);

37 (b) Removal of the accounts and records of his surplus lines
38 business [from this State] during the period when such accounts and
39 records are required to be maintained under section 23 of P.L.1960,
40 c.32 (C.17:22-6.57);

41 (c) Closure of the licensee's office for a period of more than 30
42 consecutive days, unless granted permission by the commissioner upon
43 showing circumstances warranting such closure for a longer period;

44 (d) Failure to make and file his quarterly reports when due as
45 required by section 24 of P.L.1960, c.32 (C.17:22-6.58);

46 (e) Failure to pay the tax on surplus lines premiums, as provided

1 for in this surplus lines law;

2 (f) ~~[Failure to maintain the bond as required by section 14 of~~
3 ~~P.L.1987, c.293 (C.17:22A-14)]~~ (Deleted by amendment, P.L. _____,
4 c.);

5 (g) Suspension, revocation or refusal to renew any other license
6 issued by the commissioner;

7 (h) Lack of qualifications as for an original surplus lines agent's
8 license;

9 (i) Violation of any provision of this surplus lines law;

10 (j) For any other cause for which a license could be denied,
11 revoked, suspended or renewal refused under section [17 of P.L.1987,
12 c.293 (C.17:22A-17)] 15 of P.L. _____, c. _____ (C. _____) (now pending before
13 the Legislature as this bill).

14 In addition to the foregoing penalties set forth in this section, any
15 person, persons or corporation violating any of the provisions of this
16 act shall be liable to a penalty not exceeding \$2,500 for the first
17 offense and not exceeding \$5,000 for each succeeding offense to be
18 recovered in a summary proceeding as provided in R.S.17:33-2.¹

19 (cf: P.L.1996, c.69, s.9)

20

21 ¹[23.] 26. (New section) a.¹ The commissioner may, in accordance
22 with "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
23 seq.) promulgate rules and regulations necessary to effectuate the
24 purposes of this act.

25 ¹b. The commissioner may provide for the orderly transition of
26 producer license types and authorities by promulgating rules and
27 regulations that are reasonable, necessary, appropriate and consistent
28 with this act.¹

29

30 ¹[24.] 27.¹ P.L.1987, c.293 (C.17:22A-1 et seq.); section 13 of
31 P.L.1996, c.69 (C.17:22A-14.1); and P.L.1997, c.429
32 (C.17:22A-16.1) are repealed.

33

34 ¹[25.] 28.¹ This act shall take effect ¹[on the 180th day following
35 enactment] immediately, but sections 1 through 25 and 27 shall remain
36 inoperative until the adoption of regulations effectuating their
37 purposes pursuant to section 26 of this act, provided however, that no
38 provision of this act shall remain inoperative on or after November 12,
39 2002¹.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 2428

STATE OF NEW JERSEY

209th LEGISLATURE

DATED: JULY 18, 2001

SUMMARY

Synopsis: The "New Jersey Insurance Producer Licensing Act of 2001."
Type of Impact: No Negative Fiscal Impact, Potential Increase in Fee Revenues.
Agencies Affected: Department of Banking and Insurance, Division of Insurance.

Office of Legislative Services Estimate

Fiscal Impact	Year 1	Year 2	Year 3
State Cost	Bill permits fees sufficient to cover costs.		
State Revenue	Minimal fee revenue, see explanation below.		

- ! No negative fiscal impact on the State Budget.
- ! Currently, the department licenses insurance producers. This bill repeals the existing insurance producer licensing statute and replaces it with a revised scheme to comply with recent federal legislation.
- ! This bill authorizes the commissioner to set fees for examination, licensing, filings and document processing to defray any additional expenses. In addition, the bill authorizes the commissioner to levy civil penalties under certain circumstances.

BILL DESCRIPTION

Senate Bill No. 2428 (1R) of 2001 repeals the existing insurance producer licensing statute, enacted in 1987, and replaces it with a revised scheme based on model legislation (Model Act) drafted by the National Association of Insurance Commissioners (NAIC) in response to recent federal legislation, the Financial Services Modernization Act, Pub. L.106-102, more commonly known as the "Gramm-Leach-Bliley Act" or "GLBA."

The bill defines key terms and establishes examination and licensing requirements, including individual and business entity licenses, using NAIC uniform applications. The bill provides for reciprocity among states for nonresident licensees and lists individuals and entities who are exempt from its licensing provisions. The bill continues the current requirement of licensing of

surplus lines insurance producers. The bill requires licensing of limited lines insurance producers, which lines will continue to be established by the Commissioner of Banking and Insurance by regulation.

Under the bill, the commissioner is authorized to place on probation, suspend or revoke, or refuse to issue or renew, an insurance producer's license, or may levy civil penalties for one or more of several specified causes. Additionally, the bill provides for agency appointments and termination of those appointments by insurers. The bill also authorizes the commissioner to set fees for examination, licensing, filings and document processing; to conduct investigations; and to promulgate regulations to administer the bill's provisions. The commissioner is also authorized to provide for the orderly transition of license types and authorities.

Finally, the existing "New Jersey Insurance Producer Licensing Act," P.L.1987, c.293, is repealed. The bill will take effect immediately, but its substantive provisions will remain inoperative until the adoption of implementing regulations.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services (OLS) estimates that enactment of this legislation will have no negative fiscal impact on the State Budget. The bill, in response to recent federal law, revises the existing scheme for licensing insurance producers in order to maintain jurisdiction by the State. In addition, this bill provides for reciprocity among states for nonresident licensees.

The bill permits the commissioner to establish fees for examination, licensing, filings and document processing to defray any additional expenses; therefore, OLS estimates that there should be no additional cost to the State. The OLS also notes that the bill permits the commissioner to levy civil penalties under certain circumstances; however, more information from the department is necessary in order to estimate any additional revenues.

Section: *Commerce, Labor and Industry*

Analyst: *Kristen A. Calderon*
Assistant Fiscal Analyst

Approved: *Alan R. Kooney*
Legislative Budget and Finance Officer

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

ASSEMBLY, No. 3148

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED JANUARY 23, 2001

Sponsored by:

Assemblywoman CLARE M. FARRAGHER

District 12 (Monmouth)

SYNOPSIS

The "New Jersey Insurance Producer Licensing Act of 2001."

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the licensure of insurance producers,
2 supplementing Title 17 of the Revised Statutes, and repealing parts
3 of the statutory law.

4

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

7

8 1. This act shall be known and may be cited as the "New Jersey
9 Insurance Producer Licensing Act of 2001."

10

11 2. This act governs the qualifications and procedures for the
12 licensing of insurance producers. It simplifies and organizes the
13 statutory law to improve efficiency, permits the use of new technology
14 and reduces costs associated with issuing and renewing insurance
15 producer licenses.

16

17 3. As used in this act:

18 "Business entity" means a corporation, association, partnership,
19 limited liability company, limited liability partnership, or other legal
20 entity.

21 "Commissioner" means the Commissioner of Banking and
22 Insurance.

23 "Department" means the Department of Banking and Insurance.

24 "Home state" means the District of Columbia and any state or
25 territory of the United States in which an insurance producer maintains
26 his principal place of residence or principal place of business and is
27 licensed to act as an insurance producer.

28 "Insurance" means any of the lines of insurance in subtitle 3 of Title
29 17 of the Revised Statutes or subtitle 3 of Title 17B of the New Jersey
30 Statutes and includes contracts or policies of life insurance, health
31 insurance, annuities, indemnity, property and casualty, fidelity, surety,
32 guaranty and title insurance.

33 "Insurance producer" means a person required to be licensed under
34 the laws of this State to sell, solicit or negotiate insurance.

35 "Insurer" means a business entity authorized to transact the business
36 of insurance in this State pursuant to subtitle 3 of Title 17 of the
37 Revised Statutes or subtitle 3 of Title 17B of the New Jersey Statutes.

38 "License" means a document issued by the commissioner
39 authorizing a person to act as an insurance producer for the lines of
40 authority specified in the document. The license itself does not create
41 any authority, actual, apparent or inherent, in the holder to represent
42 or commit an insurer.

43 "Limited line credit insurance" includes credit life, credit disability,
44 credit property, credit unemployment, involuntary unemployment,
45 mortgage life, mortgage guaranty, mortgage disability, automobile
46 dealer gap insurance, and any other form of insurance offered in

1 connection with an extension of credit that is limited to partially or
2 wholly extinguishing that credit obligation that the commissioner
3 determines should be designated a form of limited line credit
4 insurance.

5 "Limited line credit insurance producer" means a person who sells,
6 solicits or negotiates one or more forms of limited line credit insurance
7 coverage to individuals through a master corporate, group or individual
8 contract or policy.

9 "Limited lines insurance producer" means a person who is
10 authorized to sell, solicit or negotiate contracts or policies for a
11 particular line of insurance as an agent for an insurer authorized to
12 write that line in this State which, by the nature of the line of business
13 and the manner by which it is marketed to the public, does not require
14 the professional competency demanded for an insurance producer
15 license.

16 "NAIC" means the National Association of Insurance
17 Commissioners, its affiliates or subsidiaries, or any agency or
18 committee thereof.

19 "Negotiate" means the act of conferring directly with or offering
20 advice directly to a purchaser or prospective purchaser of a particular
21 contract or policy of insurance concerning any of the substantive
22 benefits, terms or conditions of the contract or policy, provided that
23 the person engaged in that act either: sells insurance or obtains
24 insurance from insurers for purchasers.

25 "Person" means an individual or a business entity.

26 "Sell" means to exchange a contract or policy of insurance by any
27 means, for money or its equivalent, on behalf of an insurer.

28 "Solicit" means attempting to sell insurance or asking or urging a
29 person to apply for a particular kind of insurance from a particular
30 insurer.

31 "Surplus lines insurance producer" means a person who is
32 authorized to sell, solicit or negotiate contracts or policies of
33 insurance coverage on behalf of unauthorized insurers pursuant to "the
34 surplus lines law," P.L.1960, c.32 (C.17:22-6.40 et seq.); and "surplus
35 lines" shall have the same meaning as generally accorded to it by that
36 act.

37 "Terminate" means the cancellation of the relationship between an
38 insurance producer and the insurer or the termination of a producer's
39 authority to transact insurance.

40 "Uniform business entity application" means the current version of
41 the NAIC uniform business entity application for resident and
42 nonresident business entities.

43 "Uniform application" means the current version of the NAIC
44 uniform application for resident and nonresident insurance producer
45 licensing.

A3148 FARRAGHER

1 4. A person shall not sell, solicit or negotiate insurance in this State
2 unless the person is licensed for that line of authority in accordance
3 with this act.

4

5 5. a. Nothing in this act shall be construed to require an insurer to
6 obtain an insurance producer license.

7 b. A license as an insurance producer shall not be required of the
8 following:

9 (1) An officer, director or employee of an insurer or of an
10 insurance producer, provided that the officer, director or employee
11 does not receive any commission on contracts or policies written or
12 sold to insure risks residing, located or to be performed in this State
13 and:

14 (a) The officer's, director's or employee's activities are executive,
15 administrative, managerial, clerical or a combination of these, and are
16 only indirectly related to the sale, solicitation or negotiation of
17 insurance; or

18 (b) The officer's, director's or employee's function relates to
19 underwriting, loss control, inspection or the processing, adjusting,
20 investigating or settling of a claim on a contract or policy of insurance;
21 or

22 (c) The officer, director or employee is acting in the capacity of a
23 special agency or agency supervisor assisting insurance producers and
24 those activities are limited to providing technical advice and assistance
25 to licensed insurance producers and do not include the sale,
26 solicitation or negotiation of insurance;

27 (2) A person who secures and furnishes information for the
28 purpose of group life insurance, group property and casualty
29 insurance, group annuities, group or blanket accident and health
30 insurance; or for the purpose of enrolling individuals under insurance
31 plans, issuing certificates under insurance plans or otherwise assisting
32 in administering insurance plans; or performs administrative services
33 related to mass marketed property and casualty insurance; where no
34 commission is paid to the person for the service;

35 (3) An employer or association or its officers, directors,
36 employees, or the trustees of an employee trust plan, to the extent that
37 the employers, officers, employees, directors or trustees are engaged
38 in the administration or operation of a program of employee benefits
39 for the employer's or association's own employees or the employees of
40 its subsidiaries or affiliates, which program involves the use of
41 insurance issued by an insurer, as long as the employers, associations,
42 officers, directors, employees or trustees are not in any manner
43 compensated, directly or indirectly, by the insurer issuing the contracts
44 or policies;

45 (4) Employees of insurers or organizations employed by insurers
46 who are engaging in the inspection, rating or classification of risks, or

1 in the supervision of the training of insurance producers and who are
2 not individually engaged in the sale, solicitation or negotiation of
3 insurance;

4 (5) A person whose activities in this State are limited to advertising
5 without the intent to solicit insurance in this State through
6 communications in printed publications or other forms of electronic
7 mass media whose distribution is not limited to residents of this State,
8 provided that the person does not sell, solicit or negotiate insurance
9 that would insure risks residing, located or to be performed in this
10 State;

11 (6) A person who is not a resident of this State who sells, solicits
12 or negotiates a contract or policy of insurance for commercial property
13 and casualty risks to an insured with risks located in more than one
14 state insured under that contract or policy, so long as that person is
15 otherwise licensed as an insurance producer to sell, solicit or negotiate
16 that insurance in the state in which the insured maintains its principal
17 place of business and the contract or policy of insurance insures risks
18 located in that state;

19 (7) A salaried full-time employee who counsels or advises his
20 employer relative to the insurance interests of the employer or of the
21 subsidiaries or business affiliates of the employer if the employee does
22 not sell or solicit insurance or receive a commission; or

23 (8) Employees of an insurer or insurance producer who respond to
24 requests from contract or policyholders on existing contracts or
25 policies if those employees are not directly compensated based on the
26 volume of premiums that may result from these services and if those
27 employees do not otherwise sell, solicit or negotiate insurance.

28

29 6. a. An individual residing in this State and applying for an
30 insurance producer license shall pass a written examination unless
31 exempt pursuant to section 10 of this act. The examination shall test
32 the knowledge of the individual concerning the lines of authority for
33 which application is made, the duties and responsibilities of an
34 insurance producer and the insurance laws and regulations of this
35 State. Examinations required by this section shall be developed and
36 conducted under rules and regulations prescribed by the commissioner.

37 b. The commissioner may make arrangements, including contracting
38 with an outside testing service, for administering examinations and
39 collecting the nonrefundable fee set forth in section 19 of this act.

40 c. Each individual applying for an examination shall remit a
41 nonrefundable fee as prescribed by the commissioner as set forth in
42 section 19 of this act.

43 d. An individual who fails to appear for the examination as
44 scheduled or fails to pass the examination, may reapply for an
45 examination and shall remit all required fees and forms before being
46 rescheduled for another examination.

1 7. a. An individual applying for a resident insurance producer
2 license shall make application to the commissioner on the uniform
3 application and declare under penalty of refusal, suspension or
4 revocation of the license that the statements made in the application
5 are true, correct and complete to the best of the individual's
6 knowledge and belief. Before approving the application, the
7 commissioner shall find that the individual:

- 8 (1) Is at least 18 years of age;
9 (2) Has not committed any act that is a ground for denial,
10 suspension or revocation set forth in section 15 of this act;
11 (3) Has completed a preclicensing course of study for the lines of
12 authority for which the individual has applied as prescribed by the
13 commissioner by regulation;
14 (4) Has paid the fees set forth in section 19 of this act; and
15 (5) Has successfully passed the examinations for the lines of
16 authority for which the individual has applied.

17 b. A business entity acting as an insurance producer shall obtain an
18 insurance producer license. Application shall be made using the
19 uniform business entity application. Before approving the application,
20 the commissioner shall find that:

- 21 (1) The business entity has paid the fees set forth in section 19 of
22 this act; and
23 (2) The business entity has designated a licensed insurance
24 producer responsible for the business entity's compliance with the
25 insurance laws, rules and regulations of this State.

26 c. The commissioner may require any documents reasonably
27 necessary to verify the information contained in an application.

28 d. Each insurer that sells, solicits or negotiates any form of limited
29 line credit insurance shall provide to each individual whose duties will
30 include selling, soliciting or negotiating limited line credit insurance a
31 program of instruction that is approved by the commissioner.

32

33 8. a. Unless denied licensure pursuant to section 15 of this act,
34 persons who have met the requirements of sections 6 and 7 of this act
35 shall be issued a resident insurance producer license. An insurance
36 producer may receive qualification for a license in one or more of the
37 following lines of authority:

- 38 (1) Life-insurance coverage on human lives, including benefits of
39 endowment and annuities, and which may include benefits in the event
40 of death or dismemberment by accident and benefits for disability
41 income;
42 (2) Accident and health or sickness-insurance coverage for sickness,
43 bodily injury or accidental death, and which may include benefits for
44 disability income;
45 (3) Property-insurance coverage for the direct or consequential loss
46 or damage to property of every kind;

1 (4) Casualty-insurance coverage against legal liability, including
2 that for death, injury or disability or damage to real or personal
3 property;

4 (5) Variable life and variable annuity products-insurance coverage
5 provided under variable life insurance contracts, variable annuities or
6 any other life insurance or annuity product that reflects the investment
7 experience of a separate account;

8 (6) Credit-limited line credit insurance;

9 (7) Any other line of insurance permitted under State law or
10 regulation.

11 b. An insurance producer license shall remain in effect unless
12 revoked or suspended as long as the fee set forth in section 19 of this
13 act is timely paid and in the case of resident individual insurance
14 producers, education requirements are timely satisfied.

15 c. An individual insurance producer who allows his license to lapse
16 may, within 12 months from the due date of the renewal fee, reinstate
17 the same license without the necessity of passing a written
18 examination. However, a penalty in the amount of double the unpaid
19 renewal fee shall be required for any renewal fee received after the due
20 date.

21 d. A licensed insurance producer who is unable to comply with
22 license renewal procedures due to military service or some other
23 extenuating circumstance, such as long-term medical disability, may
24 request a waiver of those procedures. The producer may also request
25 a waiver of any examination requirement or any other fine or sanction
26 imposed for failure to comply with renewal procedures.

27 e. The license shall contain the licensee's name, address, personal
28 identification number, and the date of issuance, the lines of authority,
29 the expiration date and any other information the commissioner deems
30 necessary.

31 f. Licensees shall inform the commissioner by any means acceptable
32 to the commissioner of a change of address within 30 days of the
33 change.

34
35 9. a. Unless denied licensure pursuant to section 15 of this act, a
36 nonresident person shall receive a nonresident insurance producer
37 license if:

38 (1) The person is currently licensed as a resident insurance producer
39 in good standing in his home state;

40 (2) The person has submitted the proper request for licensure and
41 has paid the fees required by section 19 of this act;

42 (3) The person has submitted or transmitted to the commissioner
43 the application for licensure that the person submitted to his home
44 state, or in lieu of the same, a completed uniform application; and

45 (4) The person's home state awards nonresident insurance producer
46 licenses to residents of this State on the same basis.

1 b. The commissioner may verify the nonresident insurance
2 producer's licensing status through the Producer Database maintained
3 by the NAIC.

4 c. A nonresident insurance producer who moves from one state to
5 another state or a resident insurance producer who moves from this
6 State to another state shall file a change of address and provide
7 certification from the new resident state within 30 days of the change
8 of legal residence. No fee or license application shall be required.

9 d. Subject to section 13 of this act, a person licensed as a surplus
10 lines insurance producer in his home state shall receive a nonresident
11 surplus lines insurance producer license pursuant to subsection a. of
12 this section.

13 e. Subject to section 14 of this act, a person licensed as a limited
14 line credit insurance or other type of limited lines insurance producer
15 in his home state shall receive a nonresident limited lines insurance
16 producer license, pursuant to subsection a. of this section, granting the
17 same scope of authority as granted under the license issued by the
18 producer's home state.

19
20 10. a. An individual who applies for an insurance producer license
21 in this State who was previously licensed for the same lines of
22 authority in another state shall not be required to complete any
23 prelicensing education or examination. This exemption is only
24 available if the person is currently licensed in that state or if the
25 application is received within 90 days of the cancellation of the
26 applicant's previous license and if the prior state issues a certification
27 that, at the time of cancellation, the applicant was in good standing in
28 that state or the state's Producer Database records, maintained by the
29 NAIC, indicate that the producer is or was licensed in good standing
30 for the lines of authority requested.

31 b. A person licensed as an insurance producer in another state who
32 moves to this State shall make application within 90 days of
33 establishing legal residence to become a resident licensee pursuant to
34 section 7 of this act. No prelicensing education or examination shall
35 be required of that person to obtain any lines of authority previously
36 held in the prior state except in cases in which the commissioner
37 determines otherwise by regulation.

38
39 11. An insurance producer doing business under any name other
40 than the producer's legal name shall notify the commissioner prior to
41 using the assumed name.

42
43 12. a. The commissioner may issue a temporary insurance producer
44 license for a period not to exceed 180 days without requiring an
45 examination if the commissioner determines that the temporary license
46 is necessary for the servicing of an insurance business in the following

1 cases:

2 (1) To the surviving spouse or court-appointed personal
3 representative of a licensed insurance producer, upon the death or
4 disability of that producer, to allow adequate time for the sale of the
5 insurance business owned by the producer or for the recovery or
6 return of the producer to the business or to provide for the training
7 and licensing of new personnel to operate the producer's business;

8 (2) To a member or employee of a business entity licensed as an
9 insurance producer, upon the death or disability of an individual
10 designated in the business entity application or the license as
11 responsible for the business entity's compliance with the insurance
12 laws, rules and regulations of this State;

13 (3) To the designee of a licensed insurance producer entering active
14 service in the armed forces of the United States of America; or

15 (4) In any other circumstance in which the commissioner determines
16 that the public interest will best be served by the issuance of a
17 temporary insurance producer license.

18 b. The commissioner may, by order, limit the authority of any
19 temporary licensee in any way necessary to protect insureds and the
20 public. The commissioner may require the temporary licensee to have
21 a suitable sponsor who is a licensed insurance producer or insurer and
22 who assumes responsibility for all acts of the temporary licensee and
23 may impose other similar requirements designed to protect insureds
24 and the public. The commissioner may by order revoke a temporary
25 license if the interest of insureds or the public are endangered. A
26 temporary license shall not continue after the owner or the personal
27 representative disposes of the insurance producer's business.

28

29 13 a. No license granting surplus lines authority shall be issued or
30 renewed unless the applicant:

31 (1) Maintains a bona fide office in this State;

32 (2) Holds or will hold property/casualty authority; and

33 (3) Has filed with the commissioner a bond in favor of the
34 commissioner or his successors in office in an amount of not less than
35 \$25,000, aggregate liability, with a surety approved by the
36 commissioner. The commissioner may, in his discretion, require a
37 bond in a larger amount commensurate with the volume of surplus
38 lines business transacted or to be transacted by the licensee. The bond
39 shall become payable to the commissioner upon failure of the licensee
40 to comply with any of the requirements of subtitle 3 of Title 17 of the
41 Revised Statutes, and shall continue in effect as long as the licensee
42 holds surplus lines authority.

43 b. No surplus lines producer shall charge any fee to an originating
44 broker in connection with the negotiation or procurement of any
45 contract of surplus lines insurance that shall exceed \$50 plus the actual
46 costs incurred for any services performed by a person that is not

1 associated with the surplus lines producer, such as inspection services.
2

3 14. a. The commissioner shall establish, by rule or regulation, the
4 line or lines of insurance that may be marketed through a limited lines
5 insurance producer. A person may act as a limited lines insurance
6 producer for the lines of insurance authorized, from the date on which
7 he is registered and until the date of termination, pursuant to the
8 provisions of this act.

9 b. Any insurer authorized in this State to transact the line or lines
10 of insurance that may be marketed through a limited lines insurance
11 producer, may contract, in writing, with any person to act as its limited
12 lines insurance producer. An insurer shall register with the
13 commissioner the name and business address of each limited lines
14 insurance producer, together with any other information that the
15 commissioner may require. The insurer shall provide written notice to
16 the commissioner when any limited lines insurance producer contract
17 is terminated.

18 c. Prior to contracting with any person to act as a limited lines
19 insurance producer pursuant to subsection b. of this section, the
20 insurer shall satisfy itself that the person to be registered is capable,
21 competent and worthy; has established a permanent, bona fide office
22 in this State; and has successfully completed any educational and
23 examination requirements that the commissioner may require by rule
24 or regulation.

25 d. A limited lines insurance producer shall be subject to suspension
26 or revocation of registration privileges, or imposition of a fine, for any
27 violation of applicable standards of conduct contained in section 15 of
28 this act, or violation of any other specific standards of conduct that the
29 commissioner may provide by rule or regulation for limited lines
30 insurance producers.

31 e. A limited lines insurance producer shall maintain a permanent
32 office in this State in which the following items shall be kept:

33 (1) A copy of the written agreement between himself and the
34 insurer for which he serves as a limited lines insurance producer;

35 (2) Evidence of the completion of educational and examination
36 requirements as prescribed by the commissioner by rule or regulation;

37 (3) A prominently displayed sign advising the public of the name
38 of the insurer represented and the lines of insurance available;

39 (4) Records of every insurance contract or policy written by the
40 limited lines insurance producer; and

41 (5) Any other items or records that the commissioner may require
42 by rule or regulation.

43

44 15. a. The commissioner may place on probation, suspend, revoke
45 or refuse to issue or renew an insurance producer's license or may levy
46 a civil penalty in accordance with subsection c. of section 20 of this

1 act or any combination of actions, for any one or more of the
2 following causes:

3 (1) Providing incorrect, misleading, incomplete or materially untrue
4 information in the license application;

5 (2) Violating any insurance laws, or violating any regulation,
6 subpoena or order of the commissioner or of another state's insurance
7 regulator;

8 (3) Obtaining or attempting to obtain a license through
9 misrepresentation or fraud;

10 (4) Improperly withholding, misappropriating or converting any
11 monies or properties received in the course of doing insurance
12 business;

13 (5) Intentionally misrepresenting the terms of an actual or proposed
14 insurance contract, policy or application for insurance;

15 (6) Having been convicted of a felony or crime of the fourth degree
16 or higher;

17 (7) Having admitted or been found to have committed any insurance
18 unfair trade practice or fraud;

19 (8) Using fraudulent, coercive or dishonest practices, or
20 demonstrating incompetence, untrustworthiness or financial
21 irresponsibility in the conduct of insurance business in this State or
22 elsewhere;

23 (9) Having an insurance producer license, or its equivalent, denied,
24 suspended or revoked in any other state, province, district or territory;

25 (10) Forging another's name to an application for insurance or to
26 any document related to an insurance transaction;

27 (11) Improperly using notes or any other reference material to
28 complete an examination for an insurance producer license;

29 (12) Knowingly accepting insurance business from an individual
30 who is not a licensed insurance producer;

31 (13) Failing to comply with an administrative or court order
32 imposing a child support obligation; or

33 (14) Failing to pay income tax or comply with any administrative or
34 court order directing payment of income tax pursuant to Title 54A of
35 the New Jersey Statutes.

36 b. If the action by the commissioner is to nonrenew or to deny an
37 application for an insurance producer license, the commissioner shall
38 notify the applicant or licensee and advise, in writing, the applicant or
39 licensee of the reason for the denial or nonrenewal of the license. The
40 applicant or licensee may make written demand upon the commissioner
41 for a hearing before the commissioner, or his designee, to determine
42 the reasonableness of the commissioner's action. The hearing shall be
43 held pursuant to the "Administrative Procedure Act," P.L.1968, c.410
44 (C.52:14B-1 et seq.).

45 c. The insurance producer license of a business entity may be
46 suspended, revoked or refused if the commissioner finds, after hearing,

1 that an individual licensee's violation was known or should have been
2 known by one or more of the partners, officers or managers acting on
3 behalf of the business entity and the violation was neither reported to
4 the commissioner nor corrective action taken.

5 d. The commissioner shall retain the authority to enforce the
6 provisions of and impose any penalty or remedy authorized by this act
7 and Title 17 of the Revised Statutes or Title 17B of the New Jersey
8 Statutes against any person who is under investigation for or charged
9 with a violation of this act or Title 17 of the Revised Statutes or Title
10 17B of the New Jersey Statutes even if the person's license or
11 registration has been surrendered or has lapsed by operation of law.

12
13 16. a. An insurer or insurance producer shall not pay a commission,
14 service fee, brokerage or other valuable consideration to a person for
15 selling, soliciting or negotiating insurance in this State if that person
16 is required to be licensed under this act and is not so licensed.

17 b. A person shall not accept a commission, service fee, brokerage
18 or other valuable consideration for selling, soliciting or negotiating
19 insurance in this State if that person is required to be licensed under
20 this act and is not so licensed.

21 c. Renewal or other deferred commissions may be paid to a person
22 for selling, soliciting or negotiating insurance in this State if the person
23 was required to be licensed under this act at the time of the sale,
24 solicitation or negotiation and was so licensed at that time.

25 d. An insurer or insurance producer may pay or assign commissions,
26 service fees, brokerages or other valuable consideration to an
27 insurance agency or to persons who do not sell, solicit or negotiate
28 insurance in this State, unless the payment would violate section 15 of
29 P.L.1944, c.27 (C.17:29A-15), section 14 of P.L.1982, c.114
30 (C.17:29AA-14), section 4 of P.L.1947, c.379 (C.17:29B-4), section
31 5 of P.L.1968, c.248 (C.17:46A-5), section 34 or 35 of P.L.1975,
32 c.106 (C.17:46B-34 or 17:46B-35) or N.J.S.17B:30-13 or any other
33 provision of law.

34
35 17. a. An insurance producer shall not act as an agent of an insurer
36 unless the insurance producer becomes an appointed agent of that
37 insurer. An insurance producer who is not acting as an agent of an
38 insurer is not required to become appointed.

39 b. To appoint an insurance producer as its agent, the appointing
40 insurer shall file, in a format approved by the commissioner, a notice
41 of appointment within 15 days from the date the agency contract is
42 executed or the first insurance application is submitted by the
43 insurance producer. An insurer may also elect to appoint an insurance
44 producer to all or some insurers within the insurer's holding company
45 system or group by the filing of a single appointment request.

46 c. Upon receipt of the notice of appointment, the commissioner

1 shall verify within 30 days that the insurance producer is eligible for
2 appointment. If the insurance producer is determined to be ineligible
3 for appointment, the commissioner shall notify the insurer within five
4 days of his determination.

5 d. An insurer shall pay an appointment fee, in the amount and
6 method of payment set forth in section 19 of this act for each
7 insurance producer appointed by the insurer.

8 e. An insurer shall remit, in a manner prescribed by the
9 commissioner, a renewal appointment fee in the amount set forth in
10 section 19 of this act.

11

12 18. a. An insurer or authorized producer of the insurer that
13 terminates the appointment, employment, contract or other insurance
14 business relationship with an insurance producer shall notify the
15 commissioner within 30 days following the effective date of the
16 termination, using a format prescribed by the commissioner, if the
17 reason for termination is one of the reasons set forth in section 15 of
18 this act or if the insurer has knowledge that the producer was found by
19 a court, government body, or self-regulatory organization authorized
20 by law, to have engaged in any of the activities in section 15 of this
21 act. Upon the written request of the commissioner, the insurer shall
22 provide additional information, documents, records or other data
23 pertaining to the termination or activity of the producer.

24 b. An insurer or authorized producer of the insurer that terminates
25 the appointment, employment or contract with an insurance producer,
26 for any reason not set forth in section 15 of this act, shall notify the
27 commissioner within 30 days following the effective date of the
28 termination, using a format prescribed by the commissioner. Upon
29 written request of the commissioner, the insurer shall provide
30 additional information, documents, records or other data pertaining to
31 the termination.

32 c. The insurer or the authorized producer of the insurer shall
33 promptly notify the commissioner in a format acceptable to the
34 commissioner if, upon further review or investigation, the insurer
35 discovers additional information that would have been reportable to
36 the commissioner in accordance with subsection a. of this section had
37 the insurer then known of its existence.

38 d. (1) Within 15 days after making the notification required by this
39 section, the insurer shall mail a copy of the notification to the
40 insurance producer at his last known address. If the producer is
41 terminated for any of the reasons listed in section 15 of this act, the
42 insurer shall provide a copy of the notification to the producer at his
43 last known address by certified mail, return receipt requested, postage
44 prepaid or by overnight delivery using a nationally recognized carrier.

45 (2) Within 30 days after the insurance producer has received the
46 original or additional notification, the producer may file written

1 comments concerning the substance of the notification with the
2 commissioner. The producer shall, by the same means, simultaneously
3 send a copy of the comments to the reporting insurer, and the
4 comments shall become a part of the commissioner's file and
5 accompany every copy of a report distributed or disclosed for any
6 reason about the producer as permitted under subsection f. of this
7 section.

8 e. (1) In the absence of actual malice, an insurer, the authorized
9 representative of the insurer, an insurance producer, the commissioner,
10 or an organization of which the commissioner is a member and that
11 compiles the information and makes it available to other insurance
12 commissioners or regulatory or law enforcement agencies, shall not be
13 subject to civil liability, and a civil cause of action of any nature shall
14 not arise against these entities or their respective agents or employees,
15 as a result of any statement or information required by or provided
16 pursuant to this section or any information relating to any statement
17 that may be requested in writing by the commissioner, from an insurer
18 or insurance producer; or a statement by a terminating insurer or
19 insurance producer to an insurer or insurance producer limited solely
20 and exclusively to whether a termination for cause under subsection a.
21 of this section was reported to the commissioner, provided that the
22 propriety of any termination for cause under subsection a. is certified
23 in writing by an officer or authorized representative of the insurer or
24 insurance producer terminating the relationship.

25 (2) In any action brought against a person that has immunity under
26 paragraph (1) of this subsection for making any statement required by
27 this section or providing any information relating to any statement that
28 may be requested by the commissioner, the party bringing the action
29 shall plead specifically in any allegation that paragraph (1) does not
30 apply because the person making the statement or providing the
31 information did so with actual malice.

32 (3) Paragraph (1) or (2) of this subsection shall not abrogate or
33 modify any existing statutory or common law privileges or immunities.

34 f. (1) Any documents, materials or other information in the control
35 or possession of the department furnished by an insurer, insurance
36 producer or an employee or agent thereof acting on behalf of the
37 insurer or insurance producer, or obtained by the commissioner in an
38 investigation pursuant to this section, shall be confidential by law and
39 privileged, shall not be subject to any State or federal freedom of
40 information law, shall not be subject to subpoena, and shall not be
41 subject to discovery or admissible in evidence in any private civil
42 action. However, the commissioner is authorized to use the
43 documents, materials or other information in the furtherance of any
44 regulatory or legal action brought as a part of the commissioner's
45 duties.

46 (2) Neither the commissioner, nor any person who received

1 documents, materials or other information while acting under the
2 authority of the commissioner, shall be permitted or required to testify
3 in any private civil action concerning any confidential documents,
4 materials, or information subject to paragraph (1) of this subsection.

5 (3) In order to assist in the performance of the commissioner's
6 duties under this act, the commissioner:

7 (a) May share documents, materials or other information, including
8 the confidential and privileged documents, materials or information
9 subject to paragraph (1) of this subsection, with other state, federal,
10 and international regulatory agencies, with the NAIC, and with state,
11 federal, and international law enforcement authorities, provided that
12 the recipient agrees to maintain the confidentiality and privileged
13 status of the document, material or other information pursuant to this
14 section;

15 (b) May receive documents, materials or information, including
16 otherwise confidential and privileged documents, materials or
17 information, from the NAIC and from regulatory and law enforcement
18 officials of other foreign or domestic jurisdictions, and shall maintain
19 as confidential or privileged any document, material or information
20 received with notice or the understanding that it is confidential or
21 privileged under the laws of the jurisdiction that is the source of the
22 document, material or information; and

23 (c) May enter into agreements governing sharing and use of
24 information consistent with this subsection.

25 (4) No waiver of any applicable privilege or claim of confidentiality
26 in the documents, materials or information shall occur as a result of
27 disclosure to the commissioner under this section or as a result of
28 sharing as authorized in paragraph (3) of this subsection.

29 (5) Nothing in this act shall prohibit the commissioner from
30 releasing final, adjudicated actions including terminations for cause
31 that are open to public inspection pursuant to P.L.1963, c.73
32 (C.47:1A-1 et seq.) to a database or other clearinghouse service
33 maintained by the NAIC.

34 g. An insurer, the authorized representative of the insurer, or an
35 insurance producer that fails to report as required under the provisions
36 of this section or that is found by a court of competent jurisdiction to
37 have reported with actual malice may, after notice and hearing, have
38 its license or certificate of authority suspended or revoked and may be
39 fined in accordance with section 20 of this act.

40

41 19. a. The commissioner shall, by regulation, set reasonable,
42 necessary and appropriate fees to be charged for licensing insurance
43 producers, filing agency appointments, filing limited insurance
44 producer registrations, filing fictitious, trade or firm names, issuing
45 certification of license status and processing any document required to
46 be submitted pursuant to this act, except that the total annual revenue

1 generated from these fees shall not be less than the total annual
2 revenue generated from equivalent fees for the preceding fiscal year.

3 b. Applicants may be charged a fee for any licensing examination
4 conducted pursuant to this act in an amount designated or approved
5 by the commissioner.

6 c. All fees payable to the commissioner pursuant to this section are
7 nonrefundable.

8 d. The commissioner may, by rule or regulation, provide for the
9 waiving of fees for disabled war veterans of the United States military
10 service.

11

12 20. a. The commissioner shall have the power to conduct
13 investigations, to administer oaths, to interrogate licensees and others,
14 and to issue subpoenas to any licensee or any other person in
15 connection with any investigation, hearing or other proceeding
16 pursuant to this act, without fee.

17 b. Subpoenas shall be issued in the name of the commissioner, the
18 deputy commissioner or other employee designated by the
19 commissioner, but no subpoena shall be issued except for good cause.
20 Any person failing or refusing to comply with a subpoena may be
21 ordered by a judge of the Superior Court, on application made by the
22 commissioner or by the person at whose instance the subpoena was
23 issued, to comply with the terms of the subpoena or be punished by the
24 court for contempt. The court may proceed in a summary manner.

25 c. Any person violating any provision of this act shall be liable to
26 a penalty not exceeding \$5,000 for the first offense and not exceeding
27 \$10,000 for each subsequent offense to be recovered in a summary
28 proceeding in accordance with the "Penalty Enforcement Law of
29 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). In addition, the
30 commissioner or the court, as the case may be, may order restitution
31 of moneys owed any person and reimbursement of the costs of
32 investigation and prosecution, as appropriate.

33 d. In any formal proceeding, if the commissioner finds that the
34 interests of the public require that immediate action be taken prior to
35 completion of the hearing, the making of a determination and the entry
36 of a final order, he may enter an appropriate order to be effective
37 pending completion of the hearing and entry of a final order. These
38 orders may be entered on ex parte proofs if the proofs indicate that the
39 commissioner's withholding of any action until completion of a full
40 hearing will be harmful to the public interest. Orders issued pursuant
41 to this section shall be subject to an application to vacate upon 10
42 days' notice, and a preliminary hearing on the ex parte order shall be
43 held in any event within 20 days after it is entered. In the alternative,
44 or in addition, the commissioner is authorized to institute a proceeding
45 in the Superior Court, to be conducted in a summary manner, for an
46 injunction against specified acts or conduct in aid of the proceedings

1 pending before him, including temporary injunctions and interim
2 restraints.

3

4 21. a. The commissioner shall not assess a greater fee for an
5 insurance producer license or related service to a person not residing
6 in this State based solely on the fact that the person does not reside in
7 this State.

8 b. The commissioner shall waive any license application
9 requirements for a nonresident insurance producer license applicant
10 with a valid license from his home state, except the requirements
11 imposed by section 9 of this act, if the applicant's home state awards
12 nonresident insurance producer licenses to licensees of this State on
13 the same basis.

14 c. A nonresident insurance producer's satisfaction of his home
15 state's continuing education requirements for licensed insurance
16 producers shall constitute satisfaction of this State's continuing
17 education requirements if the nonresident producer's home state
18 recognizes the satisfaction of its continuing education requirements
19 imposed upon insurance producers from this State on the same basis.

20

21 22. a. An insurance producer shall report to the commissioner any
22 administrative action taken against the insurance producer in another
23 jurisdiction or by another governmental agency in this State within 30
24 days of the final disposition of the matter. This report shall include a
25 copy of the order, consent order or other relevant legal documents.

26 b. Within 30 days of the initial pretrial hearing date, an insurance
27 producer shall report to the commissioner any criminal prosecution of
28 the producer taken in any jurisdiction. The report shall include a copy
29 of the initial complaint filed, the order resulting from the hearing and
30 any other relevant legal documents.

31

32 23. The commissioner may, in accordance with "Administrative
33 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) promulgate
34 rules and regulations necessary to effectuate the purposes of this act.

35

36 24. P.L.1987, c.293 (C.17:22A-1 et seq.); section 13 of P.L.1996,
37 c.69 (C.17:22A-14.1); and P.L.1997, c.429 (C.17:22A-16.1) are
38 repealed.

39

40 25. This act shall take effect on the 180th day following enactment.

41

42

STATEMENT

43

44 This bill, the "New Jersey Insurance Producer Licensing Act of
45 2001," repeals the existing insurance producer licensing statute and
46 replaces it with a revised scheme, based on model legislation ("Model

1 Act") drafted by the National Association of Insurance Commissioners
2 (NAIC) in response to recent federal legislation.

3 On November 2, 1999, President Clinton signed into law the
4 Financial Services Modernization Act, Pub. L.106-102, more
5 commonly known as the "Gramm-Leach-Bliley Act," the primary
6 purpose of which was to repeal restrictions on banks affiliating with
7 securities firms and to facilitate affiliation among banks, securities
8 firms and insurance companies. That act authorizes the creation of a
9 new federal bureaucracy, the National Association of Registered
10 Agents and Brokers (NARAB) unless, within three years of enactment,
11 or November 12, 2002, a majority of states have enacted uniform laws
12 and regulations governing the licensure of insurance producers, or a
13 majority of states have enacted reciprocal laws and regulations
14 governing the licensure of nonresident producers. NARAB would be
15 a national licensing authority that would draw on existing state laws
16 to devise uniform licensing requirements and would serve as the
17 mechanism through which insurance producers (agents and brokers)
18 could obtain licenses for any state in which they wish to do business.
19 The ultimate effect, however, would be that the new federal scheme
20 would preempt the traditional responsibilities of the states in the area
21 of insurance regulation authorized by the federal McCarran-Ferguson
22 Act of 1945.

23 In response to the NARAB provisions of Gramm-Leach-Bliley, the
24 NAIC adopted the Producer Licensing Model Act in January of 2000.
25 The Model Act establishes uniform standards for insurance producer
26 licensing among the states and creates a system of reciprocity for
27 nonresident insurance producer licensing. It allows insurance
28 producers licensed in one jurisdiction to conduct business in all other
29 participating jurisdictions.

30 State enactment of the uniformity and reciprocity provisions of the
31 Model Act will help assure the continued primacy of the states to
32 regulate the business of insurance. By preventing NARAB from taking
33 effect, it will also help spur the speedy and cost effective operation of
34 the U.S. insurance market and, in turn, help gain and maintain the
35 access of American business to international insurance markets. In
36 several states, legislation has already been introduced or enacted in
37 response to the NARAB provisions of Gramm-Leach-Bliley. In some
38 cases, the legislative proposals adopt only the reciprocity provisions
39 necessary to preempt NARAB; in others, the NAIC Model Act is
40 adopted in its entirety.

41 Specifically, the bill defines key terms (section 3) and establishes
42 examination and licensing requirements, including individual and
43 business entity licenses, using NAIC uniform applications (sections
44 4,6-8). It provides for nonresident licensing and reciprocity among
45 state licensees, through the NAIC Producer Database (sections 9 and
46 10). It lists individuals and entities who are exempt from its licensing

1 provisions (section 5) and allows for temporary licenses under certain
2 circumstances (section 12). The bill further provides for the licensing
3 of surplus lines insurance producers and for the registration of limited
4 lines insurance producers, which lines may be established by the
5 Commissioner of Banking and Insurance by regulation (sections 13
6 and 14).

7 Under the bill, the commissioner is authorized to place on
8 probation, suspend or revoke, or refuse to issue or renew, an insurance
9 producer's license, or may levy civil penalties for one or more of
10 several specified causes (section 15). Additionally, the bill provides for
11 agency appointments and termination of those appointments (sections
12 16, 17 and 18). The bill also authorizes the commissioner to set fees
13 for examination, licensing, filings and document processing; to
14 conduct investigations; and to promulgate regulations to administer
15 the bill's provisions (section 19, 20 and 23). Finally, the existing "New
16 Jersey Insurance Producer Licensing Act," P.L.1987, c.293, is
17 repealed (section 24).

ASSEMBLY BANKING AND INSURANCE COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3148

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 17, 2001

The Assembly Banking and Insurance Committee reports favorably and with committee amendments, Assembly Bill No. 3148.

This bill, as amended by the committee, repeals the existing insurance producer licensing statute, enacted in 1987, and replaces it with a revised scheme based on model legislation (Model Act) drafted by the National Association of Insurance Commissioners (NAIC) in response to recent federal legislation, the Financial Services Modernization Act, Pub. L.106-102, more commonly known as the "Gramm-Leach-Bliley Act" or "GLBA." The GLBA would impose a nationwide licensing scheme unless, within three years of its enactment, or November 12, 2002, a majority of states have enacted uniform laws governing the licensure of insurance producers, or have enacted reciprocal laws and regulations governing the licensure of nonresident producers.

As amended, the bill defines key terms and establishes examination and licensing requirements, including individual and business entity licenses, using NAIC uniform applications. Among the key innovations of the Model Act, the bill defines a producer's "home state" as the state in which the producer either maintains his principal place of residence or principal place of business and is licensed to act as an insurance producer. New Jersey currently requires resident licenses of those producers whose principal residence is in the State and those who have an office in New Jersey. The bill provides for reciprocity among states for nonresident licensees, one of the principal requirements of the GLBA. It lists individuals and entities who are exempt from its licensing provisions, such as officers, directors and employees of insurers not receiving any commission on policies written or sold and whose activities with the insurer are primarily executive, administrative, managerial or clerical. Employees who respond to requests from policyholders on existing policies and who are not directly compensated based on the volume of premiums that may result, as in the case of "direct writer" insurers, who were exempt from licensure under an earlier version of the Model Act, are not exempted under the bill. The bill continues the current requirement of licensing of surplus lines insurance producers but in keeping with GLBA

reciprocity, eliminates the requirement for maintaining an office in New Jersey. The bill requires, for the first time, licensing of limited lines insurance producers, which lines will continue to be established by the Commissioner of Banking and Insurance by regulation.

Under the bill, the commissioner is authorized to place on probation, suspend or revoke, or refuse to issue or renew, an insurance producer's license, or may levy civil penalties for one or more of several specified causes. Several additional causes for such action are added to the Model Act's provisions from the current New Jersey law. Additionally, the bill provides for agency appointments and termination of those appointments by insurers. The bill also authorizes the commissioner to set fees for examination, licensing, filings and document processing; to conduct investigations; and to promulgate regulations to administer the bill's provisions. The commissioner is also authorized to provide for the orderly transition of license types and authorities. Amendments to the surplus lines law, made necessary by the revised licensing scheme, are also included.

Finally, the existing "New Jersey Insurance Producer Licensing Act," P.L.1987, c.293, is repealed. The bill will take effect immediately, but its substantive provisions will remain inoperative until the adoption of implementing regulations. In no event, however, shall the bill take effect later than November 12, 2002, the date established by the federal legislation as the date by which a majority of states must pass legislation to avoid the national regulatory scheme contemplated by GLBA.

The committee amended the bill to reflect, in some cases, later modifications of the Model Act, as in the elimination of the exemption from licensing of certain employees of insurers who are direct writers. The amendments also add a separate line of authority for producers of personal lines coverage, that is, property and casualty insurance coverage sold to individuals and families for primarily noncommercial purposes, to comply with the later version of the Model Act. In other cases, the amendments represent departures from the Model Act to accommodate New Jersey's current licensing scheme. For example, additional causes are added to the list of those for which penalties may be imposed, or for which the commissioner may suspend, revoke or refuse to issue or renew a license, again to conform to New Jersey's current scheme. New Jersey's current regulation of the agency relationship between a producer and an insurer is also engrafted by the amendments and replaces the Model Act's provisions in that respect. Finally, the amendments accomplish some technical amendments to the surplus lines law to reflect the repeal of the current "New Jersey Insurance Producer Licensing Act," and its replacement by this bill and further to reflect that a licensee is no longer required to maintain an office in this State.

[First Reprint]

ASSEMBLY, No. 3148

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED JANUARY 23, 2001

Sponsored by:

Assemblywoman CLARE M. FARRAGHER

District 12 (Monmouth)

Co-Sponsored by:

Assemblyman Corodemus

SYNOPSIS

The "New Jersey Insurance Producer Licensing Act of 2001."

CURRENT VERSION OF TEXT

As reported by the Assembly Banking and Insurance Committee on May 17, 2001, with amendments.



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

A3148 [1R] FARRAGHER

2

1 AN ACT concerning the licensure of insurance producers, ¹amending
2 P.L.1960, c.32,¹ supplementing Title 17 of the Revised Statutes
3 ¹[,]¹ and repealing parts of the statutory law.

4

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

7

8 1. ¹(New section)¹ This act shall be known and may be cited as
9 the "New Jersey Insurance Producer Licensing Act of 2001."

10

11 2. ¹(New section)¹ This act governs the qualifications and
12 procedures for the licensing of insurance producers. It simplifies and
13 organizes the statutory law to improve efficiency, permits the use of
14 new technology and reduces costs associated with issuing and
15 renewing insurance producer licenses.

16

17 3. ¹(New section)¹ As used in this act:

18 "Business entity" means a corporation, association, partnership,
19 limited liability company, limited liability partnership, or other legal
20 entity.

21 "Commissioner" means the Commissioner of Banking and
22 Insurance.

23 "Department" means the Department of Banking and Insurance.

24 "Home state" means the District of Columbia and any state or
25 territory of the United States in which an insurance producer maintains
26 his principal place of residence or principal place of business and is
27 licensed to act as an insurance producer.

28 "Insurance" means any of the lines of insurance in subtitle 3 of Title
29 17 of the Revised Statutes or subtitle 3 of Title 17B of the New Jersey
30 Statutes and includes contracts or policies of life insurance, health
31 insurance, annuities, indemnity, property and casualty, fidelity, surety,
32 guaranty and title insurance.

33 ¹"Insurance consultant" means a person, who for a commission,
34 brokerage fee, or other consideration, acts or holds himself out to the
35 public or any licensee as offering any advice, counsel, opinion or
36 service with respect to the benefits, advantages or disadvantages under
37 any insurance policy or contract that is or could be issued in this State,
38 but shall not include bank trust officers, attorneys-at-law and certified
39 public accountants who negotiate contracts on behalf of others or
40 provide general financial counsel if no commission or brokerage fee is
41 paid for those services.¹

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:

¹ Assembly ABI committee amendments adopted May 17, 2001.

1 "Insurance producer" means a person required to be licensed under
2 the laws of this State to sell, solicit or negotiate insurance.

3 "Insurer" means a business entity authorized to transact the business
4 of insurance in this State pursuant to subtitle 3 of Title 17 of the
5 Revised Statutes or subtitle 3 of Title 17B of the New Jersey Statutes.

6 "License" means a document issued by the commissioner
7 authorizing a person to act as an insurance producer for the lines of
8 authority specified in the document. The license itself does not create
9 any authority, actual, apparent or inherent, in the holder to represent
10 or commit an insurer.

11 "Limited line credit insurance" includes credit life, credit disability,
12 credit property, credit unemployment, involuntary unemployment,
13 mortgage life, mortgage guaranty, mortgage disability, automobile
14 dealer gap insurance, and any other form of insurance offered in
15 connection with an extension of credit that is limited to partially or
16 wholly extinguishing that credit obligation that the commissioner
17 determines should be designated a form of limited line credit
18 insurance.

19 "Limited line credit insurance producer" means a person who sells,
20 solicits or negotiates one or more forms of limited line credit insurance
21 coverage to individuals though a master corporate, group or individual
22 contract or policy.

23 ¹Limited lines insurance" means those lines of insurance established
24 pursuant to section 14 of this act or any other line of insurance that the
25 commissioner determines is necessary to recognize for the purposes of
26 complying with subsection e. of section 9 of this act.¹

27 "Limited lines insurance producer" means a person who is
28 authorized ¹[to sell, solicit or negotiate contracts or policies for a
29 particular line of insurance as an agent for an insurer authorized to
30 write that line in this State which, by the nature of the line of business
31 and the manner by which it is marketed to the public, does not require
32 the professional competency demanded for an insurance producer
33 license]by the commissioner to sell, solicit or negotiate limited lines
34 insurance or to engage in the business of an insurance consultant¹.

35 "NAIC" means the National Association of Insurance
36 Commissioners, its affiliates or subsidiaries, or any agency or
37 committee thereof.

38 "Negotiate" means the act of conferring directly with or offering
39 advice directly to a purchaser or prospective purchaser of a particular
40 contract or policy of insurance concerning any of the substantive
41 benefits, terms or conditions of the contract or policy, provided that
42 the person engaged in that act either: sells insurance or obtains
43 insurance from insurers for purchasers.

44 "Person" means an individual or a business entity.

45 "Sell" means to exchange a contract or policy of insurance by any
46 means, for money or its equivalent, on behalf of an insurer.

1 "Solicit" means attempting to sell insurance or asking or urging a
2 person to apply for a particular kind of insurance from a particular
3 insurer.

4 "Surplus lines insurance producer" means a person who is
5 authorized to sell, solicit or negotiate contracts or policies of
6 insurance coverage on behalf of unauthorized insurers pursuant to "the
7 surplus lines law," P.L.1960, c.32 (C.17:22-6.40 et seq.); and "surplus
8 lines" shall have the same meaning as generally accorded to it by that
9 act.

10 "Terminate" means the cancellation of the relationship between an
11 insurance producer and the insurer or the termination of a producer's
12 authority to transact insurance.

13 "Uniform business entity application" means the current version of
14 the NAIC uniform business entity application for resident and
15 nonresident business entities.

16 "Uniform application" means the current version of the NAIC
17 uniform application for resident and nonresident insurance producer
18 licensing.

19

20 4. ¹(New section)¹ A person shall not sell, solicit or negotiate
21 insurance in this State unless the person is licensed for that line of
22 authority in accordance with this act.

23

24 5. ¹(New section)¹ a. Nothing in this act shall be construed to
25 require an insurer to obtain an insurance producer license. ¹In this
26 section, the term "insurer" does not include an insurer's officers,
27 directors, employees, subsidiaries or affiliates.¹

28 b. A license as an insurance producer shall not be required of the
29 following:

30 (1) An officer, director or employee of an insurer or of an
31 insurance producer, provided that the officer, director or employee
32 does not receive any commission on contracts or policies written or
33 sold to insure risks residing, located or to be performed in this State
34 and:

35 (a) The officer's, director's or employee's activities are executive,
36 administrative, managerial, clerical or a combination of these, and are
37 only indirectly related to the sale, solicitation or negotiation of
38 insurance; or

39 (b) The officer's, director's or employee's function relates to
40 underwriting, loss control, inspection or the processing, adjusting,
41 investigating or settling of a claim on a contract or policy of insurance;
42 or

43 (c) The officer, director or employee is acting in the capacity of a
44 special agency or agency supervisor assisting insurance producers and
45 those activities are limited to providing technical advice and assistance
46 to licensed insurance producers and do not include the sale,

1 solicitation or negotiation of insurance;

2 (2) A person who secures and furnishes information for the
3 purpose of group life insurance, group property and casualty
4 insurance, group annuities, group or blanket accident and health
5 insurance; or for the purpose of enrolling individuals under insurance
6 plans, issuing certificates under insurance plans or otherwise assisting
7 in administering insurance plans; or performs administrative services
8 related to mass marketed property and casualty insurance; where no
9 commission is paid to the person for the service;

10 (3) An employer or association or its officers, directors,
11 employees, or the trustees of an employee trust plan, to the extent that
12 the employers, officers, employees, directors or trustees are engaged
13 in the administration or operation of a program of employee benefits
14 for the employer's or association's own employees or the employees of
15 its subsidiaries or affiliates, which program involves the use of
16 insurance issued by an insurer, as long as the employers, associations,
17 officers, directors, employees or trustees are not in any manner
18 compensated, directly or indirectly, by the insurer issuing the contracts
19 or policies;

20 (4) Employees of insurers or organizations employed by insurers
21 who are engaging in the inspection, rating or classification of risks, or
22 in the supervision of the training of insurance producers and who are
23 not individually engaged in the sale, solicitation or negotiation of
24 insurance;

25 (5) A person whose activities in this State are limited to advertising
26 without the intent to solicit insurance in this State through
27 communications in printed publications or other forms of electronic
28 mass media whose distribution is not limited to residents of this State,
29 provided that the person does not sell, solicit or negotiate insurance
30 that would insure risks residing, located or to be performed in this
31 State;

32 (6) A person who is not a resident of this State who sells, solicits
33 or negotiates a contract or policy of insurance for commercial property
34 and casualty risks to an insured with risks located in more than one
35 state insured under that contract or policy, so long as that person is
36 otherwise licensed as an insurance producer to sell, solicit or negotiate
37 that insurance in the state in which the insured maintains its principal
38 place of business and the contract or policy of insurance insures risks
39 located in that state; ¹or¹

40 (7) A salaried full-time employee who counsels or advises his
41 employer relative to the insurance interests of the employer or of the
42 subsidiaries or business affiliates of the employer if the employee does
43 not sell or solicit insurance or receive a commission¹; or

44 (8) Employees of an insurer or insurance producer who respond to
45 requests from contract or policyholders on existing contracts or
46 policies if those employees are not directly compensated based on the

1 volume of premiums that may result from these services and if those
2 employees do not otherwise sell, solicit or negotiate insurance]¹.

3
4 6. ¹(New section)¹ a. ¹[An] A resident¹ individual ¹[residing in
5 this State and]¹ applying for an insurance producer license shall pass
6 a written examination unless exempt pursuant to section 10 of this act.
7 The examination shall test the knowledge of the individual concerning
8 the lines of authority for which application is made, the duties and
9 responsibilities of an insurance producer and the insurance laws and
10 regulations of this State. Examinations required by this section shall
11 be developed and conducted under rules and regulations prescribed by
12 the commissioner.

13 b. The commissioner may make arrangements, including contracting
14 with an outside testing service, for administering examinations and
15 collecting the nonrefundable fee set forth in section 19 of this act.

16 c. Each individual applying for an examination shall remit a
17 nonrefundable fee as prescribed by the commissioner as set forth in
18 section 19 of this act.

19 d. An individual who fails to appear for the examination as
20 scheduled or fails to pass the examination, may reapply for an
21 examination and shall remit all required fees and forms before being
22 rescheduled for another examination.

23
24 7. ¹(New section)¹ a. An individual applying for a resident
25 insurance producer license shall make application to the commissioner
26 on the uniform application and declare under penalty of refusal,
27 suspension or revocation of the license that the statements made in the
28 application are true, correct and complete to the best of the
29 individual's knowledge and belief. Before approving the application,
30 the commissioner shall find that the individual:

31 (1) Is at least 18 years of age;

32 (2) Has not committed any act that is a ground for denial,
33 suspension or revocation set forth in section 15 of this act;

34 (3) Has completed a prelicensing course of study for the lines of
35 authority for which the individual has applied as prescribed by the
36 commissioner by regulation;

37 (4) Has paid the fees set forth in section 19 of this act; and

38 (5) Has successfully passed the examinations for the lines of
39 authority for which the individual has applied.

40 b. A business entity acting as an insurance producer shall obtain an
41 insurance producer license. Application shall be made using the
42 uniform business entity application. Before approving the application,
43 the commissioner shall find that:

44 (1) The business entity has paid the fees set forth in section 19 of
45 this act; and

46 (2) The business entity has designated a licensed insurance

1 producer ¹or producers¹ responsible for the business entity's
2 compliance with the insurance laws, rules and regulations of this State.

3 c. The commissioner may require any documents reasonably
4 necessary to verify the information contained in an application.

5 d. Each insurer that sells, solicits or negotiates any form of limited
6 line credit insurance shall provide to each individual whose duties will
7 include selling, soliciting or negotiating limited line credit insurance a
8 program of instruction that is approved by the commissioner.

9

10 8. ¹(New section)¹ a. Unless denied licensure pursuant to section
11 15 of this act, persons who have met the requirements of sections 6
12 and 7 of this act shall be issued a resident insurance producer license.
13 An insurance producer may receive qualification for a license in one or
14 more of the following lines of authority:

15 (1) Life-insurance coverage on human lives, including benefits of
16 endowment and annuities, and which may include benefits in the event
17 of death or dismemberment by accident and benefits for disability
18 income;

19 (2) Accident and health or sickness-insurance coverage for
20 sickness, bodily injury or accidental death, and which may include
21 benefits for disability income;

22 (3) Property-insurance coverage for the direct or consequential
23 loss or damage to property of every kind;

24 (4) Casualty-insurance coverage against legal liability, including
25 that for death, injury or disability or damage to real or personal
26 property;

27 (5) Variable life and variable annuity products-insurance coverage
28 provided under variable life insurance contracts, variable annuities or
29 any other life insurance or annuity product that reflects the investment
30 experience of a separate account;

31 (6) Credit-limited line credit insurance;

32 (7) ¹Personal lines - property and casualty insurance coverage sold
33 to individuals and families for primarily noncommercial purposes:

34 ⁽⁸⁾¹ Any other line of insurance permitted under ¹[State] any¹ law
35 or regulation ¹of this State¹.

36 b. An insurance producer license shall remain in effect unless
37 revoked or suspended as long as the fee set forth in section 19 of this
38 act is timely paid and in the case of resident individual insurance
39 producers, education requirements are timely satisfied.

40 c. An individual insurance producer who allows his license to lapse
41 may, within 12 months from the due date of the renewal fee, reinstate
42 the same license without the necessity of passing a written
43 examination. However, a penalty in ¹[the] an¹ amount ¹[of] not to
44 exceed¹ double the unpaid renewal fee shall be required for any
45 renewal fee received after the due date.

46 d. A licensed insurance producer who is unable to comply with

1 license renewal procedures due to military service or some other
2 extenuating circumstance, such as long-term medical disability, may
3 request a waiver of those procedures. The producer may also request
4 a waiver of any examination requirement or any other fine or sanction
5 imposed for failure to comply with renewal procedures.

6 e. The license shall contain the licensee's name, address, personal
7 identification number, and the date of issuance, the lines of authority,
8 the expiration date and any other information the commissioner deems
9 necessary.

10 f. Licensees shall inform the commissioner by any means acceptable
11 to the commissioner of a change of address within 30 days of the
12 change.

13

14 9. ¹(Newsection)¹ a. Unless denied licensure pursuant to section
15 15 of this act, a nonresident person shall receive a nonresident
16 insurance producer license if:

17 (1) The person is currently licensed as a resident insurance
18 producer in good standing in his home state;

19 (2) The person has submitted the proper request for licensure and
20 has paid the fees required by section 19 of this act;

21 (3) The person has submitted or transmitted to the commissioner
22 the application for licensure that the person submitted to his home
23 state, or in lieu of the same, a completed uniform application; and

24 (4) The person's home state awards nonresident insurance producer
25 licenses to residents of this State on the same basis.

26 b. The commissioner may verify the nonresident insurance
27 producer's licensing status through the Producer Database maintained
28 by the NAIC.

29 c. A nonresident insurance producer who moves from one state to
30 another state or a resident insurance producer who moves from this
31 State to another state shall file a change of address and provide
32 certification from the new resident state within 30 days of the change
33 of legal residence. No fee or license application shall be required.

34 d. Subject to section 13 of this act, a person licensed as a surplus
35 lines insurance producer in his home state shall receive a nonresident
36 surplus lines insurance producer license pursuant to subsection a. of
37 this section.

38 e. Subject to section 14 of this act, a person licensed as a limited
39 line credit insurance or other type of limited lines insurance producer
40 in his home state shall receive a nonresident limited lines insurance
41 producer license, pursuant to subsection a. of this section, granting the
42 same scope of authority as granted under the license issued by the
43 producer's home state.

44 ¹f. Each licensed nonresident insurance producer shall, by
45 application for and issuance of, a license be deemed to have appointed
46 the commissioner as agent to receive service of original legal process

1 in this State in any cause of action or legal proceedings arising within
2 this State out of transactions under the license. Service upon the
3 commissioner shall be of the same force and effect as if served on the
4 nonresident insurance producer. This appointment shall be irrevocable
5 for as long as there can be any cause of action against the nonresident
6 insurance producer arising out of insurance transactions for which a
7 nonresident insurance producer license is required. Duplicate copies
8 of the legal process shall be served upon the commissioner. At the time
9 of service the commissioner shall be paid a fee established pursuant to
10 section 19 of this act payable as costs in the action. Upon receiving
11 service, the commissioner shall send one of the copies by registered or
12 certified mail, return receipt requested, to the named nonresident
13 insurance producer at his last known business or residence address.

14 g. The commissioner shall be immune from all civil actions
15 resulting from the licensee's failure to receive service of process if the
16 commissioner, pursuant to subsection f. of this section, forwards the
17 service to the last business or residence address filed by the licensee
18 as his address. Immunity under this subsection is in no way intended
19 to diminish or otherwise affect the immunity available to the
20 commissioner pursuant to the "New Jersey Tort Claims Act,"
21 N.J.S.59:1-1 et seq.¹

22
23 10. ¹(New section)¹ a. An individual who applies for an insurance
24 producer license in this State who was previously licensed for the same
25 lines of authority in another state shall not be required to complete any
26 prelicensing education or examination. This exemption is only
27 available if the person is currently licensed in that state or if the
28 application is received within 90 days of the cancellation of the
29 applicant's previous license and if the prior state issues a certification
30 that, at the time of cancellation, the applicant was in good standing in
31 that state or the state's Producer Database records, maintained by the
32 NAIC, indicate that the producer is or was licensed in good standing
33 for the lines of authority requested.

34 b. A person licensed as an insurance producer in another state who
35 moves to this State shall make application within 90 days of
36 establishing legal residence to become a resident licensee pursuant to
37 section 7 of this act. No prelicensing education or examination shall
38 be required of that person to obtain any lines of authority previously
39 held in the prior state except in cases in which the commissioner
40 determines otherwise by regulation.

41
42 11. ¹(New section)¹ An insurance producer doing business under
43 any name other than the producer's legal name shall notify the
44 commissioner prior to using the assumed name.

1 12. ¹(New section)¹ a. The commissioner may issue a temporary
2 insurance producer license for a period not to exceed 180 days without
3 requiring an examination if the commissioner determines that the
4 temporary license is necessary for the servicing of an insurance
5 business in the following cases:

6 (1) To the surviving spouse or court-appointed personal
7 representative of a licensed insurance producer, upon the death or
8 disability of that producer, to allow adequate time for the sale of the
9 insurance business owned by the producer or for the recovery or
10 return of the producer to the business or to provide for the training
11 and licensing of new personnel to operate the producer's business;

12 (2) To a member or employee of a business entity licensed as an
13 insurance producer, upon the death or disability of an individual
14 designated in the business entity application or the license as
15 responsible for the business entity's compliance with the insurance
16 laws, rules and regulations of this State;

17 (3) To the designee of a licensed insurance producer entering
18 active service in the armed forces of the United States of America; or

19 (4) In any other circumstance in which the commissioner determines
20 that the public interest will best be served by the issuance of a
21 temporary insurance producer license.

22 b. The commissioner may, by order, limit the authority of any
23 temporary licensee in any way necessary to protect insureds and the
24 public. The commissioner may require the temporary licensee to have
25 a suitable sponsor who is a licensed insurance producer or insurer and
26 who assumes responsibility for all acts of the temporary licensee and
27 may impose other similar requirements designed to protect insureds
28 and the public. The commissioner may by order revoke a temporary
29 license if the interest of insureds or the public are endangered. A
30 temporary license shall not continue after the owner or the personal
31 representative disposes of the insurance producer's business.

32
33 13. ¹(New section)¹ a. No license granting surplus lines authority
34 shall be issued or renewed unless the applicant¹ [:

35 (1) Maintains a bona fide office in this State;

36 (2) Holds] holds¹ or will hold ¹ [property/casualty authority; and

37 (3) Has filed with the commissioner a bond in favor of the
38 commissioner or his successors in office in an amount of not less than
39 \$25,000, aggregate liability, with a surety approved by the
40 commissioner. The commissioner may, in his discretion, require a
41 bond in a larger amount commensurate with the volume of surplus
42 lines business transacted or to be transacted by the licensee. The bond
43 shall become payable to the commissioner upon failure of the licensee
44 to comply with any of the requirements of subtitle 3 of Title 17 of the
45 Revised Statutes, and shall continue in effect as long as the licensee
46 holds surplus lines authority] property and casualty authorities¹.

1 b. No surplus lines producer shall charge any fee to an originating
2 broker in connection with the negotiation or procurement of any
3 contract of surplus lines insurance that shall exceed \$50 plus the actual
4 costs incurred for any services performed by a person that is not
5 associated with the surplus lines producer, such as inspection services.

6
7 14. ¹[a.] (New section)¹ The commissioner shall establish, by rule
8 or regulation, the line or lines of insurance that may be marketed
9 through a limited lines insurance producer. ¹[A person may act as a
10 limited lines insurance producer for the lines of insurance authorized,
11 from the date on which he is registered and until the date of
12 termination, pursuant to the provisions of this act.

13 b. Any insurer authorized in this State to transact the line or lines
14 of insurance that may be marketed through a limited lines insurance
15 producer, may contract, in writing, with any person to act as its limited
16 lines insurance producer. An insurer shall register with the
17 commissioner the name and business address of each limited lines
18 insurance producer, together with any other information that the
19 commissioner may require. The insurer shall provide written notice to
20 the commissioner when any limited lines insurance producer contract
21 is terminated.

22 c. Prior to contracting with any person to act as a limited lines
23 insurance producer pursuant to subsection b. of this section, the
24 insurer shall satisfy itself that the person to be registered is capable,
25 competent and worthy; has established a permanent, bona fide office
26 in this State; and has successfully completed any educational and
27 examination requirements that the commissioner may require by rule
28 or regulation.

29 d. A limited lines insurance producer shall be subject to suspension
30 or revocation of registration privileges, or imposition of a fine, for any
31 violation of applicable standards of conduct contained in section 15 of
32 this act, or violation of any other specific standards of conduct that the
33 commissioner may provide by rule or regulation for limited lines
34 insurance producers.

35 e. A limited lines insurance producer shall maintain a permanent
36 office in this State in which the following items shall be kept:

37 (1) A copy of the written agreement between himself and the
38 insurer for which he serves as a limited lines insurance producer;

39 (2) Evidence of the completion of educational and examination
40 requirements as prescribed by the commissioner by rule or regulation;

41 (3) A prominently displayed sign advising the public of the name
42 of the insurer represented and the lines of insurance available;

43 (4) Records of every insurance contract or policy written by the
44 limited lines insurance producer; and

45 (5) Any other items or records that the commissioner may require
46 by rule or regulation.]¹.

1 15. ¹(New section)¹ a. The commissioner may place on probation,
2 suspend, revoke or refuse to issue or renew an insurance producer's
3 license or may levy a civil penalty in accordance with subsection c. of
4 section 20 of this act or any combination of actions, for any one or
5 more of the following causes:

6 (1) Providing incorrect, misleading, incomplete or materially untrue
7 information in the license application;

8 (2) Violating any insurance laws, or violating any regulation,
9 subpoena or order of the commissioner or of another state's insurance
10 regulator;

11 (3) Obtaining or attempting to obtain a license through
12 misrepresentation or fraud;

13 (4) Improperly withholding, misappropriating or converting any
14 monies or properties received in the course of doing insurance
15 business;

16 (5) Intentionally misrepresenting the terms of an actual or
17 proposed insurance contract, policy or application for insurance;

18 (6) Having been convicted of a felony or crime of the fourth degree
19 or higher;

20 (7) Having admitted or been found to have committed any
21 insurance unfair trade practice or fraud;

22 (8) Using fraudulent, coercive or dishonest practices, or
23 demonstrating incompetence, untrustworthiness or financial
24 irresponsibility in the conduct of insurance business in this State or
25 elsewhere;

26 (9) Having an insurance producer license, or its equivalent, denied,
27 suspended or revoked in any other state, province, district or territory;

28 (10) Forging another's name to an application for insurance or to
29 any document related to an insurance transaction;

30 (11) Improperly using notes or any other reference material to
31 complete an examination for an insurance producer license;

32 (12) Knowingly accepting insurance business from an ¹[individual
33 who is not a licensed] unlicensed¹ insurance producer;

34 (13) Failing to comply with an administrative or court order
35 imposing a child support obligation; ¹[or]¹

36 (14) Failing to pay income tax or comply with any administrative
37 or court order directing payment of income tax pursuant to Title 54A
38 of the New Jersey Statutes¹;

39 (15) Intentionally withholding material information or making a
40 material misstatement in an application for a license;

41 (16) Committing any fraudulent act;

42 (17) Knowingly facilitating or assisting another person in violating
43 any insurance laws; or

44 (18) Failing to notify the commissioner within 30 days of his
45 conviction of any crime, indictment or the filing of any formal criminal
46 charges, or the suspension or revocation of any insurance license or

1 authority by a state, other than this State, or the initiation of formal
2 disciplinary proceedings in a state, other than this State, affecting the
3 producer's insurance license; or failing to obtain the written consent
4 pursuant to 18 U.S.C. sections 1033 and 1034; or failing to supply any
5 documentation that the commissioner may request in connection
6 therewith¹.

7 b. If the action by the commissioner is to nonrenew or to deny an
8 application for an insurance producer license, the commissioner shall
9 notify the applicant or licensee and advise, in writing, the applicant or
10 licensee of the reason for the denial or nonrenewal of the license. The
11 applicant or licensee may make written demand upon the commissioner
12 for a hearing before the commissioner, or his designee, to determine
13 the reasonableness of the commissioner's action. The hearing shall be
14 held pursuant to the "Administrative Procedure Act," P.L.1968, c.410
15 (C.52:14B-1 et seq.).

16 c. The insurance producer license of a business entity may be
17 suspended, revoked or refused if the commissioner finds, after hearing,
18 that an individual licensee's violation was known or should have been
19 known by one or more of the partners, officers or managers acting on
20 behalf of the business entity and the violation was neither reported to
21 the commissioner nor corrective action taken.

22 d. The commissioner shall retain the authority to enforce the
23 provisions of and impose any penalty or remedy authorized by this act
24 and Title 17 of the Revised Statutes or Title 17B of the New Jersey
25 Statutes against any person who is under investigation for or charged
26 with a violation of this act or Title 17 of the Revised Statutes or Title
27 17B of the New Jersey Statutes even if the person's license or
28 registration has been surrendered or has lapsed by operation of law.

29
30 16. ¹(New section)¹ a. An insurer or insurance producer shall not
31 pay a commission, service fee, brokerage or other valuable
32 consideration to a person for selling, soliciting or negotiating
33 insurance in this State if that person is required to be licensed under
34 this act and is not so licensed.

35 b. A person shall not accept a commission, service fee, brokerage
36 or other valuable consideration for selling, soliciting or negotiating
37 insurance in this State if that person is required to be licensed under
38 this act and is not so licensed.

39 c. Renewal or other deferred commissions may be paid to a person
40 for selling, soliciting or negotiating insurance in this State if the person
41 was required to be licensed under this act at the time of the sale,
42 solicitation or negotiation and was so licensed at that time.

43 d. An insurer or insurance producer may pay or assign commissions,
44 service fees, brokerages or other valuable consideration to an
45 insurance agency or to persons who do not sell, solicit or negotiate
46 insurance in this State, unless the payment would violate section 15 of

1 P.L.1944, c.27 (C.17:29A-15), section 14 of P.L.1982, c.114
2 (C.17:29AA-14), section 4 of P.L.1947, c.379 (C.17:29B-4), section
3 5 of P.L.1968, c.248 (C.17:46A-5), section 34 or 35 of P.L.1975,
4 c.106 (C.17:46B-34 or 17:46B-35) or N.J.S.17B:30-13 or any other
5 provision of law.

6
7 17. ¹[a. An insurance producer shall not act as an agent of an
8 insurer unless the insurance producer becomes an appointed agent of
9 that insurer. An insurance producer who is not acting as an agent of
10 an insurer is not required to become appointed.

11 b. To appoint an insurance producer as its agent, the appointing
12 insurer shall file, in a format approved by the commissioner, a notice
13 of appointment within 15 days from the date the agency contract is
14 executed or the first insurance application is submitted by the
15 insurance producer. An insurer may also elect to appoint an insurance
16 producer to all or some insurers within the insurer's holding company
17 system or group by the filing of a single appointment request.

18 c. Upon receipt of the notice of appointment, the commissioner
19 shall verify within 30 days that the insurance producer is eligible for
20 appointment. If the insurance producer is determined to be ineligible
21 for appointment, the commissioner shall notify the insurer within five
22 days of his determination.

23 d. An insurer shall pay an appointment fee, in the amount and
24 method of payment set forth in section 19 of this act for each
25 insurance producer appointed by the insurer.

26 e. An insurer shall remit, in a manner prescribed by the
27 commissioner, a renewal appointment fee in the amount set forth in
28 section 19 of this act.]

29 ¹(New section)¹ a. Any insurer authorized to transact business in
30 this State may, by written contract, appoint as its agent, a person that
31 holds a valid insurance producer license issued in accordance with the
32 provisions of this act. The contract shall authorize the insurance
33 producer to act as an agent for the appointing insurer for all lines of
34 insurance for which the insurer is authorized in this State and the agent
35 holds authority in this State, unless specifically limited. The contract
36 shall contain the duties, responsibilities and limitations of authority
37 between the agent and the appointing insurer, and the agent shall abide
38 by its terms. While the agent is properly licensed, an agency
39 appointment shall continue in effect until termination in accordance
40 with this act. Both the appointing insurer and the appointed agent
41 shall maintain a copy of the agency contract in their office, and shall
42 make the contract available for inspection by the commissioner upon
43 request. Nothing contained in this subsection shall be construed as
44 granting the commissioner the authority to determine contractual
45 disputes between an appointing insurer and an appointed agent.

46 b. Upon the cancellation of an agency contract in accordance with

1 section 1 of P.L.1970, c.217 (C.17:22-6.14a), the insurer shall within
2 15 days file written notice of cancellation with the commissioner.
3 Notice of cancellation shall be on a form prescribed by the
4 commissioner and shall indicate the date of cancellation and the reason
5 therefor. Agency appointment shall not terminate until the notice of
6 cancellation has been filed with the commissioner. The requirements
7 of this subsection shall not affect any notice or filing requirements
8 otherwise established by law.

9 c. Any insurer appointing an agent pursuant to this section shall file
10 with the commissioner, on a form prescribed by the commissioner, a
11 notice of appointment providing the names and business addresses of
12 its agents, including notice of any limitations on the agent's authority.
13 The filing of a single notice of appointment by each insurer
14 represented by a licensed business entity shall cover all of its licensed
15 producers.

16 d. The filing of notice of appointment pursuant to subsection c. of
17 this section shall constitute notice that the named insurance producer
18 has been appointed an agent for any subsidiary or affiliate company of
19 the insurer if certified copies of any resolution duly adopted by the
20 board of directors of each insurer requesting that authority are filed
21 with the commissioner. The resolution shall also designate the primary
22 insurer for which all of the insurer's agents shall be appointed.¹

23

24 18. ¹(New section)¹ a. ¹[An insurer or authorized producer of the
25 insurer that terminates the appointment, employment, contract or other
26 insurance business relationship with an insurance producer shall notify
27 the commissioner within 30 days following the effective date of the
28 termination, using a format prescribed by the commissioner, if the
29 reason for termination is one of the reasons set forth in section 15 of
30 this act or if the insurer has knowledge that the producer was found by
31 a court, government body, or self-regulatory organization authorized
32 by law, to have engaged in any of the activities in section 15 of this
33 act. Upon the written request of the commissioner, the insurer shall
34 provide additional information, documents, records or other data
35 pertaining to the termination or activity of the producer.

36 b. An insurer or authorized producer of the insurer that terminates
37 the appointment, employment or contract with an insurance producer,
38 for any reason not set forth in section 15 of this act, shall notify the
39 commissioner within 30 days following the effective date of the
40 termination, using a format prescribed by the commissioner. Upon
41 written request of the commissioner, the insurer shall provide
42 additional information, documents, records or other data pertaining to
43 the termination.

44 c. The insurer or the authorized producer of the insurer shall
45 promptly notify the commissioner in a format acceptable to the
46 commissioner if, upon further review or investigation, the insurer

1 discovers additional information that would have been reportable to
2 the commissioner in accordance with subsection a. of this section had
3 the insurer then known of its existence.

4 d. (1) Within 15 days after making the notification required by this
5 section, the insurer shall mail a copy of the notification to the
6 insurance producer at his last known address. If the producer is
7 terminated for any of the reasons listed in section 15 of this act, the
8 insurer shall provide a copy of the notification to the producer at his
9 last known address by certified mail, return receipt requested, postage
10 prepaid or by overnight delivery using a nationally recognized carrier.

11 (2) Within 30 days after the insurance producer has received the
12 original or additional notification, the producer may file written
13 comments concerning the substance of the notification with the
14 commissioner. The producer shall, by the same means, simultaneously
15 send a copy of the comments to the reporting insurer, and the
16 comments shall become a part of the commissioner's file and
17 accompany every copy of a report distributed or disclosed for any
18 reason about the producer as permitted under subsection f. of this
19 section.

20 e.]¹ (1) In the absence of actual malice, an insurer, the authorized
21 representative of the insurer, an insurance producer, the commissioner,
22 or an organization of which the commissioner is a member and that
23 compiles the information and makes it available to other insurance
24 commissioners or regulatory or law enforcement agencies, shall not be
25 subject to civil liability, and a civil cause of action of any nature shall
26 not arise against these entities or their respective agents or employees,
27 as a result of any statement or information required by or provided
28 pursuant to ¹section 17 of this act or¹ this section or any information
29 relating to any statement that may be requested in writing by the
30 commissioner, from an insurer or insurance producer; or a statement
31 by a terminating insurer or insurance producer to an insurer or
32 insurance producer limited solely and exclusively to whether a
33 termination for cause under subsection ¹[a.]¹b.¹ of ¹[this]¹ section ¹17
34 of this act¹ was reported to the commissioner, provided that the
35 propriety of any termination for cause ¹[under subsection a.]¹ is
36 certified in writing by an officer or authorized representative of the
37 insurer or insurance producer terminating the relationship.

38 (2) In any action brought against a person that has immunity under
39 paragraph (1) of this subsection for making any statement required by
40 this section or providing any information relating to any statement that
41 may be requested by the commissioner, the party bringing the action
42 shall plead specifically in any allegation that paragraph (1) does not
43 apply because the person making the statement or providing the
44 information did so with actual malice.

45 (3) Paragraph (1) or (2) of this subsection shall not abrogate or
46 modify any existing statutory or common law privileges or immunities.

1 ¹[f.] b.¹ (1) Any documents, materials or other information in the
2 control or possession of the department furnished by an insurer,
3 insurance producer or an employee or agent thereof acting on behalf
4 of the insurer or insurance producer, or obtained by the commissioner
5 in an investigation pursuant to this section, shall be confidential by law
6 and privileged, shall not be subject to any State or federal freedom of
7 information law, shall not be subject to subpoena, and shall not be
8 subject to discovery or admissible in evidence in any private civil
9 action. However, the commissioner is authorized to use the
10 documents, materials or other information in the furtherance of any
11 regulatory or legal action brought as a part of the commissioner's
12 duties.

13 (2) Neither the commissioner, nor any person who received
14 documents, materials or other information while acting under the
15 authority of the commissioner, shall be permitted or required to testify
16 in any private civil action concerning any confidential documents,
17 materials, or information subject to paragraph (1) of this subsection.

18 (3) In order to assist in the performance of the commissioner's
19 duties under this act, the commissioner:

20 (a) May share documents, materials or other information, including
21 the confidential and privileged documents, materials or information
22 subject to paragraph (1) of this subsection, with other state, federal,
23 and international regulatory agencies, with the NAIC, and with state,
24 federal, and international law enforcement authorities, provided that
25 the recipient agrees to maintain the confidentiality and privileged
26 status of the document, material or other information pursuant to this
27 section;

28 (b) May receive documents, materials or information, including
29 otherwise confidential and privileged documents, materials or
30 information, from the NAIC and from regulatory and law enforcement
31 officials of other foreign or domestic jurisdictions, and shall maintain
32 as confidential or privileged any document, material or information
33 received with notice or the understanding that it is confidential or
34 privileged under the laws of the jurisdiction that is the source of the
35 document, material or information; and

36 (c) May enter into agreements governing sharing and use of
37 information consistent with this subsection.

38 (4) No waiver of any applicable privilege or claim of confidentiality
39 in the documents, materials or information shall occur as a result of
40 disclosure to the commissioner under this section or as a result of
41 sharing as authorized in paragraph (3) of this subsection.

42 (5) Nothing in this act shall prohibit the commissioner from
43 releasing final, adjudicated actions including terminations for cause
44 that are open to public inspection pursuant to P.L.1963, c.73
45 (C.47:1A-1 et seq.) to a database or other clearinghouse service
46 maintained by the NAIC.

1 ¹[g.] c.¹ An insurer, the authorized representative of the insurer,
2 or an insurance producer that fails to report as required under the
3 provisions of this section or that is found by a court of competent
4 jurisdiction to have reported with actual malice may, after notice and
5 hearing, have its license or certificate of authority suspended or
6 revoked and may be fined in accordance with section 20 of this act.

7
8 19. ¹(New section)¹ a. The commissioner shall, by regulation, set
9 reasonable, necessary and appropriate fees to be charged for licensing
10 insurance producers, filing agency appointments, filing limited
11 insurance producer registrations, filing fictitious, trade or firm names,
12 issuing certification of license status and processing any document
13 required to be submitted pursuant to this act, except that the total
14 annual revenue generated from these fees shall not be less than the
15 total annual revenue generated from equivalent fees for the preceding
16 fiscal year.

17 b. Applicants may be charged a fee for any licensing examination
18 conducted pursuant to this act in an amount designated or approved
19 by the commissioner.

20 c. All fees payable to the commissioner pursuant to this section are
21 nonrefundable.

22 d. The commissioner may, by rule or regulation, provide for the
23 waiving of fees for disabled war veterans of the United States military
24 service.

25
26 20. ¹(New section)¹ a. The commissioner shall have the power to
27 conduct investigations, to administer oaths, to interrogate licensees
28 and others, and to issue subpoenas to any licensee or any other person
29 in connection with any investigation, hearing or other proceeding
30 pursuant to this act, without fee.

31 b. Subpoenas shall be issued in the name of the commissioner, the
32 deputy commissioner or other employee designated by the
33 commissioner, but no subpoena shall be issued except for good cause.
34 Any person failing or refusing to comply with a subpoena may be
35 ordered by a judge of the Superior Court, on application made by the
36 commissioner or by the person at whose instance the subpoena was
37 issued, to comply with the terms of the subpoena or be punished by the
38 court for contempt. The court may proceed in a summary manner.

39 c. Any person violating any provision of this act shall be liable to
40 a penalty not exceeding \$5,000 for the first offense and not exceeding
41 \$10,000 for each subsequent offense to be recovered in a summary
42 proceeding in accordance with the "Penalty Enforcement Law of
43 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). In addition, the
44 commissioner or the court, as the case may be, may order restitution
45 of moneys owed any person and reimbursement of the costs of
46 investigation and prosecution, as appropriate.

1 d. In any formal proceeding, if the commissioner finds that the
2 interests of the public require that immediate action be taken prior to
3 completion of the hearing, the making of a determination and the entry
4 of a final order, he may enter an appropriate order to be effective
5 pending completion of the hearing and entry of a final order. These
6 orders may be entered on ex parte proofs if the proofs indicate that the
7 commissioner's withholding of any action until completion of a full
8 hearing will be harmful to the public interest. Orders issued pursuant
9 to this section shall be subject to an application to vacate upon 10
10 days' notice, and a preliminary hearing on the ex parte order shall be
11 held in any event within 20 days after it is entered. In the alternative,
12 or in addition, the commissioner is authorized to institute a proceeding
13 in the Superior Court, to be conducted in a summary manner, for an
14 injunction against specified acts or conduct in aid of the proceedings
15 pending before him, including temporary injunctions and interim
16 restraints.

17

18 21. ¹(New section)¹ a. The commissioner shall not assess a greater
19 fee for an insurance producer license or related service to a person not
20 residing in this State based solely on the fact that the person does not
21 reside in this State.

22 b. The commissioner shall waive any license application
23 requirements for a nonresident insurance producer license applicant
24 with a valid license from his home state, except the requirements
25 imposed by section 9 of this act, if the applicant's home state awards
26 nonresident insurance producer licenses to licensees of this State on
27 the same basis.

28 c. A nonresident insurance producer's satisfaction of his home
29 state's continuing education requirements for licensed insurance
30 producers shall constitute satisfaction of this State's continuing
31 education requirements if the nonresident producer's home state
32 recognizes the satisfaction of its continuing education requirements
33 imposed upon insurance producers from this State on the same basis.

34

35 22. ¹(New section)¹ a. An insurance producer shall report to the
36 commissioner any administrative action taken against the insurance
37 producer in another jurisdiction or by another governmental agency in
38 this State within 30 days of the final disposition of the matter. This
39 report shall include a copy of the order, consent order or other
40 relevant legal documents.

41 b. Within 30 days of the initial pretrial hearing date, an insurance
42 producer shall report to the commissioner any criminal prosecution of
43 the producer taken in any jurisdiction. The report shall include a copy
44 of the initial complaint filed, the order resulting from the hearing and
45 any other relevant legal documents.

1 ¹23. Section 8 of P.L.1960, c.32 (C.17:22-6.42) is amended to
2 read as follows:

3 8. If certain insurance coverages of subjects resident, located, or
4 to be performed in this State cannot be procured from authorized
5 insurers, such coverages, hereinafter designated "surplus lines," may
6 be procured from unauthorized insurers, subject to the following
7 conditions:

8 (a) The insurance must be eligible for export under section 9 of
9 P.L.1960, c.32 (C.17:22-6.43);

10 (b) The insurer must be an eligible surplus lines insurer under
11 section 11 of P.L.1960, c.32 (C.17:22-6.45);

12 (c) The insurance must be so placed through a licensed New Jersey
13 surplus lines agent [whose office and records are maintained in New
14 Jersey]; and

15 (d) Other applicable provisions of this surplus lines law must be
16 complied with.

17 (e) No surplus lines agent shall exercise binding authority in this
18 State on behalf of any insurer unless the agent has first filed with the
19 commissioner for informational purposes and not for the purpose of
20 approval or disapproval the written agreement between the agent and
21 the insurer setting forth the terms, conditions and limitations
22 governing the exercise of the binding authority by the agent. A copy
23 of any amendments to the agreement and of any notice of cancellation
24 or termination of the agreement shall be filed by the agent with the
25 commissioner no later than 10 days after adoption thereof.

26 The agreement filed pursuant to this section shall be considered and
27 treated as a confidential document, and shall not be available for
28 inspection by the public.

29 The agreement shall include the following items:

30 (1) A description of the classes of insurance for which the agent
31 holds binding authority;

32 (2) The geographical limits upon the exercise of binding authority
33 by the agent;

34 (3) The maximum dollar limitation on the binding authority of the
35 agent for any one risk for each class of insurance written by the agent;

36 (4) The maximum policy period for which the agent may bind a
37 risk;

38 (5) If the binding authority is delegable by the agent, a prohibition
39 against the delegation without the prior written approval of the
40 insurer.

41 If an agent who is qualified in accordance with this section to
42 exercise binding authority on behalf of an insurer delegates the binding
43 authority to any other agent, the agent to whom the authority is
44 delegated shall not exercise the same until a copy of the instrument
45 delegating the binding authority shall first have been filed with the
46 commissioner for informational purposes and not for the purpose of

1 approval or disapproval. The instrument delegating the binding
2 authority shall include an identification of the binding authority
3 agreement between the delegating agent and the insurer.¹

4 (cf: P.L.1996, c.69, s.2)

5
6 ¹24. Section 23 of P.L.1960, c.32 (C. 17:22-6.57) is amended to
7 read as follows:

8 23. Each surplus lines agent shall keep in his office [in this State]
9 a full and true record of each surplus lines contract procured by him,
10 including a copy of the daily report, if any, and showing such of the
11 following items as may be applicable:

- 12 (a) Amount of the insurance and perils insured against;
13 (b) Brief general description of property insured and where
14 located;
15 (c) Gross premium charged;
16 (d) Return premium paid, if any;
17 (e) Rate of premium charged upon the several items of property;
18 (f) Effective date of the contract, and the terms thereof;
19 (g) Name and post-office address of the insured;
20 (h) Name and home office address of the insurer;
21 (i) Amount collected from the insured; and
22 (j) Other information as may be required by the commissioner.

23 The record shall at all times be open to examination by the
24 commissioner without notice, and shall be so kept available and open
25 to the commissioner for five years next following expiration or
26 cancellation of the contract.¹

27 (cf: P.L.1996, c.69, s.6)

28
29 ¹25. Section 27 of P.L.1960, c.32 (C.17:22-6.61) is amended to
30 read as follows:

31 27. The commissioner may suspend, revoke, or refuse to renew the
32 license of a surplus lines agent and all other licenses and permits held
33 by the licensee under this Title, upon any one or more of the following
34 grounds:

- 35 (a) **[Removal of the licensee's office from the State]** (Deleted by
36 amendment, P.L. , c.);
37 (b) Removal of the accounts and records of his surplus lines
38 business [from this State] during the period when such accounts and
39 records are required to be maintained under section 23 of P.L.1960,
40 c.32 (C.17:22-6.57);
41 (c) Closure of the licensee's office for a period of more than 30
42 consecutive days, unless granted permission by the commissioner upon
43 showing circumstances warranting such closure for a longer period;
44 (d) Failure to make and file his quarterly reports when due as
45 required by section 24 of P.L.1960, c.32 (C.17:22-6.58);

- 1 (e) Failure to pay the tax on surplus lines premiums, as provided
2 for in this surplus lines law;
- 3 (f) ~~Failure to maintain the bond as required by section 14 of~~
4 ~~P.L.1987, c.293 (C.17:22A-14)](Deleted by amendment, P.L.____,~~
5 ~~c.);~~
- 6 (g) Suspension, revocation or refusal to renew any other license
7 issued by the commissioner;
- 8 (h) Lack of qualifications as for an original surplus lines agent's
9 license;
- 10 (i) Violation of any provision of this surplus lines law;
- 11 (j) For any other cause for which a license could be denied,
12 revoked, suspended or renewal refused under section [17 of P.L.1987,
13 c.293 (C.17:22A-17)] 15 of P.L.____, c.____ (C.____) (now pending before
14 the Legislature as this bill).

15 In addition to the foregoing penalties set forth in this section, any
16 person, persons or corporation violating any of the provisions of this
17 act shall be liable to a penalty not exceeding \$2,500 for the first
18 offense and not exceeding \$5,000 for each succeeding offense to be
19 recovered in a summary proceeding as provided in R.S.17:33-2.¹
20 (cf: P.L.1996, c.69, s.9)

21

22 ¹[23.] 26. (New section)¹ a. The commissioner may, in accordance
23 with "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
24 seq.) promulgate rules and regulations necessary to effectuate the
25 purposes of this act.

26 ¹b. The commissioner may provide for the orderly transition of
27 producer license types and authorities by promulgating rules and
28 regulations that are reasonable, necessary, appropriate and consistent
29 with this act.¹

30

31 ¹[24.] 27.¹ P.L.1987, c.293 (C.17:22A-1 et seq.); section 13 of
32 P.L.1996, c.69 (C.17:22A-14.1); and P.L.1997, c.429
33 (C.17:22A-16.1) are repealed.

34

35 ¹[25.] 28.¹ This act shall take effect [on the 180th day following
36 enactment] immediately, but sections 1 through 25 and 27 shall remain
37 inoperative until the adoption of regulations effectuating their
38 purposes pursuant to section 26 of this act, provided however, that no
39 provision of this act shall remain inoperative on or after November 12,
40 2002.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 3148

STATE OF NEW JERSEY

209th LEGISLATURE

DATED: JUNE 25, 2001

SUMMARY

Synopsis: The "New Jersey Insurance Producer Licensing Act of 2001."
Type of Impact: No Negative Fiscal Impact, Potential Increase in Fee Revenues.
Agencies Affected: Department of Banking and Insurance, Division of Insurance.

Office of Legislative Services Estimate

Fiscal Impact	Year 1	Year 2	Year 3
State Cost	Bill permits fees sufficient to cover costs.		
State Revenue	Minimal fee revenue, see explanation below.		

- ! No negative fiscal impact on the State Budget.
- ! Currently, the department licenses insurance producers. This bill repeals the existing insurance producer licensing statute and replaces it with a revised scheme to comply with recent federal legislation.
- ! This bill authorizes the commissioner to set fees for examination, licensing, filings and document processing to defray any additional expenses. In addition, the bill authorizes the commissioner to levy civil penalties under certain circumstances.

BILL DESCRIPTION

Assembly Bill No. 3148 (1R) of 2001 repeals the existing insurance producer licensing statute, enacted in 1987, and replaces it with a revised scheme based on model legislation (Model Act) drafted by the National Association of Insurance Commissioners (NAIC) in response to recent federal legislation, the Financial Services Modernization Act, Pub. L.106-102, more commonly known as the "Gramm-Leach-Bliley Act" or "GLBA."

The bill defines key terms and establishes examination and licensing requirements, including individual and business entity licenses, using NAIC uniform applications. The bill provides for reciprocity among states for nonresident licensees and lists individuals and entities who are exempt from its licensing provisions. The bill continues the current requirement of licensing of

surplus lines insurance producers. The bill requires licensing of limited lines insurance producers, which lines will continue to be established by the Commissioner of Banking and Insurance by regulation.

Under the bill, the commissioner is authorized to place on probation, suspend or revoke, or refuse to issue or renew, an insurance producer's license, or may levy civil penalties for one or more of several specified causes. Additionally, the bill provides for agency appointments and termination of those appointments by insurers. The bill also authorizes the commissioner to set fees for examination, licensing, filings and document processing; to conduct investigations; and to promulgate regulations to administer the bill's provisions. The commissioner is also authorized to provide for the orderly transition of license types and authorities.

Finally, the existing "New Jersey Insurance Producer Licensing Act," P.L.1987, c.293, is repealed. The bill will take effect immediately, but its substantive provisions will remain inoperative until the adoption of implementing regulations.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services (OLS) estimates that enactment of this legislation will have no negative fiscal impact on the State Budget. The bill, in response to recent federal law, revises the existing scheme for licensing insurance producers in order to maintain jurisdiction by the State. In addition, this bill provides for reciprocity among states for nonresident licensees.

The bill permits the commissioner to establish fees for examination, licensing, filings and document processing to defray any additional expenses; therefore, OLS estimates that there should be no additional cost to the State. The OLS also notes that the bill permits the commissioner to levy civil penalties under certain circumstances; however, more information from the department is necessary in order to estimate any additional revenues.

Section: *Commerce, Labor and Industry*

Analyst: *Kristen A. Calderon*
Assistant Fiscal Analyst

Approved: *Alan R. Kooney*
Legislative Budget and Finance Officer

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

§§1-22,26 -
C.17:22A-26 to
17:22A-48
§27 - Repealer
§28 - Note to
§§1-27

P.L. 2001, CHAPTER 210, *approved August 15, 2001*
Senate, No. 2428 (*First Reprint*)

1 AN ACT concerning the licensure of insurance producers, ¹amending
2 P.L.1960, c.32.¹ supplementing Title 17 of the Revised Statutes
3 ¹[.]¹ and repealing parts of the statutory law.

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

7
8 1. ¹(New section)¹ This act shall be known and may be cited as
9 the "New Jersey Insurance Producer Licensing Act of 2001."

10
11 2. ¹(New section)¹ This act governs the qualifications and
12 procedures for the licensing of insurance producers. It simplifies and
13 organizes the statutory law to improve efficiency, permits the use of
14 new technology and reduces costs associated with issuing and
15 renewing insurance producer licenses.

16
17 3. ¹(New section)¹ As used in this act:

18 "Business entity" means a corporation, association, partnership,
19 limited liability company, limited liability partnership, or other legal
20 entity.

21 "Commissioner" means the Commissioner of Banking and
22 Insurance.

23 "Department" means the Department of Banking and Insurance.

24 "Home state" means the District of Columbia and any state or
25 territory of the United States in which an insurance producer maintains
26 his principal place of residence or principal place of business and is
27 licensed to act as an insurance producer.

28 "Insurance" means any of the lines of insurance in subtitle 3 of Title
29 17 of the Revised Statutes or subtitle 3 of Title 17B of the New Jersey
30 Statutes and includes contracts or policies of life insurance, health
31 insurance, annuities, indemnity, property and casualty, fidelity, surety,
32 guaranty and title insurance.

33 ¹"Insurance consultant" means a person, who for a commission,
34 brokerage fee, or other consideration, acts or holds himself out to the
35 public or any licensee as offering any advice, counsel, opinion or
36 service with respect to the benefits, advantages or disadvantages under

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:

¹ Senate SCM committee amendments adopted June 11, 2001.

1 any insurance policy or contract that is or could be issued in this State,
2 but shall not include bank trust officers, attorneys-at-law and certified
3 public accountants who negotiate contracts on behalf of others or
4 provide general financial counsel if no commission or brokerage fee is
5 paid for those services.¹

6 "Insurance producer" means a person required to be licensed under
7 the laws of this State to sell, solicit or negotiate insurance.

8 "Insurer" means a business entity authorized to transact the business
9 of insurance in this State pursuant to subtitle 3 of Title 17 of the
10 Revised Statutes or subtitle 3 of Title 17B of the New Jersey Statutes.

11 "License" means a document issued by the commissioner
12 authorizing a person to act as an insurance producer for the lines of
13 authority specified in the document. The license itself does not create
14 any authority, actual, apparent or inherent, in the holder to represent
15 or commit an insurer.

16 "Limited line credit insurance" includes credit life, credit disability,
17 credit property, credit unemployment, involuntary unemployment,
18 mortgage life, mortgage guaranty, mortgage disability, automobile
19 dealer gap insurance, and any other form of insurance offered in
20 connection with an extension of credit that is limited to partially or
21 wholly extinguishing that credit obligation that the commissioner
22 determines should be designated a form of limited line credit
23 insurance.

24 "Limited line credit insurance producer" means a person who sells,
25 solicits or negotiates one or more forms of limited line credit insurance
26 coverage to individuals through a master corporate, group or individual
27 contract or policy.

28 ¹Limited lines insurance" means those lines of insurance established
29 pursuant to section 14 of this act or any other line of insurance that the
30 commissioner determines is necessary to recognize for the purposes of
31 complying with subsection e. of section 9 of this act.¹

32 "Limited lines insurance producer" means a person who is
33 authorized ¹[to sell, solicit or negotiate contracts or policies for a
34 particular line of insurance as an agent for an insurer authorized to
35 write that line in this State which, by the nature of the line of business
36 and the manner by which it is marketed to the public, does not require
37 the professional competency demanded for an insurance producer
38 license]by the commissioner to sell, solicit or negotiate limited lines
39 insurance or to engage in the business of an insurance consultant¹.

40 "NAIC" means the National Association of Insurance
41 Commissioners, its affiliates or subsidiaries, or any agency or
42 committee thereof.

43 "Negotiate" means the act of conferring directly with or offering
44 advice directly to a purchaser or prospective purchaser of a particular
45 contract or policy of insurance concerning any of the substantive
46 benefits, terms or conditions of the contract or policy, provided that

1 the person engaged in that act either: sells insurance or obtains
2 insurance from insurers for purchasers.

3 "Person" means an individual or a business entity.

4 "Sell" means to exchange a contract or policy of insurance by any
5 means, for money or its equivalent, on behalf of an insurer.

6 "Solicit" means attempting to sell insurance or asking or urging a
7 person to apply for a particular kind of insurance from a particular
8 insurer.

9 "Surplus lines insurance producer" means a person who is
10 authorized to sell, solicit or negotiate contracts or policies of
11 insurance coverage on behalf of unauthorized insurers pursuant to "the
12 surplus lines law," P.L.1960, c.32 (C.17:22-6.40 et seq.); and "surplus
13 lines" shall have the same meaning as generally accorded to it by that
14 act.

15 "Terminate" means the cancellation of the relationship between an
16 insurance producer and the insurer or the termination of a producer's
17 authority to transact insurance.

18 "Uniform business entity application" means the current version of
19 the NAIC uniform business entity application for resident and
20 nonresident business entities.

21 "Uniform application" means the current version of the NAIC
22 uniform application for resident and nonresident insurance producer
23 licensing.

24

25 4. ¹(New section)¹ A person shall not sell, solicit or negotiate
26 insurance in this State unless the person is licensed for that line of
27 authority in accordance with this act.

28

29 5. ¹(New section)¹ a. Nothing in this act shall be construed to
30 require an insurer to obtain an insurance producer license. ¹In this
31 section, the term "insurer" does not include an insurer's officers,
32 directors, employees, subsidiaries or affiliates.¹

33 b. A license as an insurance producer shall not be required of the
34 following:

35 (1) An officer, director or employee of an insurer or of an
36 insurance producer, provided that the officer, director or employee
37 does not receive any commission on contracts or policies written or
38 sold to insure risks residing, located or to be performed in this State
39 and:

40 (a) The officer's, director's or employee's activities are executive,
41 administrative, managerial, clerical or a combination of these, and are
42 only indirectly related to the sale, solicitation or negotiation of
43 insurance; or

44 (b) The officer's, director's or employee's function relates to
45 underwriting, loss control, inspection or the processing, adjusting,
46 investigating or settling of a claim on a contract or policy of insurance;

1 or

2 (c) The officer, director or employee is acting in the capacity of a
3 special agency or agency supervisor assisting insurance producers and
4 those activities are limited to providing technical advice and assistance
5 to licensed insurance producers and do not include the sale,
6 solicitation or negotiation of insurance;

7 (2) A person who secures and furnishes information for the
8 purpose of group life insurance, group property and casualty
9 insurance, group annuities, group or blanket accident and health
10 insurance; or for the purpose of enrolling individuals under insurance
11 plans, issuing certificates under insurance plans or otherwise assisting
12 in administering insurance plans; or performs administrative services
13 related to mass marketed property and casualty insurance; where no
14 commission is paid to the person for the service;

15 (3) An employer or association or its officers, directors,
16 employees, or the trustees of an employee trust plan, to the extent that
17 the employers, officers, employees, directors or trustees are engaged
18 in the administration or operation of a program of employee benefits
19 for the employer's or association's own employees or the employees of
20 its subsidiaries or affiliates, which program involves the use of
21 insurance issued by an insurer, as long as the employers, associations,
22 officers, directors, employees or trustees are not in any manner
23 compensated, directly or indirectly, by the insurer issuing the contracts
24 or policies;

25 (4) Employees of insurers or organizations employed by insurers
26 who are engaging in the inspection, rating or classification of risks, or
27 in the supervision of the training of insurance producers and who are
28 not individually engaged in the sale, solicitation or negotiation of
29 insurance;

30 (5) A person whose activities in this State are limited to advertising
31 without the intent to solicit insurance in this State through
32 communications in printed publications or other forms of electronic
33 mass media whose distribution is not limited to residents of this State,
34 provided that the person does not sell, solicit or negotiate insurance
35 that would insure risks residing, located or to be performed in this
36 State;

37 (6) A person who is not a resident of this State who sells, solicits
38 or negotiates a contract or policy of insurance for commercial property
39 and casualty risks to an insured with risks located in more than one
40 state insured under that contract or policy, so long as that person is
41 otherwise licensed as an insurance producer to sell, solicit or negotiate
42 that insurance in the state in which the insured maintains its principal
43 place of business and the contract or policy of insurance insures risks
44 located in that state; ¹or¹

45 (7) A salaried full-time employee who counsels or advises his
46 employer relative to the insurance interests of the employer or of the

1 subsidiaries or business affiliates of the employer if the employee does
2 not sell or solicit insurance or receive a commission¹ [; or

3 (8) Employees of an insurer or insurance producer who respond to
4 requests from contract or policyholders on existing contracts or
5 policies if those employees are not directly compensated based on the
6 volume of premiums that may result from these services and if those
7 employees do not otherwise sell, solicit or negotiate insurance]¹.

8

9 6. ¹(New section)¹ a. ¹[An] A resident¹ individual ¹[residing in
10 this State and]¹ applying for an insurance producer license shall pass
11 a written examination unless exempt pursuant to section 10 of this act.
12 The examination shall test the knowledge of the individual concerning
13 the lines of authority for which application is made, the duties and
14 responsibilities of an insurance producer and the insurance laws and
15 regulations of this State. Examinations required by this section shall
16 be developed and conducted under rules and regulations prescribed by
17 the commissioner.

18 b. The commissioner may make arrangements, including contracting
19 with an outside testing service, for administering examinations and
20 collecting the nonrefundable fee set forth in section 19 of this act.

21 c. Each individual applying for an examination shall remit a
22 nonrefundable fee as prescribed by the commissioner as set forth in
23 section 19 of this act.

24 d. An individual who fails to appear for the examination as
25 scheduled or fails to pass the examination, may reapply for an
26 examination and shall remit all required fees and forms before being
27 rescheduled for another examination.

28

29 7. ¹(New section)¹ a. An individual applying for a resident
30 insurance producer license shall make application to the commissioner
31 on the uniform application and declare under penalty of refusal,
32 suspension or revocation of the license that the statements made in the
33 application are true, correct and complete to the best of the
34 individual's knowledge and belief. Before approving the application,
35 the commissioner shall find that the individual:

36 (1) Is at least 18 years of age;

37 (2) Has not committed any act that is a ground for denial,
38 suspension or revocation set forth in section 15 of this act;

39 (3) Has completed a prelicensing course of study for the lines of
40 authority for which the individual has applied as prescribed by the
41 commissioner by regulation;

42 (4) Has paid the fees set forth in section 19 of this act; and

43 (5) Has successfully passed the examinations for the lines of
44 authority for which the individual has applied.

45 b. A business entity acting as an insurance producer shall obtain an
46 insurance producer license. Application shall be made using the

1 uniform business entity application. Before approving the application,
2 the commissioner shall find that:

3 (1) The business entity has paid the fees set forth in section 19 of
4 this act; and

5 (2) The business entity has designated a licensed insurance
6 producer ¹or producers¹ responsible for the business entity's
7 compliance with the insurance laws, rules and regulations of this State.

8 c. The commissioner may require any documents reasonably
9 necessary to verify the information contained in an application.

10 d. Each insurer that sells, solicits or negotiates any form of limited
11 line credit insurance shall provide to each individual whose duties will
12 include selling, soliciting or negotiating limited line credit insurance a
13 program of instruction that is approved by the commissioner.

14

15 8. ¹(New section)¹ a. Unless denied licensure pursuant to section
16 15 of this act, persons who have met the requirements of sections 6
17 and 7 of this act shall be issued a resident insurance producer license.
18 An insurance producer may receive qualification for a license in one or
19 more of the following lines of authority:

20 (1) Life-insurance coverage on human lives, including benefits of
21 endowment and annuities, and which may include benefits in the event
22 of death or dismemberment by accident and benefits for disability
23 income;

24 (2) Accident and health or sickness-insurance coverage for
25 sickness, bodily injury or accidental death, and which may include
26 benefits for disability income;

27 (3) Property-insurance coverage for the direct or consequential
28 loss or damage to property of every kind;

29 (4) Casualty-insurance coverage against legal liability, including
30 that for death, injury or disability or damage to real or personal
31 property;

32 (5) Variable life and variable annuity products-insurance coverage
33 provided under variable life insurance contracts, variable annuities or
34 any other life insurance or annuity product that reflects the investment
35 experience of a separate account;

36 (6) Credit-limited line credit insurance;

37 (7) ¹Personal lines - property and casualty insurance coverage sold
38 to individuals and families for primarily noncommercial purposes:

39 (8)¹ Any other line of insurance permitted under ¹[State] any¹ law
40 or regulation ¹of this State¹.

41 b. An insurance producer license shall remain in effect unless
42 revoked or suspended as long as the fee set forth in section 19 of this
43 act is timely paid and in the case of resident individual insurance
44 producers, education requirements are timely satisfied.

45 c. An individual insurance producer who allows his license to lapse
46 may, within 12 months from the due date of the renewal fee, reinstate

1 the same license without the necessity of passing a written
2 examination. However, a penalty in ¹[the] an¹ amount ¹[of] not to
3 exceed¹ double the unpaid renewal fee shall be required for any
4 renewal fee received after the due date.

5 d. A licensed insurance producer who is unable to comply with
6 license renewal procedures due to military service or some other
7 extenuating circumstance, such as long-term medical disability, may
8 request a waiver of those procedures. The producer may also request
9 a waiver of any examination requirement or any other fine or sanction
10 imposed for failure to comply with renewal procedures.

11 e. The license shall contain the licensee's name, address, personal
12 identification number, and the date of issuance, the lines of authority,
13 the expiration date and any other information the commissioner deems
14 necessary.

15 f. Licensees shall inform the commissioner by any means acceptable
16 to the commissioner of a change of address within 30 days of the
17 change.

18

19 9. ¹(New section)¹ a. Unless denied licensure pursuant to section
20 15 of this act, a nonresident person shall receive a nonresident
21 insurance producer license if:

22 (1) The person is currently licensed as a resident insurance
23 producer in good standing in his home state;

24 (2) The person has submitted the proper request for licensure and
25 has paid the fees required by section 19 of this act;

26 (3) The person has submitted or transmitted to the commissioner
27 the application for licensure that the person submitted to his home
28 state, or in lieu of the same, a completed uniform application; and

29 (4) The person's home state awards nonresident insurance producer
30 licenses to residents of this State on the same basis.

31 b. The commissioner may verify the nonresident insurance
32 producer's licensing status through the Producer Database maintained
33 by the NAIC.

34 c. A nonresident insurance producer who moves from one state to
35 another state or a resident insurance producer who moves from this
36 State to another state shall file a change of address and provide
37 certification from the new resident state within 30 days of the change
38 of legal residence. No fee or license application shall be required.

39 d. Subject to section 13 of this act, a person licensed as a surplus
40 lines insurance producer in his home state shall receive a nonresident
41 surplus lines insurance producer license pursuant to subsection a. of
42 this section.

43 e. Subject to section 14 of this act, a person licensed as a limited
44 line credit insurance or other type of limited lines insurance producer
45 in his home state shall receive a nonresident limited lines insurance
46 producer license, pursuant to subsection a. of this section, granting the

1 same scope of authority as granted under the license issued by the
2 producer's home state.

3 ¹f. Each licensed nonresident insurance producer shall, by
4 application for and issuance of, a license be deemed to have appointed
5 the commissioner as agent to receive service of original legal process
6 in this State in any cause of action or legal proceedings arising within
7 this State out of transactions under the license. Service upon the
8 commissioner shall be of the same force and effect as if served on the
9 nonresident insurance producer. This appointment shall be irrevocable
10 for as long as there can be any cause of action against the nonresident
11 insurance producer arising out of insurance transactions for which a
12 nonresident insurance producer license is required. Duplicate copies
13 of the legal process shall be served upon the commissioner. At the time
14 of service the commissioner shall be paid a fee established pursuant to
15 section 19 of this act payable as costs in the action. Upon receiving
16 service, the commissioner shall send one of the copies by registered or
17 certified mail, return receipt requested, to the named nonresident
18 insurance producer at his last known business or residence address.

19 g. The commissioner shall be immune from all civil actions
20 resulting from the licensee's failure to receive service of process if the
21 commissioner, pursuant to subsection f. of this section, forwards the
22 service to the last business or residence address filed by the licensee
23 as his address. Immunity under this subsection is in no way intended
24 to diminish or otherwise affect the immunity available to the
25 commissioner pursuant to the "New Jersey Tort Claims Act,"
26 N.J.S.59:1-1 et seq.¹

27
28 10. ¹(New section)¹ a. An individual who applies for an insurance
29 producer license in this State who was previously licensed for the same
30 lines of authority in another state shall not be required to complete any
31 prelicensing education or examination. This exemption is only
32 available if the person is currently licensed in that state or if the
33 application is received within 90 days of the cancellation of the
34 applicant's previous license and if the prior state issues a certification
35 that, at the time of cancellation, the applicant was in good standing in
36 that state or the state's Producer Database records, maintained by the
37 NAIC, indicate that the producer is or was licensed in good standing
38 for the lines of authority requested.

39 b. A person licensed as an insurance producer in another state who
40 moves to this State shall make application within 90 days of
41 establishing legal residence to become a resident licensee pursuant to
42 section 7 of this act. No prelicensing education or examination shall
43 be required of that person to obtain any lines of authority previously
44 held in the prior state except in cases in which the commissioner
45 determines otherwise by regulation.

1 11. ¹(Newsection)¹ An insurance producer doing business under
2 any name other than the producer's legal name shall notify the
3 commissioner prior to using the assumed name.

4
5 12. ¹(New section)¹ a. The commissioner may issue a temporary
6 insurance producer license for a period not to exceed 180 days without
7 requiring an examination if the commissioner determines that the
8 temporary license is necessary for the servicing of an insurance
9 business in the following cases:

10 (1) To the surviving spouse or court-appointed personal
11 representative of a licensed insurance producer, upon the death or
12 disability of that producer, to allow adequate time for the sale of the
13 insurance business owned by the producer or for the recovery or
14 return of the producer to the business or to provide for the training
15 and licensing of new personnel to operate the producer's business;

16 (2) To a member or employee of a business entity licensed as an
17 insurance producer, upon the death or disability of an individual
18 designated in the business entity application or the license as
19 responsible for the business entity's compliance with the insurance
20 laws, rules and regulations of this State;

21 (3) To the designee of a licensed insurance producer entering
22 active service in the armed forces of the United States of America; or

23 (4) In any other circumstance in which the commissioner determines
24 that the public interest will best be served by the issuance of a
25 temporary insurance producer license.

26 b. The commissioner may, by order, limit the authority of any
27 temporary licensee in any way necessary to protect insureds and the
28 public. The commissioner may require the temporary licensee to have
29 a suitable sponsor who is a licensed insurance producer or insurer and
30 who assumes responsibility for all acts of the temporary licensee and
31 may impose other similar requirements designed to protect insureds
32 and the public. The commissioner may by order revoke a temporary
33 license if the interest of insureds or the public are endangered. A
34 temporary license shall not continue after the owner or the personal
35 representative disposes of the insurance producer's business.

36
37 13. ¹(New section)¹ a. No license granting surplus lines authority
38 shall be issued or renewed unless the applicant¹[:

39 (1) Maintains a bona fide office in this State;

40 (2) Holds] holds¹ or will hold ¹[property/casualty authority; and

41 (3) Has filed with the commissioner a bond in favor of the
42 commissioner or his successors in office in an amount of not less than
43 \$25,000, aggregate liability, with a surety approved by the
44 commissioner. The commissioner may, in his discretion, require a
45 bond in a larger amount commensurate with the volume of surplus
46 lines business transacted or to be transacted by the licensee. The bond

1 shall become payable to the commissioner upon failure of the licensee
2 to comply with any of the requirements of subtitle 3 of Title 17 of the
3 Revised Statutes, and shall continue in effect as long as the licensee
4 holds surplus lines authority] property and casualty authorities¹.

5 b. No surplus lines producer shall charge any fee to an originating
6 broker in connection with the negotiation or procurement of any
7 contract of surplus lines insurance that shall exceed \$50 plus the actual
8 costs incurred for any services performed by a person that is not
9 associated with the surplus lines producer, such as inspection services.

10
11 14. ¹[a.] (New section)¹ The commissioner shall establish, by rule
12 or regulation, the line or lines of insurance that may be marketed
13 through a limited lines insurance producer. ¹[A person may act as a
14 limited lines insurance producer for the lines of insurance authorized,
15 from the date on which he is registered and until the date of
16 termination, pursuant to the provisions of this act.

17 b. Any insurer authorized in this State to transact the line or lines
18 of insurance that may be marketed through a limited lines insurance
19 producer, may contract, in writing, with any person to act as its limited
20 lines insurance producer. An insurer shall register with the
21 commissioner the name and business address of each limited lines
22 insurance producer, together with any other information that the
23 commissioner may require. The insurer shall provide written notice to
24 the commissioner when any limited lines insurance producer contract
25 is terminated.

26 c. Prior to contracting with any person to act as a limited lines
27 insurance producer pursuant to subsection b. of this section, the
28 insurer shall satisfy itself that the person to be registered is capable,
29 competent and worthy; has established a permanent, bona fide office
30 in this State; and has successfully completed any educational and
31 examination requirements that the commissioner may require by rule
32 or regulation.

33 d. A limited lines insurance producer shall be subject to suspension
34 or revocation of registration privileges, or imposition of a fine, for any
35 violation of applicable standards of conduct contained in section 15 of
36 this act, or violation of any other specific standards of conduct that the
37 commissioner may provide by rule or regulation for limited lines
38 insurance producers.

39 e. A limited lines insurance producer shall maintain a permanent
40 office in this State in which the following items shall be kept:

41 (1) A copy of the written agreement between himself and the
42 insurer for which he serves as a limited lines insurance producer;

43 (2) Evidence of the completion of educational and examination
44 requirements as prescribed by the commissioner by rule or regulation;

45 (3) A prominently displayed sign advising the public of the name
46 of the insurer represented and the lines of insurance available;

- 1 (4) Records of every insurance contract or policy written by the
2 limited lines insurance producer; and
- 3 (5) Any other items or records that the commissioner may require
4 by rule or regulation.]¹.
- 5
- 6 15. ¹(New section) a. The commissioner may place on probation,
7 suspend, revoke or refuse to issue or renew an insurance producer's
8 license or may levy a civil penalty in accordance with subsection c. of
9 section 20 of this act or any combination of actions, for any one or
10 more of the following causes:
- 11 (1) Providing incorrect, misleading, incomplete or materially untrue
12 information in the license application;
- 13 (2) Violating any insurance laws, or violating any regulation,
14 subpoena or order of the commissioner or of another state's insurance
15 regulator;
- 16 (3) Obtaining or attempting to obtain a license through
17 misrepresentation or fraud;
- 18 (4) Improperly withholding, misappropriating or converting any
19 monies or properties received in the course of doing insurance
20 business;
- 21 (5) Intentionally misrepresenting the terms of an actual or
22 proposed insurance contract, policy or application for insurance;
- 23 (6) Having been convicted of a felony or crime of the fourth degree
24 or higher;
- 25 (7) Having admitted or been found to have committed any
26 insurance unfair trade practice or fraud;
- 27 (8) Using fraudulent, coercive or dishonest practices, or
28 demonstrating incompetence, untrustworthiness or financial
29 irresponsibility in the conduct of insurance business in this State or
30 elsewhere;
- 31 (9) Having an insurance producer license, or its equivalent, denied,
32 suspended or revoked in any other state, province, district or territory;
- 33 (10) Forging another's name to an application for insurance or to
34 any document related to an insurance transaction;
- 35 (11) Improperly using notes or any other reference material to
36 complete an examination for an insurance producer license;
- 37 (12) Knowingly accepting insurance business from an ¹[individual
38 who is not a licensed] unlicensed¹ insurance producer;
- 39 (13) Failing to comply with an administrative or court order
40 imposing a child support obligation; ¹[or]¹
- 41 (14) Failing to pay income tax or comply with any administrative
42 or court order directing payment of income tax pursuant to Title 54A
43 of the New Jersey Statutes¹;
- 44 (15) Intentionally withholding material information or making a
45 material misstatement in an application for a license;
- 46 (16) Committing any fraudulent act;

1 (17) Knowingly facilitating or assisting another person in violating
2 any insurance laws; or

3 (18) Failing to notify the commissioner within 30 days of his
4 conviction of any crime, indictment or the filing of any formal criminal
5 charges, or the suspension or revocation of any insurance license or
6 authority by a state, other than this State, or the initiation of formal
7 disciplinary proceedings in a state, other than this State, affecting the
8 producer's insurance license; or failing to obtain the written consent
9 pursuant to 18 U.S.C. sections 1033 and 1034; or failing to supply any
10 documentation that the commissioner may request in connection
11 therewith¹.

12 b. If the action by the commissioner is to nonrenew or to deny an
13 application for an insurance producer license, the commissioner shall
14 notify the applicant or licensee and advise, in writing, the applicant or
15 licensee of the reason for the denial or nonrenewal of the license. The
16 applicant or licensee may make written demand upon the commissioner
17 for a hearing before the commissioner, or his designee, to determine
18 the reasonableness of the commissioner's action. The hearing shall be
19 held pursuant to the "Administrative Procedure Act," P.L.1968, c.410
20 (C.52:14B-1 et seq.).

21 c. The insurance producer license of a business entity may be
22 suspended, revoked or refused if the commissioner finds, after hearing,
23 that an individual licensee's violation was known or should have been
24 known by one or more of the partners, officers or managers acting on
25 behalf of the business entity and the violation was neither reported to
26 the commissioner nor corrective action taken.

27 d. The commissioner shall retain the authority to enforce the
28 provisions of and impose any penalty or remedy authorized by this act
29 and Title 17 of the Revised Statutes or Title 17B of the New Jersey
30 Statutes against any person who is under investigation for or charged
31 with a violation of this act or Title 17 of the Revised Statutes or Title
32 17B of the New Jersey Statutes even if the person's license or
33 registration has been surrendered or has lapsed by operation of law.
34

35 16. ¹(New section)¹ a. An insurer or insurance producer shall not
36 pay a commission, service fee, brokerage or other valuable
37 consideration to a person for selling, soliciting or negotiating
38 insurance in this State if that person is required to be licensed under
39 this act and is not so licensed.

40 b. A person shall not accept a commission, service fee, brokerage
41 or other valuable consideration for selling, soliciting or negotiating
42 insurance in this State if that person is required to be licensed under
43 this act and is not so licensed.

44 c. Renewal or other deferred commissions may be paid to a person
45 for selling, soliciting or negotiating insurance in this State if the person
46 was required to be licensed under this act at the time of the sale,

1 solicitation or negotiation and was so licensed at that time.

2 d. An insurer or insurance producer may pay or assign commissions,
3 service fees, brokerages or other valuable consideration to an
4 insurance agency or to persons who do not sell, solicit or negotiate
5 insurance in this State, unless the payment would violate section 15 of
6 P.L.1944, c.27 (C.17:29A-15), section 14 of P.L.1982, c.114
7 (C.17:29AA-14), section 4 of P.L.1947, c.379 (C.17:29B-4), section
8 5 of P.L.1968, c.248 (C.17:46A-5), section 34 or 35 of P.L.1975,
9 c.106 (C.17:46B-34 or 17:46B-35) or N.J.S.17B:30-13 or any other
10 provision of law.

11

12 17. ¹[a. An insurance producer shall not act as an agent of an
13 insurer unless the insurance producer becomes an appointed agent of
14 that insurer. An insurance producer who is not acting as an agent of
15 an insurer is not required to become appointed.

16 b. To appoint an insurance producer as its agent, the appointing
17 insurer shall file, in a format approved by the commissioner, a notice
18 of appointment within 15 days from the date the agency contract is
19 executed or the first insurance application is submitted by the
20 insurance producer. An insurer may also elect to appoint an insurance
21 producer to all or some insurers within the insurer's holding company
22 system or group by the filing of a single appointment request.

23 c. Upon receipt of the notice of appointment, the commissioner
24 shall verify within 30 days that the insurance producer is eligible for
25 appointment. If the insurance producer is determined to be ineligible
26 for appointment, the commissioner shall notify the insurer within five
27 days of his determination.

28 d. An insurer shall pay an appointment fee, in the amount and
29 method of payment set forth in section 19 of this act for each
30 insurance producer appointed by the insurer.

31 e. An insurer shall remit, in a manner prescribed by the
32 commissioner, a renewal appointment fee in the amount set forth in
33 section 19 of this act.]

34 (New section) a. Any insurer authorized to transact business in
35 this State may, by written contract, appoint as its agent, a person that
36 holds a valid insurance producer license issued in accordance with the
37 provisions of this act. The contract shall authorize the insurance
38 producer to act as an agent for the appointing insurer for all lines of
39 insurance for which the insurer is authorized in this State and the agent
40 holds authority in this State, unless specifically limited. The contract
41 shall contain the duties, responsibilities and limitations of authority
42 between the agent and the appointing insurer, and the agent shall abide
43 by its terms. While the agent is properly licensed, an agency
44 appointment shall continue in effect until termination in accordance
45 with this act. Both the appointing insurer and the appointed agent
46 shall maintain a copy of the agency contract in their office, and shall

1 make the contract available for inspection by the commissioner upon
2 request. Nothing contained in this subsection shall be construed as
3 granting the commissioner the authority to determine contractual
4 disputes between an appointing insurer and an appointed agent.

5 b. Upon the cancellation of an agency contract in accordance with
6 section 1 of P.L.1970, c.217 (C.17:22-6.14a), the insurer shall within
7 15 days file written notice of cancellation with the commissioner.
8 Notice of cancellation shall be on a form prescribed by the
9 commissioner and shall indicate the date of cancellation and the reason
10 therefor. Agency appointment shall not terminate until the notice of
11 cancellation has been filed with the commissioner. The requirements
12 of this subsection shall not affect any notice or filing requirements
13 otherwise established by law.

14 c. Any insurer appointing an agent pursuant to this section shall file
15 with the commissioner, on a form prescribed by the commissioner, a
16 notice of appointment providing the names and business addresses of
17 its agents, including notice of any limitations on the agent's authority.
18 The filing of a single notice of appointment by each insurer
19 represented by a licensed business entity shall cover all of its licensed
20 producers.

21 d. The filing of notice of appointment pursuant to subsection c. of
22 this section shall constitute notice that the named insurance producer
23 has been appointed an agent for any subsidiary or affiliate company of
24 the insurer if certified copies of any resolution duly adopted by the
25 board of directors of each insurer requesting that authority are filed
26 with the commissioner. The resolution shall also designate the primary
27 insurer for which all of the insurer's agents shall be appointed.¹

28
29 18. ¹(New section)¹ a. ¹[An insurer or authorized producer of the
30 insurer that terminates the appointment, employment, contract or other
31 insurance business relationship with an insurance producer shall notify
32 the commissioner within 30 days following the effective date of the
33 termination, using a format prescribed by the commissioner, if the
34 reason for termination is one of the reasons set forth in section 15 of
35 this act or if the insurer has knowledge that the producer was found by
36 a court, government body, or self-regulatory organization authorized
37 by law, to have engaged in any of the activities in section 15 of this
38 act. Upon the written request of the commissioner, the insurer shall
39 provide additional information, documents, records or other data
40 pertaining to the termination or activity of the producer.

41 b. An insurer or authorized producer of the insurer that terminates
42 the appointment, employment or contract with an insurance producer,
43 for any reason not set forth in section 15 of this act, shall notify the
44 commissioner within 30 days following the effective date of the
45 termination, using a format prescribed by the commissioner. Upon
46 written request of the commissioner, the insurer shall provide

1 additional information, documents, records or other data pertaining to
2 the termination.

3 c. The insurer or the authorized producer of the insurer shall
4 promptly notify the commissioner in a format acceptable to the
5 commissioner if, upon further review or investigation, the insurer
6 discovers additional information that would have been reportable to
7 the commissioner in accordance with subsection a. of this section had
8 the insurer then known of its existence.

9 d. (1) Within 15 days after making the notification required by this
10 section, the insurer shall mail a copy of the notification to the
11 insurance producer at his last known address. If the producer is
12 terminated for any of the reasons listed in section 15 of this act, the
13 insurer shall provide a copy of the notification to the producer at his
14 last known address by certified mail, return receipt requested, postage
15 prepaid or by overnight delivery using a nationally recognized carrier.

16 (2) Within 30 days after the insurance producer has received the
17 original or additional notification, the producer may file written
18 comments concerning the substance of the notification with the
19 commissioner. The producer shall, by the same means, simultaneously
20 send a copy of the comments to the reporting insurer, and the
21 comments shall become a part of the commissioner's file and
22 accompany every copy of a report distributed or disclosed for any
23 reason about the producer as permitted under subsection f. of this
24 section.

25 e.]¹ (1) In the absence of actual malice, an insurer, the authorized
26 representative of the insurer, an insurance producer, the commissioner,
27 or an organization of which the commissioner is a member and that
28 compiles the information and makes it available to other insurance
29 commissioners or regulatory or law enforcement agencies, shall not be
30 subject to civil liability, and a civil cause of action of any nature shall
31 not arise against these entities or their respective agents or employees,
32 as a result of any statement or information required by or provided
33 pursuant to ¹section 17 of this act or¹ this section or any information
34 relating to any statement that may be requested in writing by the
35 commissioner, from an insurer or insurance producer; or a statement
36 by a terminating insurer or insurance producer to an insurer or
37 insurance producer limited solely and exclusively to whether a
38 termination for cause under subsection ¹[a.]¹ of ¹[this]¹ section ¹17
39 of this act¹ was reported to the commissioner, provided that the
40 propriety of any termination for cause ¹[under subsection a.]¹ is
41 certified in writing by an officer or authorized representative of the
42 insurer or insurance producer terminating the relationship.

43 (2) In any action brought against a person that has immunity under
44 paragraph (1) of this subsection for making any statement required by
45 this section or providing any information relating to any statement that
46 may be requested by the commissioner, the party bringing the action

1 shall plead specifically in any allegation that paragraph (1) does not
2 apply because the person making the statement or providing the
3 information did so with actual malice.

4 (3) Paragraph (1) or (2) of this subsection shall not abrogate or
5 modify any existing statutory or common law privileges or immunities.

6 ¹[f.] b.¹ (1) Any documents, materials or other information in the
7 control or possession of the department furnished by an insurer,
8 insurance producer or an employee or agent thereof acting on behalf
9 of the insurer or insurance producer, or obtained by the commissioner
10 in an investigation pursuant to this section, shall be confidential by law
11 and privileged, shall not be subject to any State or federal freedom of
12 information law, shall not be subject to subpoena, and shall not be
13 subject to discovery or admissible in evidence in any private civil
14 action. However, the commissioner is authorized to use the
15 documents, materials or other information in the furtherance of any
16 regulatory or legal action brought as a part of the commissioner's
17 duties.

18 (2) Neither the commissioner, nor any person who received
19 documents, materials or other information while acting under the
20 authority of the commissioner, shall be permitted or required to testify
21 in any private civil action concerning any confidential documents,
22 materials, or information subject to paragraph (1) of this subsection.

23 (3) In order to assist in the performance of the commissioner's
24 duties under this act, the commissioner:

25 (a) May share documents, materials or other information, including
26 the confidential and privileged documents, materials or information
27 subject to paragraph (1) of this subsection, with other state, federal,
28 and international regulatory agencies, with the NAIC, and with state,
29 federal, and international law enforcement authorities, provided that
30 the recipient agrees to maintain the confidentiality and privileged
31 status of the document, material or other information pursuant to this
32 section;

33 (b) May receive documents, materials or information, including
34 otherwise confidential and privileged documents, materials or
35 information, from the NAIC and from regulatory and law enforcement
36 officials of other foreign or domestic jurisdictions, and shall maintain
37 as confidential or privileged any document, material or information
38 received with notice or the understanding that it is confidential or
39 privileged under the laws of the jurisdiction that is the source of the
40 document, material or information; and

41 (c) May enter into agreements governing sharing and use of
42 information consistent with this subsection.

43 (4) No waiver of any applicable privilege or claim of confidentiality
44 in the documents, materials or information shall occur as a result of
45 disclosure to the commissioner under this section or as a result of
46 sharing as authorized in paragraph (3) of this subsection.

1 (5) Nothing in this act shall prohibit the commissioner from
2 releasing final, adjudicated actions including terminations for cause
3 that are open to public inspection pursuant to P.L.1963, c.73
4 (C.47:1A-1 et seq.) to a database or other clearinghouse service
5 maintained by the NAIC.

6 ¹[g.] c.¹ An insurer, the authorized representative of the insurer,
7 or an insurance producer that fails to report as required under the
8 provisions of this section or that is found by a court of competent
9 jurisdiction to have reported with actual malice may, after notice and
10 hearing, have its license or certificate of authority suspended or
11 revoked and may be fined in accordance with section 20 of this act.

12
13 19. ¹(New section)¹ a. The commissioner shall, by regulation, set
14 reasonable, necessary and appropriate fees to be charged for licensing
15 insurance producers, filing agency appointments, filing limited
16 insurance producer registrations, filing fictitious, trade or firm names,
17 issuing certification of license status and processing any document
18 required to be submitted pursuant to this act, except that the total
19 annual revenue generated from these fees shall not be less than the
20 total annual revenue generated from equivalent fees for the preceding
21 fiscal year.

22 b. Applicants may be charged a fee for any licensing examination
23 conducted pursuant to this act in an amount designated or approved
24 by the commissioner.

25 c. All fees payable to the commissioner pursuant to this section are
26 nonrefundable.

27 d. The commissioner may, by rule or regulation, provide for the
28 waiving of fees for disabled war veterans of the United States military
29 service.

30
31 20. ¹(New section)¹ a. The commissioner shall have the power to
32 conduct investigations, to administer oaths, to interrogate licensees
33 and others, and to issue subpoenas to any licensee or any other person
34 in connection with any investigation, hearing or other proceeding
35 pursuant to this act, without fee.

36 b. Subpoenas shall be issued in the name of the commissioner, the
37 deputy commissioner or other employee designated by the
38 commissioner, but no subpoena shall be issued except for good cause.
39 Any person failing or refusing to comply with a subpoena may be
40 ordered by a judge of the Superior Court, on application made by the
41 commissioner or by the person at whose instance the subpoena was
42 issued, to comply with the terms of the subpoena or be punished by the
43 court for contempt. The court may proceed in a summary manner.

44 c. Any person violating any provision of this act shall be liable to
45 a penalty not exceeding \$5,000 for the first offense and not exceeding
46 \$10,000 for each subsequent offense to be recovered in a summary

1 proceeding in accordance with the "Penalty Enforcement Law of
2 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). In addition, the
3 commissioner or the court, as the case may be, may order restitution
4 of moneys owed any person and reimbursement of the costs of
5 investigation and prosecution, as appropriate.

6 d. In any formal proceeding, if the commissioner finds that the
7 interests of the public require that immediate action be taken prior to
8 completion of the hearing, the making of a determination and the entry
9 of a final order, he may enter an appropriate order to be effective
10 pending completion of the hearing and entry of a final order. These
11 orders may be entered on ex parte proofs if the proofs indicate that the
12 commissioner's withholding of any action until completion of a full
13 hearing will be harmful to the public interest. Orders issued pursuant
14 to this section shall be subject to an application to vacate upon 10
15 days' notice, and a preliminary hearing on the ex parte order shall be
16 held in any event within 20 days after it is entered. In the alternative,
17 or in addition, the commissioner is authorized to institute a proceeding
18 in the Superior Court, to be conducted in a summary manner, for an
19 injunction against specified acts or conduct in aid of the proceedings
20 pending before him, including temporary injunctions and interim
21 restraints.

22

23 21. ¹(New section)¹ a. The commissioner shall not assess a greater
24 fee for an insurance producer license or related service to a person not
25 residing in this State based solely on the fact that the person does not
26 reside in this State.

27 b. The commissioner shall waive any license application
28 requirements for a nonresident insurance producer license applicant
29 with a valid license from his home state, except the requirements
30 imposed by section 9 of this act, if the applicant's home state awards
31 nonresident insurance producer licenses to licensees of this State on
32 the same basis.

33 c. A nonresident insurance producer's satisfaction of his home
34 state's continuing education requirements for licensed insurance
35 producers shall constitute satisfaction of this State's continuing
36 education requirements if the nonresident producer's home state
37 recognizes the satisfaction of its continuing education requirements
38 imposed upon insurance producers from this State on the same basis.

39

40 22. ¹(New section)¹ a. An insurance producer shall report to the
41 commissioner any administrative action taken against the insurance
42 producer in another jurisdiction or by another governmental agency in
43 this State within 30 days of the final disposition of the matter. This
44 report shall include a copy of the order, consent order or other
45 relevant legal documents.

46 b. Within 30 days of the initial pretrial hearing date, an insurance

1 producer shall report to the commissioner any criminal prosecution of
2 the producer taken in any jurisdiction. The report shall include a copy
3 of the initial complaint filed, the order resulting from the hearing and
4 any other relevant legal documents.

5
6 ¹23. Section 8 of P.L.1960, c.32 (C.17:22-6.42) is amended to
7 read as follows:

8 8. If certain insurance coverages of subjects resident, located, or
9 to be performed in this State cannot be procured from authorized
10 insurers, such coverages, hereinafter designated "surplus lines," may
11 be procured from unauthorized insurers, subject to the following
12 conditions:

13 (a) The insurance must be eligible for export under section 9 of
14 P.L.1960, c.32 (C.17:22-6.43);

15 (b) The insurer must be an eligible surplus lines insurer under
16 section 11 of P.L.1960, c.32 (C.17:22-6.45);

17 (c) The insurance must be so placed through a licensed New Jersey
18 surplus lines agent [whose office and records are maintained in New
19 Jersey]; and

20 (d) Other applicable provisions of this surplus lines law must be
21 complied with.

22 (e) No surplus lines agent shall exercise binding authority in this
23 State on behalf of any insurer unless the agent has first filed with the
24 commissioner for informational purposes and not for the purpose of
25 approval or disapproval the written agreement between the agent and
26 the insurer setting forth the terms, conditions and limitations
27 governing the exercise of the binding authority by the agent. A copy
28 of any amendments to the agreement and of any notice of cancellation
29 or termination of the agreement shall be filed by the agent with the
30 commissioner no later than 10 days after adoption thereof.

31 The agreement filed pursuant to this section shall be considered and
32 treated as a confidential document, and shall not be available for
33 inspection by the public.

34 The agreement shall include the following items:

35 (1) A description of the classes of insurance for which the agent
36 holds binding authority;

37 (2) The geographical limits upon the exercise of binding authority
38 by the agent;

39 (3) The maximum dollar limitation on the binding authority of the
40 agent for any one risk for each class of insurance written by the agent;

41 (4) The maximum policy period for which the agent may bind a
42 risk;

43 (5) If the binding authority is delegable by the agent, a prohibition
44 against the delegation without the prior written approval of the
45 insurer.

46 If an agent who is qualified in accordance with this section to

1 exercise binding authority on behalf of an insurer delegates the binding
2 authority to any other agent, the agent to whom the authority is
3 delegated shall not exercise the same until a copy of the instrument
4 delegating the binding authority shall first have been filed with the
5 commissioner for informational purposes and not for the purpose of
6 approval or disapproval. The instrument delegating the binding
7 authority shall include an identification of the binding authority
8 agreement between the delegating agent and the insurer.¹

9 (cf: P.L.1996, c.69, s.2)

10
11 ¹24. Section 23 of P.L.1960, c.32 (C. 17:22-6.57) is amended to
12 read as follows:

13 23. Each surplus lines agent shall keep in his office [in this State]
14 a full and true record of each surplus lines contract procured by him,
15 including a copy of the daily report, if any, and showing such of the
16 following items as may be applicable:

17 (a) Amount of the insurance and perils insured against;

18 (b) Brief general description of property insured and where
19 located;

20 (c) Gross premium charged;

21 (d) Return premium paid, if any;

22 (e) Rate of premium charged upon the several items of property;

23 (f) Effective date of the contract, and the terms thereof;

24 (g) Name and post-office address of the insured;

25 (h) Name and home office address of the insurer;

26 (i) Amount collected from the insured; and

27 (j) Other information as may be required by the commissioner.

28 The record shall at all times be open to examination by the
29 commissioner without notice, and shall be so kept available and open
30 to the commissioner for five years next following expiration or
31 cancellation of the contract.¹

32 (cf: P.L.1996, c.69, s.6)

33
34 ¹25. Section 27 of P.L.1960, c.32 (C.17:22-6.61) is amended to
35 read as follows:

36 27. The commissioner may suspend, revoke, or refuse to renew the
37 license of a surplus lines agent and all other licenses and permits held
38 by the licensee under this Title, upon any one or more of the following
39 grounds:

40 (a) [Removal of the licensee's office from the State] (~~Deleted by~~
41 ~~amendment, P.L. , c.~~);

42 (b) Removal of the accounts and records of his surplus lines
43 business [from this State] during the period when such accounts and
44 records are required to be maintained under section 23 of P.L.1960,
45 c.32 (C.17:22-6.57);

46 (c) Closure of the licensee's office for a period of more than 30

1 consecutive days, unless granted permission by the commissioner upon
2 showing circumstances warranting such closure for a longer period;

3 (d) Failure to make and file his quarterly reports when due as
4 required by section 24 of P.L.1960, c.32 (C.17:22-6.58);

5 (e) Failure to pay the tax on surplus lines premiums, as provided
6 for in this surplus lines law;

7 (f)~~[Failure to maintain the bond as required by section 14 of
8 P.L.1987, c.293 (C.17:22A-14)](Deleted by amendment, P.L.____,
9 c.____);~~

10 (g) Suspension, revocation or refusal to renew any other license
11 issued by the commissioner;

12 (h) Lack of qualifications as for an original surplus lines agent's
13 license;

14 (i) Violation of any provision of this surplus lines law;

15 (j) For any other cause for which a license could be denied,
16 revoked, suspended or renewal refused under section [17 of P.L.1987,
17 c.293 (C.17:22A-17)] 15 of P.L.____, c.____ (C.____) (now pending before
18 the Legislature as this bill).

19 In addition to the foregoing penalties set forth in this section, any
20 person, persons or corporation violating any of the provisions of this
21 act shall be liable to a penalty not exceeding \$2,500 for the first
22 offense and not exceeding \$5,000 for each succeeding offense to be
23 recovered in a summary proceeding as provided in R.S.17:33-2.¹
24 (cf: P.L.1996, c.69, s.9)

25

26 ¹[23.] 26. (New section) a.¹ The commissioner may, in accordance
27 with "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
28 seq.) promulgate rules and regulations necessary to effectuate the
29 purposes of this act.

30 ¹b. The commissioner may provide for the orderly transition of
31 producer license types and authorities by promulgating rules and
32 regulations that are reasonable, necessary, appropriate and consistent
33 with this act.¹

34

35 ¹[24.] 27.¹ P.L.1987, c.293 (C.17:22A-1 et seq.); section 13 of
36 P.L.1996, c.69 (C.17:22A-14.1); and P.L.1997, c.429
37 (C.17:22A-16.1) are repealed.

38

39 ¹[25.] 28.¹ This act shall take effect ¹[on the 180th day following
40 enactment] immediately, but sections 1 through 25 and 27 shall remain
41 inoperative until the adoption of regulations effectuating their
42 purposes pursuant to section 26 of this act, provided however, that no
43 provision of this act shall remain inoperative on or after November 12,
44 2002¹.

1

2

3 The "New Jersey Insurance Producer Licensing Act of 2001."

CHAPTER 210

AN ACT concerning the licensure of insurance producers, amending P.L.1960, c.32, supplementing Title 17 of the Revised Statutes and repealing parts of the statutory law.

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

C.17:22A-26 Short title.

1. This act shall be known and may be cited as the "New Jersey Insurance Producer Licensing Act of 2001."

C.17:22A:27 Purpose of act.

2. This act governs the qualifications and procedures for the licensing of insurance producers. It simplifies and organizes the statutory law to improve efficiency, permits the use of new technology and reduces costs associated with issuing and renewing insurance producer licenses.

C.17:22A-28 Definitions relative to licensure of insurance producers.

3. As used in this act:

"Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership, or other legal entity.

"Commissioner" means the Commissioner of Banking and Insurance.

"Department" means the Department of Banking and Insurance.

"Home state" means the District of Columbia and any state or territory of the United States in which an insurance producer maintains his principal place of residence or principal place of business and is licensed to act as an insurance producer.

"Insurance" means any of the lines of insurance in subtitle 3 of Title 17 of the Revised Statutes or subtitle 3 of Title 17B of the New Jersey Statutes and includes contracts or policies of life insurance, health insurance, annuities, indemnity, property and casualty, fidelity, surety, guaranty and title insurance.

"Insurance consultant" means a person, who for a commission, brokerage fee, or other consideration, acts or holds himself out to the public or any licensee as offering any advice, counsel, opinion or service with respect to the benefits, advantages or disadvantages under any insurance policy or contract that is or could be issued in this State, but shall not include bank trust officers, attorneys-at-law and certified public accountants who negotiate contracts on behalf of others or provide general financial counsel if no commission or brokerage fee is paid for those services.

"Insurance producer" means a person required to be licensed under the laws of this State to sell, solicit or negotiate insurance.

"Insurer" means a business entity authorized to transact the business of insurance in this State pursuant to subtitle 3 of Title 17 of the Revised Statutes or subtitle 3 of Title 17B of the New Jersey Statutes.

"License" means a document issued by the commissioner authorizing a person to act as an insurance producer for the lines of authority specified in the document. The license itself does not create any authority, actual, apparent or inherent, in the holder to represent or commit an insurer.

"Limited line credit insurance" includes credit life, credit disability, credit property, credit unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, automobile dealer gap insurance, and any other form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing that credit obligation that the commissioner determines should be designated a form of limited line credit insurance.

"Limited line credit insurance producer" means a person who sells, solicits or negotiates one or more forms of limited line credit insurance coverage to individuals through a master corporate, group or individual contract or policy.

"Limited lines insurance" means those lines of insurance established pursuant to section 14 of this act or any other line of insurance that the commissioner determines is necessary to recognize for the purposes of complying with subsection e. of section 9 of this act.

"Limited lines insurance producer" means a person who is authorized by the commissioner

to sell, solicit or negotiate limited lines insurance or to engage in the business of an insurance consultant.

"NAIC" means the National Association of Insurance Commissioners, its affiliates or subsidiaries, or any agency or committee thereof.

"Negotiate" means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract or policy of insurance concerning any of the substantive benefits, terms or conditions of the contract or policy, provided that the person engaged in that act either: sells insurance or obtains insurance from insurers for purchasers.

"Person" means an individual or a business entity.

"Sell" means to exchange a contract or policy of insurance by any means, for money or its equivalent, on behalf of an insurer.

"Solicit" means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular insurer.

"Surplus lines insurance producer" means a person who is authorized to sell, solicit or negotiate contracts or policies of insurance coverage on behalf of unauthorized insurers pursuant to "the surplus lines law," P.L.1960, c.32 (C.17:22-6.40 et seq.); and "surplus lines" shall have the same meaning as generally accorded to it by that act.

"Terminate" means the cancellation of the relationship between an insurance producer and the insurer or the termination of a producer's authority to transact insurance.

"Uniform business entity application" means the current version of the NAIC uniform business entity application for resident and nonresident business entities.

"Uniform application" means the current version of the NAIC uniform application for resident and nonresident insurance producer licensing.

C.17:22A-29 Licensure required.

4. A person shall not sell, solicit or negotiate insurance in this State unless the person is licensed for that line of authority in accordance with this act.

C.17:22A-30 Construction of act; license not required.

5. a. Nothing in this act shall be construed to require an insurer to obtain an insurance producer license. In this section, the term "insurer" does not include an insurer's officers, directors, employees, subsidiaries or affiliates.

b. A license as an insurance producer shall not be required of the following:

(1) An officer, director or employee of an insurer or of an insurance producer, provided that the officer, director or employee does not receive any commission on contracts or policies written or sold to insure risks residing, located or to be performed in this State and:

(a) The officer's, director's or employee's activities are executive, administrative, managerial, clerical or a combination of these, and are only indirectly related to the sale, solicitation or negotiation of insurance; or

(b) The officer's, director's or employee's function relates to underwriting, loss control, inspection or the processing, adjusting, investigating or settling of a claim on a contract or policy of insurance; or

(c) The officer, director or employee is acting in the capacity of a special agency or agency supervisor assisting insurance producers and those activities are limited to providing technical advice and assistance to licensed insurance producers and do not include the sale, solicitation or negotiation of insurance;

(2) A person who secures and furnishes information for the purpose of group life insurance, group property and casualty insurance, group annuities, group or blanket accident and health insurance; or for the purpose of enrolling individuals under insurance plans, issuing certificates under insurance plans or otherwise assisting in administering insurance plans; or performs administrative services related to mass marketed property and casualty insurance; where no commission is paid to the person for the service;

(3) An employer or association or its officers, directors, employees, or the trustees of an employee trust plan, to the extent that the employers, officers, employees, directors or trustees

are engaged in the administration or operation of a program of employee benefits for the employer's or association's own employees or the employees of its subsidiaries or affiliates, which program involves the use of insurance issued by an insurer, as long as the employers, associations, officers, directors, employees or trustees are not in any manner compensated, directly or indirectly, by the insurer issuing the contracts or policies;

(4) Employees of insurers or organizations employed by insurers who are engaging in the inspection, rating or classification of risks, or in the supervision of the training of insurance producers and who are not individually engaged in the sale, solicitation or negotiation of insurance;

(5) A person whose activities in this State are limited to advertising without the intent to solicit insurance in this State through communications in printed publications or other forms of electronic mass media whose distribution is not limited to residents of this State, provided that the person does not sell, solicit or negotiate insurance that would insure risks residing, located or to be performed in this State;

(6) A person who is not a resident of this State who sells, solicits or negotiates a contract or policy of insurance for commercial property and casualty risks to an insured with risks located in more than one state insured under that contract or policy, so long as that person is otherwise licensed as an insurance producer to sell, solicit or negotiate that insurance in the state in which the insured maintains its principal place of business and the contract or policy of insurance insures risks located in that state; or

(7) A salaried full-time employee who counsels or advises his employer relative to the insurance interests of the employer or of the subsidiaries or business affiliates of the employer if the employee does not sell or solicit insurance or receive a commission.

C.17:22A-31 Written examination fee.

6. a. A resident individual applying for an insurance producer license shall pass a written examination unless exempt pursuant to section 10 of this act. The examination shall test the knowledge of the individual concerning the lines of authority for which application is made, the duties and responsibilities of an insurance producer and the insurance laws and regulations of this State. Examinations required by this section shall be developed and conducted under rules and regulations prescribed by the commissioner.

b. The commissioner may make arrangements, including contracting with an outside testing service, for administering examinations and collecting the nonrefundable fee set forth in section 19 of this act.

c. Each individual applying for an examination shall remit a nonrefundable fee as prescribed by the commissioner as set forth in section 19 of this act.

d. An individual who fails to appear for the examination as scheduled or fails to pass the examination, may reapply for an examination and shall remit all required fees and forms before being rescheduled for another examination.

C.17:22A-32 Application, approval.

7. a. An individual applying for a resident insurance producer license shall make application to the commissioner on the uniform application and declare under penalty of refusal, suspension or revocation of the license that the statements made in the application are true, correct and complete to the best of the individual's knowledge and belief. Before approving the application, the commissioner shall find that the individual:

(1) Is at least 18 years of age;

(2) Has not committed any act that is a ground for denial, suspension or revocation set forth in section 15 of this act;

(3) Has completed a prelicensing course of study for the lines of authority for which the individual has applied as prescribed by the commissioner by regulation;

(4) Has paid the fees set forth in section 19 of this act; and

(5) Has successfully passed the examinations for the lines of authority for which the individual has applied.

b. A business entity acting as an insurance producer shall obtain an insurance producer

license. Application shall be made using the uniform business entity application. Before approving the application, the commissioner shall find that:

- (1) The business entity has paid the fees set forth in section 19 of this act; and
- (2) The business entity has designated a licensed insurance producer or producers responsible for the business entity's compliance with the insurance laws, rules and regulations of this State.

c. The commissioner may require any documents reasonably necessary to verify the information contained in an application.

d. Each insurer that sells, solicits or negotiates any form of limited line credit insurance shall provide to each individual whose duties will include selling, soliciting or negotiating limited line credit insurance a program of instruction that is approved by the commissioner.

C.17:22A-33 Issuance of resident insurance producer license.

8. a. Unless denied licensure pursuant to section 15 of this act, persons who have met the requirements of sections 6 and 7 of this act shall be issued a resident insurance producer license. An insurance producer may receive qualification for a license in one or more of the following lines of authority:

(1) Life-insurance coverage on human lives, including benefits of endowment and annuities, and which may include benefits in the event of death or dismemberment by accident and benefits for disability income;

(2) Accident and health or sickness-insurance coverage for sickness, bodily injury or accidental death, and which may include benefits for disability income;

(3) Property-insurance coverage for the direct or consequential loss or damage to property of every kind;

(4) Casualty-insurance coverage against legal liability, including that for death, injury or disability or damage to real or personal property;

(5) Variable life and variable annuity products-insurance coverage provided under variable life insurance contracts, variable annuities or any other life insurance or annuity product that reflects the investment experience of a separate account;

(6) Credit-limited line credit insurance;

(7) Personal lines - property and casualty insurance coverage sold to individuals and families for primarily noncommercial purposes;

(8) Any other line of insurance permitted under any law or regulation of this State.

b. An insurance producer license shall remain in effect unless revoked or suspended as long as the fee set forth in section 19 of this act is timely paid and in the case of resident individual insurance producers, education requirements are timely satisfied.

c. An individual insurance producer who allows his license to lapse may, within 12 months from the due date of the renewal fee, reinstate the same license without the necessity of passing a written examination. However, a penalty in an amount not to exceed double the unpaid renewal fee shall be required for any renewal fee received after the due date.

d. A licensed insurance producer who is unable to comply with license renewal procedures due to military service or some other extenuating circumstance, such as long-term medical disability, may request a waiver of those procedures. The producer may also request a waiver of any examination requirement or any other fine or sanction imposed for failure to comply with renewal procedures.

e. The license shall contain the licensee's name, address, personal identification number, and the date of issuance, the lines of authority, the expiration date and any other information the commissioner deems necessary.

f. Licensees shall inform the commissioner by any means acceptable to the commissioner of a change of address within 30 days of the change.

C.17:22A-34 Nonresident insurance producer license.

9. a. Unless denied licensure pursuant to section 15 of this act, a nonresident person shall receive a nonresident insurance producer license if:

- (1) The person is currently licensed as a resident insurance producer in good standing in his home state;

(2) The person has submitted the proper request for licensure and has paid the fees required by section 19 of this act;

(3) The person has submitted or transmitted to the commissioner the application for licensure that the person submitted to his home state, or in lieu of the same, a completed uniform application; and

(4) The person's home state awards nonresident insurance producer licenses to residents of this State on the same basis.

b. The commissioner may verify the nonresident insurance producer's licensing status through the Producer Database maintained by the NAIC.

c. A nonresident insurance producer who moves from one state to another state or a resident insurance producer who moves from this State to another state shall file a change of address and provide certification from the new resident state within 30 days of the change of legal residence. No fee or license application shall be required.

d. Subject to section 13 of this act, a person licensed as a surplus lines insurance producer in his home state shall receive a nonresident surplus lines insurance producer license pursuant to subsection a. of this section.

e. Subject to section 14 of this act, a person licensed as a limited line credit insurance or other type of limited lines insurance producer in his home state shall receive a nonresident limited lines insurance producer license, pursuant to subsection a. of this section, granting the same scope of authority as granted under the license issued by the producer's home state.

f. Each licensed nonresident insurance producer shall, by application for and issuance of, a license be deemed to have appointed the commissioner as agent to receive service of original legal process in this State in any cause of action or legal proceedings arising within this State out of transactions under the license. Service upon the commissioner shall be of the same force and effect as if served on the nonresident insurance producer. This appointment shall be irrevocable for as long as there can be any cause of action against the nonresident insurance producer arising out of insurance transactions for which a nonresident insurance producer license is required. Duplicate copies of the legal process shall be served upon the commissioner. At the time of service the commissioner shall be paid a fee established pursuant to section 19 of this act payable as costs in the action. Upon receiving service, the commissioner shall send one of the copies by registered or certified mail, return receipt requested, to the named nonresident insurance producer at his last known business or residence address.

g. The commissioner shall be immune from all civil actions resulting from the licensee's failure to receive service of process if the commissioner, pursuant to subsection f. of this section, forwards the service to the last business or residence address filed by the licensee as his address. Immunity under this subsection is in no way intended to diminish or otherwise affect the immunity available to the commissioner pursuant to the "New Jersey Tort Claims Act," N.J.S.59:1-1 et seq.

C.17:22A-35 Exemptions from prelicensing education examination.

10. a. An individual who applies for an insurance producer license in this State who was previously licensed for the same lines of authority in another state shall not be required to complete any prelicensing education or examination. This exemption is only available if the person is currently licensed in that state or if the application is received within 90 days of the cancellation of the applicant's previous license and if the prior state issues a certification that, at the time of cancellation, the applicant was in good standing in that state or the state's Producer Database records, maintained by the NAIC, indicate that the producer is or was licensed in good standing for the lines of authority requested.

b. A person licensed as an insurance producer in another state who moves to this State shall make application within 90 days of establishing legal residence to become a resident licensee pursuant to section 7 of this act. No prelicensing education or examination shall be required of that person to obtain any lines of authority previously held in the prior state except in cases in which the commissioner determines otherwise by regulation.

C.17:22A-36 Notification of assumed name.

11. An insurance producer doing business under any name other than the producer's legal name shall notify the commissioner prior to using the assumed name.

C.17:22A-37 Temporary license.

12. a. The commissioner may issue a temporary insurance producer license for a period not to exceed 180 days without requiring an examination if the commissioner determines that the temporary license is necessary for the servicing of an insurance business in the following cases:

(1) To the surviving spouse or court-appointed personal representative of a licensed insurance producer, upon the death or disability of that producer, to allow adequate time for the sale of the insurance business owned by the producer or for the recovery or return of the producer to the business or to provide for the training and licensing of new personnel to operate the producer's business;

(2) To a member or employee of a business entity licensed as an insurance producer, upon the death or disability of an individual designated in the business entity application or the license as responsible for the business entity's compliance with the insurance laws, rules and regulations of this State;

(3) To the designee of a licensed insurance producer entering active service in the armed forces of the United States of America; or

(4) In any other circumstance in which the commissioner determines that the public interest will best be served by the issuance of a temporary insurance producer license.

b. The commissioner may, by order, limit the authority of any temporary licensee in any way necessary to protect insureds and the public. The commissioner may require the temporary licensee to have a suitable sponsor who is a licensed insurance producer or insurer and who assumes responsibility for all acts of the temporary licensee and may impose other similar requirements designed to protect insureds and the public. The commissioner may by order revoke a temporary license if the interest of insureds or the public are endangered. A temporary license shall not continue after the owner or the personal representative disposes of the insurance producer's business.

C.17:22A-38 Requirements for license granting, surplus lines authority.

13. a. No license granting surplus lines authority shall be issued or renewed unless the applicant holds or will hold property and casualty authorities.

b. No surplus lines producer shall charge any fee to an originating broker in connection with the negotiation or procurement of any contract of surplus lines insurance that shall exceed \$50 plus the actual costs incurred for any services performed by a person that is not associated with the surplus lines producer, such as inspection services.

C.17:22A-39 Insurance marketed through limited lines insurance producers.

14. The commissioner shall establish, by rule or regulation, the line or lines of insurance that may be marketed through a limited lines insurance producer.

C.17:22A-40 Causes for probation, suspension, revocation, refusal to renew.

15. a. The commissioner may place on probation, suspend, revoke or refuse to issue or renew an insurance producer's license or may levy a civil penalty in accordance with subsection c. of section 20 of this act or any combination of actions, for any one or more of the following causes:

(1) Providing incorrect, misleading, incomplete or materially untrue information in the license application;

(2) Violating any insurance laws, or violating any regulation, subpoena or order of the commissioner or of another state's insurance regulator;

(3) Obtaining or attempting to obtain a license through misrepresentation or fraud;

(4) Improperly withholding, misappropriating or converting any monies or properties received in the course of doing insurance business;

(5) Intentionally misrepresenting the terms of an actual or proposed insurance contract, policy or application for insurance;

- (6) Having been convicted of a felony or crime of the fourth degree or higher;
- (7) Having admitted or been found to have committed any insurance unfair trade practice or fraud;
- (8) Using fraudulent, coercive or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of insurance business in this State or elsewhere;
- (9) Having an insurance producer license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory;
- (10) Forging another's name to an application for insurance or to any document related to an insurance transaction;
- (11) Improperly using notes or any other reference material to complete an examination for an insurance producer license;
- (12) Knowingly accepting insurance business from an unlicensed insurance producer;
- (13) Failing to comply with an administrative or court order imposing a child support obligation;
- (14) Failing to pay income tax or comply with any administrative or court order directing payment of income tax pursuant to Title 54A of the New Jersey Statutes;
- (15) Intentionally withholding material information or making a material misstatement in an application for a license;
- (16) Committing any fraudulent act;
- (17) Knowingly facilitating or assisting another person in violating any insurance laws; or
- (18) Failing to notify the commissioner within 30 days of his conviction of any crime, indictment or the filing of any formal criminal charges, or the suspension or revocation of any insurance license or authority by a state, other than this State, or the initiation of formal disciplinary proceedings in a state, other than this State, affecting the producer's insurance license; or failing to obtain the written consent pursuant to 18 U.S.C. sections 1033 and 1034; or failing to supply any documentation that the commissioner may request in connection therewith.

b. If the action by the commissioner is to nonrenew or to deny an application for an insurance producer license, the commissioner shall notify the applicant or licensee and advise, in writing, the applicant or licensee of the reason for the denial or nonrenewal of the license. The applicant or licensee may make written demand upon the commissioner for a hearing before the commissioner, or his designee, to determine the reasonableness of the commissioner's action. The hearing shall be held pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

c. The insurance producer license of a business entity may be suspended, revoked or refused if the commissioner finds, after hearing, that an individual licensee's violation was known or should have been known by one or more of the partners, officers or managers acting on behalf of the business entity and the violation was neither reported to the commissioner nor corrective action taken.

d. The commissioner shall retain the authority to enforce the provisions of and impose any penalty or remedy authorized by this act and Title 17 of the Revised Statutes or Title 17B of the New Jersey Statutes against any person who is under investigation for or charged with a violation of this act or Title 17 of the Revised Statutes or Title 17B of the New Jersey Statutes even if the person's license or registration has been surrendered or has lapsed by operation of law.

C.17:22A-41 Licensure required for receipt of commission.

16. a. An insurer or insurance producer shall not pay a commission, service fee, brokerage or other valuable consideration to a person for selling, soliciting or negotiating insurance in this State if that person is required to be licensed under this act and is not so licensed.

b. A person shall not accept a commission, service fee, brokerage or other valuable consideration for selling, soliciting or negotiating insurance in this State if that person is required to be licensed under this act and is not so licensed.

c. Renewal or other deferred commissions may be paid to a person for selling, soliciting or

negotiating insurance in this State if the person was required to be licensed under this act at the time of the sale, solicitation or negotiation and was so licensed at that time.

d. An insurer or insurance producer may pay or assign commissions, service fees, brokerages or other valuable consideration to an insurance agency or to persons who do not sell, solicit or negotiate insurance in this State, unless the payment would violate section 15 of P.L.1944, c.27 (C.17:29A-15), section 14 of P.L.1982, c.114 (C.17:29AA-14), section 4 of P.L.1947, c.379 (C.17:29B-4), section 5 of P.L.1968, c.248 (C.17:46A-5), section 34 or 35 of P.L.1975, c.106 (C.17:46B-34 or 17:46B-35) or N.J.S.17B:30-13 or any other provision of law.

C.17:22A-42 Appointment of agents.

17. a. Any insurer authorized to transact business in this State may, by written contract, appoint as its agent, a person that holds a valid insurance producer license issued in accordance with the provisions of this act. The contract shall authorize the insurance producer to act as an agent for the appointing insurer for all lines of insurance for which the insurer is authorized in this State and the agent holds authority in this State, unless specifically limited. The contract shall contain the duties, responsibilities and limitations of authority between the agent and the appointing insurer, and the agent shall abide by its terms. While the agent is properly licensed, an agency appointment shall continue in effect until termination in accordance with this act. Both the appointing insurer and the appointed agent shall maintain a copy of the agency contract in their office, and shall make the contract available for inspection by the commissioner upon request. Nothing contained in this subsection shall be construed as granting the commissioner the authority to determine contractual disputes between an appointing insurer and an appointed agent.

b. Upon the cancellation of an agency contract in accordance with section 1 of P.L.1970, c.217 (C.17:22-6.14a), the insurer shall within 15 days file written notice of cancellation with the commissioner. Notice of cancellation shall be on a form prescribed by the commissioner and shall indicate the date of cancellation and the reason therefor. Agency appointment shall not terminate until the notice of cancellation has been filed with the commissioner. The requirements of this subsection shall not affect any notice or filing requirements otherwise established by law.

c. Any insurer appointing an agent pursuant to this section shall file with the commissioner, on a form prescribed by the commissioner, a notice of appointment providing the names and business addresses of its agents, including notice of any limitations on the agent's authority. The filing of a single notice of appointment by each insurer represented by a licensed business entity shall cover all of its licensed producers.

d. The filing of a notice of appointment pursuant to subsection c. of this section shall constitute notice that the named insurance producer has been appointed an agent for any subsidiary or affiliate company of the insurer if certified copies of any resolution duly adopted by the board of directors of each insurer requesting that authority are filed with the commissioner. The resolution shall also designate the primary insurer for which all of the insurer's agents shall be appointed.

C.17:22A-43 Immunity from civil liability.

18. a. (1) In the absence of actual malice, an insurer, the authorized representative of the insurer, an insurance producer, the commissioner, or an organization of which the commissioner is a member and that compiles the information and makes it available to other insurance commissioners or regulatory or law enforcement agencies, shall not be subject to civil liability, and a civil cause of action of any nature shall not arise against these entities or their respective agents or employees, as a result of any statement or information required by or provided pursuant to section 17 of this act or this section or any information relating to any statement that may be requested in writing by the commissioner, from an insurer or insurance producer; or a statement by a terminating insurer or insurance producer to an insurer or insurance producer limited solely and exclusively to whether a termination for cause under subsection b. of section 17 of this act was reported to the commissioner, provided that the propriety of any termination for cause is certified in writing by an officer or authorized representative of the insurer or insurance producer terminating the relationship.

(2) In any action brought against a person that has immunity under paragraph (1) of this subsection for making any statement required by this section or providing any information relating to any statement that may be requested by the commissioner, the party bringing the action shall plead specifically in any allegation that paragraph (1) does not apply because the person making the statement or providing the information did so with actual malice.

(3) Paragraph (1) or (2) of this subsection shall not abrogate or modify any existing statutory or common law privileges or immunities.

b. (1) Any documents, materials or other information in the control or possession of the department furnished by an insurer, insurance producer or an employee or agent thereof acting on behalf of the insurer or insurance producer, or obtained by the commissioner in an investigation pursuant to this section, shall be confidential by law and privileged, shall not be subject to any State or federal freedom of information law, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action. However, the commissioner is authorized to use the documents, materials or other information in the furtherance of any regulatory or legal action brought as a part of the commissioner's duties.

(2) Neither the commissioner, nor any person who received documents, materials or other information while acting under the authority of the commissioner, shall be permitted or required to testify in any private civil action concerning any confidential documents, materials, or information subject to paragraph (1) of this subsection.

(3) In order to assist in the performance of the commissioner's duties under this act, the commissioner:

(a) May share documents, materials or other information, including the confidential and privileged documents, materials or information subject to paragraph (1) of this subsection, with other state, federal, and international regulatory agencies, with the NAIC, and with state, federal, and international law enforcement authorities, provided that the recipient agrees to maintain the confidentiality and privileged status of the document, material or other information pursuant to this section;

(b) May receive documents, materials or information, including otherwise confidential and privileged documents, materials or information, from the NAIC and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material or information; and

(c) May enter into agreements governing sharing and use of information consistent with this subsection.

(4) No waiver of any applicable privilege or claim of confidentiality in the documents, materials or information shall occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in paragraph (3) of this subsection.

(5) Nothing in this act shall prohibit the commissioner from releasing final, adjudicated actions including terminations for cause that are open to public inspection pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.) to a database or other clearinghouse service maintained by the NAIC.

c. An insurer, the authorized representative of the insurer, or an insurance producer that fails to report as required under the provisions of this section or that is found by a court of competent jurisdiction to have reported with actual malice may, after notice and hearing, have its license or certificate of authority suspended or revoked and may be fined in accordance with section 20 of this act.

C.17:22A-44 Fees.

19. a. The commissioner shall, by regulation, set reasonable, necessary and appropriate fees to be charged for licensing insurance producers, filing agency appointments, filing limited insurance producer registrations, filing fictitious, trade or firm names, issuing certification of license status and processing any document required to be submitted pursuant to this act, except that the total annual revenue generated from these fees shall not be less than the total annual revenue generated from equivalent fees for the preceding fiscal year.

b. Applicants may be charged a fee for any licensing examination conducted pursuant to this

act in an amount designated or approved by the commissioner.

c. All fees payable to the commissioner pursuant to this section are nonrefundable.

d. The commissioner may, by rule or regulation, provide for the waiving of fees for disabled war veterans of the United States military service.

C.17:22A-45 Powers of commissioner.

20. a. The commissioner shall have the power to conduct investigations, to administer oaths, to interrogate licensees and others, and to issue subpoenas to any licensee or any other person in connection with any investigation, hearing or other proceeding pursuant to this act, without fee.

b. Subpoenas shall be issued in the name of the commissioner, the deputy commissioner or other employee designated by the commissioner, but no subpoena shall be issued except for good cause. Any person failing or refusing to comply with a subpoena may be ordered by a judge of the Superior Court, on application made by the commissioner or by the person at whose instance the subpoena was issued, to comply with the terms of the subpoena or be punished by the court for contempt. The court may proceed in a summary manner.

c. Any person violating any provision of this act shall be liable to a penalty not exceeding \$5,000 for the first offense and not exceeding \$10,000 for each subsequent offense to be recovered in a summary proceeding in accordance with the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). In addition, the commissioner or the court, as the case may be, may order restitution of moneys owed any person and reimbursement of the costs of investigation and prosecution, as appropriate.

d. In any formal proceeding, if the commissioner finds that the interests of the public require that immediate action be taken prior to completion of the hearing, the making of a determination and the entry of a final order, he may enter an appropriate order to be effective pending completion of the hearing and entry of a final order. These orders may be entered on ex parte proofs if the proofs indicate that the commissioner's withholding of any action until completion of a full hearing will be harmful to the public interest. Orders issued pursuant to this section shall be subject to an application to vacate upon 10 days' notice, and a preliminary hearing on the ex parte order shall be held in any event within 20 days after it is entered. In the alternative, or in addition, the commissioner is authorized to institute a proceeding in the Superior Court, to be conducted in a summary manner, for an injunction against specified acts or conduct in aid of the proceedings pending before him, including temporary injunctions and interim restraints.

C.17:22A-46 Fees, requirements for nonresident insurance producers, reciprocity.

21. a. The commissioner shall not assess a greater fee for an insurance producer license or related service to a person not residing in this State based solely on the fact that the person does not reside in this State.

b. The commissioner shall waive any license application requirements for a nonresident insurance producer license applicant with a valid license from his home state, except the requirements imposed by section 9 of this act, if the applicant's home state awards nonresident insurance producer licenses to licensees of this State on the same basis.

c. A nonresident insurance producer's satisfaction of his home state's continuing education requirements for licensed insurance producers shall constitute satisfaction of this State's continuing education requirements if the nonresident producer's home state recognizes the satisfaction of its continuing education requirements imposed upon insurance producers from this State on the same basis.

C.17:22A-47 Reports to commissioner.

22. a. An insurance producer shall report to the commissioner any administrative action taken against the insurance producer in another jurisdiction or by another governmental agency in this State within 30 days of the final disposition of the matter. This report shall include a copy of the order, consent order or other relevant legal documents.

b. Within 30 days of the initial pretrial hearing date, an insurance producer shall report to the commissioner any criminal prosecution of the producer taken in any jurisdiction. The report

shall include a copy of the initial complaint filed, the order resulting from the hearing and any other relevant legal documents.

23. Section 8 of P.L.1960, c.32 (C.17:22-6.42) is amended to read as follows:

C.17:22-6.42 Procurement of surplus line coverages; conditions.

8. If certain insurance coverages of subjects resident, located, or to be performed in this State cannot be procured from authorized insurers, such coverages, hereinafter designated "surplus lines," may be procured from unauthorized insurers, subject to the following conditions:

(a) The insurance must be eligible for export under section 9 of P.L.1960, c.32 (C.17:22-6.43);

(b) The insurer must be an eligible surplus lines insurer under section 11 of P.L.1960, c.32 (C.17:22-6.45);

(c) The insurance must be so placed through a licensed New Jersey surplus lines agent; and

(d) Other applicable provisions of this surplus lines law must be complied with.

(e) No surplus lines agent shall exercise binding authority in this State on behalf of any insurer unless the agent has first filed with the commissioner for informational purposes and not for the purpose of approval or disapproval the written agreement between the agent and the insurer setting forth the terms, conditions and limitations governing the exercise of the binding authority by the agent. A copy of any amendments to the agreement and of any notice of cancellation or termination of the agreement shall be filed by the agent with the commissioner no later than 10 days after adoption thereof.

The agreement filed pursuant to this section shall be considered and treated as a confidential document, and shall not be available for inspection by the public.

The agreement shall include the following items:

(1) A description of the classes of insurance for which the agent holds binding authority;

(2) The geographical limits upon the exercise of binding authority by the agent;

(3) The maximum dollar limitation on the binding authority of the agent for any one risk for each class of insurance written by the agent;

(4) The maximum policy period for which the agent may bind a risk;

(5) If the binding authority is delegable by the agent, a prohibition against the delegation without the prior written approval of the insurer.

If an agent who is qualified in accordance with this section to exercise binding authority on behalf of an insurer delegates the binding authority to any other agent, the agent to whom the authority is delegated shall not exercise the same until a copy of the instrument delegating the binding authority shall first have been filed with the commissioner for informational purposes and not for the purpose of approval or disapproval. The instrument delegating the binding authority shall include an identification of the binding authority agreement between the delegating agent and the insurer.

24. Section 23 of P.L.1960, c.32 (C.17:22-6.57) is amended to read as follows:

C.17:22-6.57 Record of surplus lines contracts procured.

23. Each surplus lines agent shall keep in his office a full and true record of each surplus lines contract procured by him, including a copy of the daily report, if any, and showing such of the following items as may be applicable:

(a) Amount of the insurance and perils insured against;

(b) Brief general description of property insured and where located;

(c) Gross premium charged;

(d) Return premium paid, if any;

(e) Rate of premium charged upon the several items of property;

(f) Effective date of the contract, and the terms thereof;

(g) Name and post-office address of the insured;

(h) Name and home office address of the insurer;

(i) Amount collected from the insured; and

(j) Other information as may be required by the commissioner.

The record shall at all times be open to examination by the commissioner without notice, and shall be so kept available and open to the commissioner for five years next following expiration or cancellation of the contract.

25. Section 27 of P.L.1960, c.32 (C.17:22-6.61) is amended to read as follows:

C.17:22-6.61 Suspension, revocation, refusal to renew license of surplus lines agents.

27. The commissioner may suspend, revoke, or refuse to renew the license of a surplus lines agent and all other licenses and permits held by the licensee under this Title, upon any one or more of the following grounds:

(a) (Deleted by amendment, P.L.2001, c.210);

(b) Removal of the accounts and records of his surplus lines business during the period when such accounts and records are required to be maintained under section 23 of P.L.1960, c.32 (C.17:22-6.57);

(c) Closure of the licensee's office for a period of more than 30 consecutive days, unless granted permission by the commissioner upon showing circumstances warranting such closure for a longer period;

(d) Failure to make and file his quarterly reports when due as required by section 24 of P.L.1960, c.32 (C.17:22-6.58);

(e) Failure to pay the tax on surplus lines premiums, as provided for in this surplus lines law;

(f) (Deleted by amendment, P.L.2001, c.210);

(g) Suspension, revocation or refusal to renew any other license issued by the commissioner;

(h) Lack of qualifications as for an original surplus lines agent's license;

(i) Violation of any provision of this surplus lines law;

(j) For any other cause for which a license could be denied, revoked, suspended or renewal refused under section 15 of P.L.2001, c.210 (C.17:22A-40).

In addition to the foregoing penalties set forth in this section, any person, persons or corporation violating any of the provisions of this act shall be liable to a penalty not exceeding \$2,500 for the first offense and not exceeding \$5,000 for each succeeding offense to be recovered in a summary proceeding as provided in R.S.17:33-2.

C.17:22A-48 Rules, regulations.

26. a. The commissioner may, in accordance with "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) promulgate rules and regulations necessary to effectuate the purposes of this act.

b. The commissioner may provide for the orderly transition of producer license types and authorities by promulgating rules and regulations that are reasonable, necessary, appropriate and consistent with this act.

Repealer.

27. P.L.1987, c.293 (C.17:22A-1 et seq.); section 13 of P.L.1996, c.69 (C.17:22A-14.1); and P.L.1997, c.429 (C.17:22A-16.1) are repealed.

28. This act shall take effect immediately, but sections 1 through 25 and 27 shall remain inoperative until the adoption of regulations effectuating their purposes pursuant to section 26 of this act, provided however, that no provision of this act shall remain inoperative on or after November 12, 2002

Approved August 15, 2001.

Office of the Governor

PO BOX 004
TRENTON, NJ 08625

NEWS RELEASE

CONTACT: Rae Hutton
609-777-2600

RELEASE: Aug 16, 2001

Acting Governor Donald T. DiFrancesco signed the following legislation:

S-1310, sponsored by Senators Robert Martin (R-Essex/Morris/Passaic) and James Cafiero (R-Cape May/Atlantic/Cumberland) and Assembly members Carol Murphy (R-Essex/Morris/Passaic) and Richard Merkt (R-Morris), changes the post-retirement State Health Benefits Program eligibility requirements from the current threshold of 25 or more years of service credit in a single state or locally-administered retirement system to 25 or more years of nonconcurring service credit in one or more state or locally-administered retirement systems.

S-2428, sponsored by Senator Gerald Cardinale (R-Bergen) and Assemblywoman Clare Farragher (R-Monmouth), repeals the existing "New Jersey Insurance Producer Licensing Act" and replaces it with a new regulatory system designed to create uniform laws governing the licensure of both resident and nonresident insurance producers. The bill defines key terms and establishes uniform examination and licensing requirements. The bill provides for reciprocity among states for nonresident licensees

A-3261, sponsored by Senators Gerald Cardinale (R-Bergen) and John Adler (D-Camden) and Assembly members Kip Bateman (R-Morris/Somerset) and Peter Biondi (R-Morris/Somerset), The Uniform Principal & Income Act enhances a trustee's ability to satisfy fiduciary duties to the two types of beneficiaries of a trust whose interests often are in conflict: remainder beneficiaries, who benefit from a trust's principal, and income beneficiaries, who benefit from a trust's income distribution. The bill provides a trustee with the discretion to allocate trust assets either to principal or income, in conformity with rules established by the bill and with the "Prudent Investor Act".

A-2601, sponsored by Assemblyman Richard Bagger (R-Middlesex/Morris/Somerset/ Union), pushes back the deadline established in current law for filing certain nominating petitions for party offices and public offices from the 54th day to the 57th day prior to the day of the general election and would affect: a) petitions of candidates seeking the nomination of a political party at the primary election; b) petitions nominating candidates for party positions at the primary election; c) petitions seeking to have the name of a person seeking nomination to the office of President of the United States by a political party appear on the ballot with the names of the delegates and alternates to the national convention of the party.