

LEGISLATIVE HISTORY CHECKLIST

NJSA: 17:20-1 et al

(Insurance  
companies--custodial  
deposits changes  
Department of  
Insurance  
procedures)

LAWS OF: 1989

CHAPTER: 264

Bill No: S2968

Sponsor(s): O'Connor

Date Introduced: October 3, 1988

Committee: Assembly: -----

Senate: Labor, Industry & Professions

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

Date of Passage: Assembly: December 11, 1989

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Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: No

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STATE OF NEW JERSEY

INTRODUCED OCTOBER 3, 1988

By Senator O'CONNOR

1 AN ACT concerning the maintenance of deposits required to be  
held by the Commissioner of Insurance and revising parts of the  
3 statutory law.

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

7 1. R.S.17:20-1 is amended to read as follows:

17:20-1. a. As used in this chapter:

9 (1) "Bank" means <sup>1</sup>[bank or trust company chartered either by  
the State of New Jersey or by the federal government and  
11 headquartered] a State or federally chartered bank, savings bank,  
or savings and loan association which has trust powers and which  
13 has its principal office<sup>1</sup> in New Jersey.

(2) "Custodian" means a bank which performs <sup>1</sup>[ministerial]  
15 fiduciary<sup>1</sup> functions in the maintenance of deposits.

(3) "Deposit" means those deposits of securities required to be  
17 made by insurance companies prior to their authorization to  
transact business within <sup>1</sup>[a state] any jurisdiction<sup>1</sup>.

19 (4) "Federal Reserve book-entry system" means the  
computerized system sponsored by the United States Department  
21 of the Treasury and certain agencies and instrumentalities of the  
United States for holding and transferring securities of the  
23 United States government and the agencies and instrumentalities,  
respectively, in Federal Reserve Banks through banks which are  
25 members of the Federal Reserve System or which otherwise have  
access to this computerized system.

27 (5) "Policyholders" means those persons including subscribers,  
certificate holders, and others who are named in or covered by a  
29 contract of insurance.

(6) "Securities" means and shall only include:

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Senate SLI committee amendments adopted June 19, 1989.

- 1        (a) Bills, bonds and notes issued by the United States Treasury;  
2        (b) <sup>1</sup>[Approved debt] Debt<sup>1</sup> obligations of the State of New  
3        Jersey, its authorities, counties and municipalities; and  
4        (c) Certificates of deposit <sup>1</sup>[(CDs) which are drawn on a New  
5        Jersey] of a<sup>1</sup> State or federally chartered bank, savings bank, or  
6        savings and loan association <sup>1</sup>[headquartered] with its principal  
7        office<sup>1</sup> in New Jersey.
- 8        b. The commissioner shall appoint one or more custodians  
9        which shall be selected on the basis of bids submitted by banks to  
10        perform such <sup>1</sup>[ministerial] fiduciary<sup>1</sup> functions as the  
11        commissioner deems necessary in the maintenance of deposits.
- 12        c. Every company organized under [chapters 17 to 33] subtitle  
13        3 of [this title (§ 17:17-1 et seq.)] Title 17 of the Revised  
14        Statutes (R.S.17:17-1 et seq.), other than a mutual company  
15        organized to make insurance solely against loss or damage to  
16        property belonging to the insured member, shall deposit with the  
17        [commissioner the sum of fifty thousand dollars in public stocks  
18        or bonds of this state or of the United States or of the states of  
19        New York, Ohio, Massachusetts, or Pennsylvania, or of any of the  
20        counties or municipalities of this state, the market value of  
21        which stocks or bonds shall not be less than par] custodian on  
22        behalf of the commissioner, securities with a market value of <sup>1</sup>at  
23        least<sup>1</sup> \$100,000.00 to be held in physical form or purchased for its  
24        account in the Federal Reserve book-entry system. The deposits  
25        shall be held for the benefit and security of all the policyholders  
26        of the company depositing them. The records of the custodian,  
27        through which an insurance company holds securities in the  
28        Federal Reserve book-entry system or in physical form, shall at  
29        all times show that these securities are held for an insurance  
30        company and for which accounts thereof.
- 31        d. The [commissioner] Commissioner of Insurance <sup>1</sup>[may  
32        promulgate rules and regulations governing the deposit by  
33        insurance companies of securities and]<sup>1</sup> may, from time to time,  
34        after the company has commenced business, require it to make  
35        further deposits of securities [of the type herein named up to the  
36        sum of one hundred thousand dollars] <sup>1</sup>up to the sum of  
37        \$250,000,<sup>1</sup> as the commissioner may deem necessary to protect  
38        the policyholders of the depositing company.  
39        (cf: R.S.17:20-1)

1       2. R.S.17:20-2 is amended to read as follows:

3       17:20-2. The commissioner shall hold the securities deposited  
5 of the company depositing them, but shall, so long as the  
7 company continues solvent and complies with all the requisites of  
9 the laws applicable to it, permit the company to collect the  
11 interest or dividends on the securities so deposited, and, from  
13 time to time, with his assent, to withdraw any of the securities,  
15 on depositing with him other [like] eligible securities, the [par]  
17 market value of which [are equal to the par value of those  
19 withdrawn] shall not cause the value of the total deposit to fall  
21 below the amount required by the commissioner.

23 (cf: R.S.17:20-2)

25       3. R.S.17:20-3 is amended to read as follows:

27       17:20-3. Whenever any insurance company of this State shall  
29 voluntarily dissolve, or a receiver or trustee thereof shall be  
31 appointed by the Superior Court in any action brought in such  
33 court to effect the liquidation or reorganization of such company;  
35 or if, pursuant to the provisions of any statute of this State, any  
37 statutory officer shall take possession of the business and affairs  
39 of such company; or if such company shall have heretofore or  
shall hereafter become legally merged into or consolidated with  
another such company, the commissioner shall thereupon deliver  
to such receiver or trustee, or to the directors or trustees on  
dissolution, or to such statutory officer, or to the company  
resulting from such merger or consolidation, the securities  
deposited with him [as aforesaid or under any other provision of  
chapters seventeen to thirty-three of this Title].

Before the commissioner shall make such delivery, such  
receiver or trustee, or such directors or trustees on dissolution,  
or such statutory officer, or such company resulting from such  
merger or consolidation, shall institute an action in the Superior  
Court to obtain delivery by the commissioner of such securities  
to the plaintiff. The court may proceed in the action in a  
summary manner or otherwise, and process therein may be served  
upon all persons, other than the commissioner by publishing the  
same or a notice thereof once in a newspaper published in the  
county where the company has its principal office. The court  
may enter judgment directing the commissioner to deliver such

1 securities to the plaintiff. Upon such delivery, the commissioner  
shall be relieved of all further responsibility or obligation in  
3 regard to the securities so deposited, except when such securities  
are delivered by such commissioner as commissioner to himself in  
5 his capacity as the officer designated by statute to take  
possession of the business and affairs of any such company. Such  
7 deposited securities shall not be delivered to the directors or  
trustees on dissolution until all proceedings in such voluntary  
9 dissolution shall have first been approved by the commissioner.

Nothing herein contained shall be construed as in anywise  
11 affecting the rights, in such securities, of the policyholders of  
such company for whose benefit and security such deposit was  
13 made, as provided in [section] R.S.17:20-2 [of this Title]. Such  
securities or the proceeds thereof, shall be administered, upon  
15 such delivery, as a trust fund for the benefit of such  
policyholders, and shall not be mingled with other assets of such  
17 company, until distribution thereof is made as hereinafter  
provided.

19 The Superior Court, in any action brought therein for the  
delivery of such securities as herein provided, shall have  
21 jurisdiction to limit the time within which policyholders shall  
present and make proof of their respective claims against such  
23 company, and may bar all such policyholders from any claim in  
such securities for failing so to do within the time limited. The  
25 court may also prescribe what notice, by publication or  
otherwise, shall be given to such policyholders of such limitation  
27 of time. Nothing contained in [chapters seventeen to  
thirty-three] subtitle 3 of [this] Title 17 of the Revised Statutes  
29 (R.S.17:17-1 et seq.) shall be construed as conferring upon the  
Superior Court general jurisdiction over the business and affairs  
31 of such company by reason only of any application made to it  
pursuant to the provisions of this section. Such claims shall be  
33 presented to such receiver or trustee, or to such directors or  
trustees in dissolution, or to such statutory officer, or to such  
35 company resulting from such merger or consolidation, in writing  
and under oath and shall be passed upon by the same, subject to a  
37 summary review by the court as may be prescribed by order of  
the court. Upon the expiration of the time limited for filing  
39 claims, and upon the determination as herein provided, of claims

1 disallowed, such securities or the proceeds thereof shall be  
distributed pro rata to such policyholders on account of such  
3 claims, and the balance thereof shall thereupon be discharged  
from any trust for the benefit of such policyholders. If the  
5 proceeds of such distribution are insufficient to pay such claims  
in full, nothing herein contained shall be construed as preventing  
7 such policyholders from asserting any lawful claim against other  
assets of such company for the amount of such deficiency.

9 (cf: P.L.1953, c.17, s.109)

4. (New section) The Commissioner of Insurance shall  
11 establish, by regulation, the fees to be charged insurance  
companies for the services of the custodian pursuant to the  
13 requirements of R.S.17:20-1 through R.S.17:20-3.

5. N.J.S.17B:18-37 is amended to read as follows:

15 17B:18-37. a. As used in this section and in N.J.S.17B:18-38  
and N.J.S.17B:18-39:

17 (1) "Bank" means <sup>1</sup>[bank or trust company chartered either by  
the State of New Jersey or by the federal government and  
19 headquartered] a State or federally chartered bank, savings bank,  
or savings and loan association which has trust powers and which  
21 has its principal office<sup>1</sup> in New Jersey.

(2) "Custodian" means a bank which performs <sup>1</sup>[ministerial]  
23 fiduciary<sup>1</sup> functions in the maintenance of deposits.

(3) "Deposit" means those deposits of securities required to be  
25 made by insurance companies prior to their authorization to  
transact business within <sup>1</sup>[a state] any jurisdiction<sup>1</sup>.

27 (4) "Federal Reserve book-entry system" means the  
computerized system sponsored by the United States Department  
29 of the Treasury and certain agencies and instrumentalities of the  
United States for holding and transferring securities of the  
31 United States government and the agencies and instrumentalities,  
respectively, in Federal Reserve Banks through banks which are  
33 members of the Federal Reserve System or which otherwise have  
access to this computerized system.

35 (5) "Policyholders" means those persons including subscribers,  
certificate holders, and others who are named in or covered by a  
37 contract of insurance.

(6) "Securities" means and shall only include:

39 (a) Bills, bonds and notes issued by the United States Treasury;

1       **(b) <sup>1</sup>[Approved debt] Debt<sup>1</sup> obligations of the State of New**  
2       **Jersey, its authorities, counties and municipalities; and**

3       **(c) Certificates of deposit <sup>1</sup>[(CDs) which are drawn on a New**  
4       **Jersey] of a<sup>1</sup> State or federally chartered bank, savings bank, or**  
5       **savings and loan association <sup>1</sup>[headquartered] with its principal**  
6       **office<sup>1</sup> in New Jersey.**

7       **b. The commissioner shall appoint one or more custodians**  
8       **which shall be selected on the basis of bids submitted by banks to**  
9       **perform such <sup>1</sup>[ministerial] fiduciary<sup>1</sup> functions as the**  
10       **commissioner deems necessary in the maintenance of deposits.**

11       **c. No domestic insurer shall be issued a certificate of**  
12       **authority until it has deposited with the [commissioner bonds,**  
13       **notes or other evidences of indebtedness or public stock eligible**  
14       **for investment under paragraph a. of section 17B:20-1] custodian**  
15       **on behalf of the commissioner, securities having a market value**  
16       **of at least \$100,000.00 to be held in physical form or purchased**  
17       **for its account in the Federal Reserve book-entry system. The**  
18       **deposits are to be held for the benefit and security of all of the**  
19       **policyholders of the company depositing them. The records of**  
20       **the custodian, through which an insurance company holds**  
21       **securities in the Federal Reserve book-entry system or in**  
22       **physical form, shall at all times show that these securities are**  
23       **held for an insurance company and for which accounts thereof.**

24       **[The commissioner may at any time require additions to said**  
25       **deposit to maintain said market value. If a company formed for**  
26       **any of the purposes specified in R.S.17:17-1 is authorized to**  
27       **write health insurance as defined in 17B:17-4 and such company**  
28       **shall have made a deposit of at least \$100,000.00 under**  
29       **R.S.17:20-1, no further deposit shall be required under this**  
30       **section.]**

31       **d. The Commissioner of Insurance <sup>1</sup>[may promulgate rules and**  
32       **regulations governing the deposit by insurance companies of**  
33       **securities and]<sup>1</sup> may, from time to time after the company has**  
34       **commenced business, require it to make further deposits of**  
35       **securities <sup>1</sup>, up to the sum of \$250,000,<sup>1</sup> as the commissioner**  
36       **may deem necessary to protect the policyholders of the**  
37       **depositing company.**

(cf: N.J.S.17B:18-37)

1       6. N.J.S.17B:18-38 is amended to read as follows:

3       17B:18-38. The commissioner shall hold the securities  
5 deposited pursuant to [section] N.J.S.17B:18-37 for the benefit  
7 and security of all the policyholders of the insurer depositing  
9 them, but shall, so long as it continues solvent and complies with  
11 all the requisites of the laws applicable to it, permit the insurer  
13 to collect the interest or dividends on the securities so deposited,  
15 and, from time to time to withdraw any of the securities, on  
17 depositing with him other eligible securities to the extent  
19 required to maintain the [total] market value of the total deposit  
21 at [100,000.00] the amount required by the commissioner.

(cf: N.J.S.17B:18-38)

13       7. N.J.S.17B:18-39 is amended to read as follows:

15       17B:18-39. The custodian, on behalf of the commissioner, may  
17 receive from any domestic insurer a deposit of [any] securities  
19 necessary to enable it to transact business in any other [State]  
21 state, territory, dependency or Federal District of the United  
23 States or in any foreign country under the laws thereof. Such  
25 securities shall be held by the custodian, on behalf of the  
27 commissioner, as long as the insurer desires to transact business  
29 in the [State] state, territory, dependency or Federal District of  
31 the United States or foreign country requiring the deposit but the  
insurer may draw the dividends or receive the interest on the  
securities. When the insurer desires to discontinue its business  
therein and the deposit is no longer required by the laws [of such  
State or foreign country] thereof, the commissioner shall return  
the securities to the insurer depositing them. Before the  
commissioner shall return the securities deposited with him as  
aforesaid, the company shall institute an action and obtain a  
judgment therefore in the Superior Court substantially similar to  
that provided in R.S.17:20-3.

(cf: N.J.S.17B:18-39)

33       8. (New section) The Commissioner of Insurance shall  
35 establish, by regulation, the fees to be charged insurance  
companies for the services of the custodian pursuant to the  
requirements of N.J.S.17B:18-37 through N.J.S.17B:18-39.

37       19. Section 3 of P.L.1938, c.322 (C.17:16A-3) is amended to  
read as follows:

39       3. Authorization of domestic companies, individuals and



1 partnerships. An investment company, other than a foreign  
corporation, desiring to secure a certificate of authority shall  
3 make application to the commissioner who may issue such  
certificate of authority to transact business to any such company  
5 when:

a. The investment company, if a corporation of this State, has  
7 filed in the department a certified copy of its charter or  
certificate of incorporation and a statement, in such form as the  
9 commissioner shall prescribe, attested by its president or  
vice-president and secretary or treasurer under its corporate  
11 seal, showing the financial condition of the corporation; or if an  
individual or partnership, has filed in the department such  
13 evidence as may be satisfactory to the commissioner that the  
individual or members of the partnership are citizens of the  
15 United States and residents of this State and a statement, in such  
form as the commissioner shall prescribe, attested by the  
17 individual or by the members of the partnership, showing the  
financial condition of the individual or partnership.

19 b. The commissioner shall be satisfied, by such examination  
and evidence as he sees fit to make and require; if a corporation,  
21 that the whole amount of the capital set forth in the certificate  
of incorporation and the required minimum surplus of the  
23 company has been actually paid in cash and is possessed by the  
company in money or in such stocks, bonds, bonds and mortgages,  
25 or other securities as are authorized for investment by this  
chapter, or, if an individual or partnership, that the minimum  
27 amount of unencumbered assets over its liabilities required by  
this chapter are held in such stocks, bonds, bonds and mortgages,  
29 or other securities authorized by this chapter for the investment  
of the funds of investment companies incorporated under the laws  
31 of this State. No investment company hereafter incorporated  
under the laws of this State shall be entitled to commence  
33 business unless it has a capital stock of at least one hundred  
thousand dollars (\$100,000.00) and in addition thereto a surplus  
35 actually paid in in cash equal to one-half the minimum capital  
stock required by this chapter. Any company heretofore  
37 incorporated under the laws of this State and engaged in the  
investment business as defined in this act, within this State, shall  
39 be entitled to make application to the commissioner for a

1 certificate of authority, authorized by this act; provided, such  
2 company shall at all times have capital stock and surplus actually  
3 paid in cash amounting to twenty per centum (20%) of its  
4 liabilities, such liabilities to be determined by the Commissioner  
5 of [Banking and] Insurance of this State; and provided, further,  
6 that the said capital and surplus shall be at a minimum amount of  
7 at least thirty thousand dollars (\$30,000.00). No individual or  
8 partnership shall be entitled to commence business unless the  
9 amount of its unencumbered assets, invested as herein provided,  
10 over its liabilities shall not be less than one hundred fifty  
11 thousand dollars (\$150,000.00).

12 c. The company shall have deposited with the [commissioner  
13 public stocks or bonds of this State or of the United States, or of  
14 the States of New York, Massachusetts, or Pennsylvania, or any  
15 of the counties, bureaus, towns or townships of this State, or such  
16 securities as are legal for trust funds in this State having a  
17 market value of not less than fifty thousand dollars (\$50,000.00)]  
18 custodian on behalf of the commissioner, securities with a market  
19 value of at least \$100,000 to be held in physical form or  
20 purchased for its account in the Federal Reserve book-entry  
21 system. The deposits shall be held for the benefit and security of  
22 all policyholders of the company depositing them. The records of  
23 the custodian, through which an insurance company holds  
24 securities in the Federal Reserve book-entry system or in  
25 physical form, shall at all times show that these securities are  
26 held for an insurance company and for which accounts thereof.

27 Every individual or partnership authorized to transact business  
28 pursuant to this chapter shall conform to all requirements of this  
29 chapter applicable to corporations of this State and which by  
30 their nature are applicable to individuals or partnerships. When  
31 in this chapter reference is made to officers of an investment  
32 company, such reference shall be deemed to be reference to the  
33 individual or to the members of a partnership. The commissioner  
34 may refuse to issue a certificate of authority to any individual or  
35 partnership and may cancel any outstanding certificate of  
36 authority of any individual or partnership, if in his judgment, the  
37 interests of the public would be best served by such refusal or  
38 cancellation.<sup>1</sup>

39 (cf: P.L.1941, c.420, s.2)

1       <sup>1</sup>10. Section 7 of P.L.1975, c.106 (C.17:46B-7) is amended to  
read as follows:

3       7. Financial requirement:

5       a. Every title insurance company shall have a minimum  
capital, which shall be paid in and maintained, of not less than  
\$500,000.00 and, in addition, paid-in surplus of at least  
7       \$250,000.00.

9       b. Every title insurance company shall, prior to the issuance of  
any policy of title insurance in this State, have on deposit with  
the Commissioner of Insurance of the state of its domicile or in  
11       segregated funds if permitted by the company's state of domicile  
the sum of \$100,000.00 as a fund for the security and protection  
13       of its policyholders wherever situated, or beneficiaries under such  
policies. The amount of such deposit shall be increased by the  
15       sum of \$50,000.00 for each state or territorial subdivision of the  
United States, other than the state of its domicile, in which it  
17       shall be or become qualified to engage in the business of title  
insurance, less the amount required by and deposited in such  
19       other states or territorial subdivisions. When the aggregate of  
amounts so deposited in this or such other states or territorial  
21       subdivisions has reached the sum of \$250,000.00 no further  
deposit shall be required of such title insurance company as a  
23       condition of its qualification to engage in the business of title  
insurance in this State.

25       In the event any company is unable to make the deposits herein  
required in the state of its domicile by reason of a lack of  
27       statutory authority for such deposits, then such deposits may be  
made with the commissioner of this State.

29       c. The deposit required to be made by subsection b. of this  
section may be made in lawful money of the United States or in  
31       the classes of [investments authorized by section 21 of this act  
for the investment of the capital of title insurance companies]  
33       securities authorized by the provisions of R.S.17:20-1.

35       d. Assets deposited pursuant to subsection b. of this section  
may, with the approval of the commissioner, be exchanged from  
time to time for other assets of like value.

37       e. As long as the capital of the depositing title insurance  
company remains unimpaired, it shall receive the income,  
39       interest and dividends on any assets deposited.

1 f. Any title insurance company which has deposited assets  
3 pursuant to subsection b. of this section may, with the approval  
of the commissioner, withdraw any part of the assets so  
5 deposited; provided, however, that should said title insurance  
company continue to engage in the business of title insurance, it  
7 shall not be permitted to withdraw assets that would reduce the  
amount of its deposit below the amount required by subsection b.  
of this section.

9 g. Deposits made pursuant to subsection b. of this section shall  
be used solely for the security and protection of the insureds  
11 under the policies and contracts of insurance issued or  
reinsurance assumed by such title insurance company. In the  
13 event of insolvency or dissolution of such title insurance  
company, such deposits shall continue to be retained by the  
15 commissioner until such time as all outstanding liabilities created  
by such policies, contracts, or reinsurance agreements have been  
17 discharged by reinsurance or otherwise. Such deposits, or so  
much thereof as shall be necessary, may be used by or with the  
19 written approval of the commissioner in the payment of claims  
arising under such policies, contracts or reinsurance agreements  
21 or to purchase reinsurance thereof. Any amounts then remaining  
with the commissioner shall be applied first to the payment of  
23 other obligations of such title insurance company, and second  
shall be distributed to the stockholders of such title insurance  
25 company. The actions of the commissioner shall be subject to  
judicial review as provided in section 58 of [this act] P.L.1975,  
27 c.106 (C.17:46B-58).

h. If, with respect to any title insurance company as defined in  
29 subsection c. of section 1 of [this act] P.L.1975, c.106  
(C.17:46B-1), this section 7 requires a greater amount of capital  
31 or surplus or deposit than required of such title insurance  
company immediately prior to the effective date of this act, such  
33 title insurance company shall have the period ending July 1, [5]  
five years after the effective date of this act within which to  
35 comply with any such increase requirement.<sup>1</sup>

(cf: P.L.1975, c.106, s.7)

37 <sup>1</sup>11. Section 6 of P.L.1945, c.161 (C.17:50-6) is amended to  
read as follows:

39 6. Each domestic exchange transacting business in this State

1 shall keep and maintain with the Commissioner of [Banking and]  
Insurance a general deposit of cash or securities in the sum of not  
3 less than [fifty thousand dollars (\$50,000.00)] \$100,000. In the  
case of foreign exchanges, a certificate of such deposit with the  
5 chief insurance officer of the State of domicile shall be filed with  
the Commissioner of [Banking and] Insurance of this State.<sup>1</sup>

7 (cf: P.L.1945, c.161, s.6)

<sup>1</sup>12. (New section) Whenever the commissioner is required or  
9 authorized by a law of this or any other state or country to  
receive and hold a deposit, he may utilize the procedures for the  
11 holding of those deposits which are found in R.S.17:20-1.<sup>1</sup>

<sup>1</sup>[9.] 13.<sup>1</sup> R.S.17:20-5, section 1 of P.L.1966, c.85 (C.17:20-6),  
13 and N.J.S.17B:18-40 are repealed.

<sup>1</sup>[10.] 14.<sup>1</sup> This act shall take effect on July 1 following  
15 enactment.

17

## INSURANCE

19

### Banking and Financial Institutions

21 Changes certain Department of Insurance procedures governing  
custodial deposits of insurance companies.

1 required to maintain the [total] market value of the total deposit  
at [100,000.00] the amount required by the commissioner.

3 (cf: N.J.S.17B:18-38)

7. N.J.S.17B:18-39 is amended to read as follows:

5 17B:18-39. The custodian, on behalf of the commissioner, may  
receive from any domestic insurer a deposit of [any] securities  
7 necessary to enable it to transact business in any other [State]  
state, territory, dependency or Federal District of the United  
9 States or in any foreign country under the laws thereof. Such  
securities shall be held by the custodian, on behalf of the  
11 commissioner, as long as the insurer desires to transact business  
in the [State] state, territory, dependency or Federal District of  
13 the United States or foreign country requiring the deposit but the  
insurer may draw the dividends or receive the interest on the  
15 securities. When the insurer desires to discontinue its business  
therein and the deposit is no longer required by the laws [of such  
17 State or foreign country] thereof, the commissioner shall return  
the securities to the insurer depositing them. Before the  
19 commissioner shall return the securities deposited with him as  
aforesaid, the company shall institute an action and obtain a  
21 judgment therefore in the Superior Court substantially similar to  
that provided in R.S.17:20-3.

23 (cf: N.J.S.17B:18-39)

8. (New section) The Commissioner of Insurance shall  
25 establish, by regulation, the fees to be charged insurance  
companies for the services of the custodian pursuant to the  
27 requirements of N.J.S.17B:18-37 through N.J.S.17B:18-39.

9. R.S.17:20-5, section 1 of P.L.1966, c.85 (C.17:20-6), and  
29 N.J.S.17B:18-40 are repealed.

10. This act shall take effect on July 1 following enactment.

31

33 STATEMENT

35 This act changes the Department of Insurance's procedures  
governing custodial deposits by authorizing insurance companies  
37 to utilize modern systems for holding and transferring securities,  
subject to appropriate regulations promulgated by the  
39 commissioner.

1       The act would also provide authority for the commissioner to  
2       designate one or more custodians to maintain these deposits and  
3       to set a fee to be charged for a custodian's services.

5

INSURANCE

7

Banking and Financial Institutions

9       Changes certain Department of Insurance procedures governing  
      custodial deposits of insurance companies.

SENATE LABOR, INDUSTRY AND PROFESSIONS COMMITTEE

STATEMENT TO

SENATE, No. 2968

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 19, 1989

The Senate Labor, Industry and Professions Committee reports favorably and with committee amendments Senate, No. 2968.

This bill, as amended by the committee, provides that every property-casualty, life and health insurer must deposit securities with a market value of at least \$100,000 with the Commissioner of Insurance to do business in the State and that, after the insurer has commenced business, the commissioner may require further deposits of securities up to the sum of \$250,000 to protect the policyholders of the depositing insurer. Currently, property-casualty insurers are required to deposit securities worth \$50,000 and the commissioner may later require securities up to the sum of \$100,000; and life and health insurers are required to deposit securities worth at least \$100,000.

The commissioner is required to appoint one or more custodians for these deposits of securities on the basis of bids submitted by financial institutions which have trust powers and have their principal office in the State. The commissioner is also required to establish the fees to be charged insurers for the services of the custodians.

Under current law, securities eligible for deposit include public stocks and bonds of this State, the United States, the states of New York, Ohio, Massachusetts and Pennsylvania and any of the counties or municipalities of this State. Eligible securities under this bill are bills, bonds and notes of the United States Treasury, debt obligations of this State and its authorities, counties and municipalities, and certificates of deposit issued by financial institutions with their principal office in this State. The bill also permits the securities to be held physically by the custodian or by means of the Federal Reserve book-entry system. The bill repeals two similar sections of law, one concerning property-casualty insurers and the other

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concerning life and health insurers, which permitted deposits of securities in the custody of a bank, trust company or national bank within this State which is designated by the depositing insurer and approved by the Commissioner of Insurance.

The committee amendments modify additional sections of law where deposits are required to reflect the change in the method of holding deposits. The amendments also provide that whenever the commissioner is required or authorized by the law of this or any other state or any country to receive or hold a deposit, he may utilize the procedures which are set forth in the bill for holding those deposits.