The Assembly Financial Institutions and Insurance Committee reports favorably, and with committee amendments, Assembly Bill No. 944.

This bill, as amended, establishes and enhances certain insurance fraud prevention measures. The bill broadens the scope of information sharing between insurance carriers and law enforcement, makes “reverse rate evasion” a violation of the “New Jersey Insurance Fraud Prevention Act,” P.L.1983, c.320 (C.17:33A-1 et seq.), and provides for certain additional anti-fraud measures to be added to the “New Jersey Insurance Fraud Prevention Act.”

Section 1 of the bill applies a 7-year statute of limitations to insurance fraud cases brought under the “New Jersey Insurance Fraud Prevention Act.”

Section 2 of the bill makes reverse rate evasion a disorderly persons offense. Reverse rate evasion occurs when New Jersey residents fraudulently obtain automobile insurance in another state even though New Jersey is their principal residence or they principally garage the insured vehicle in New Jersey.

A person who maintains a principal residence in New Jersey or has a motor vehicle principally garaged in New Jersey and who drives on the public highways of New Jersey, but has the motor vehicle insured by a policy issued under the laws of another state commits the crime of reverse rate evasion under this bill if that person obtained the insurance by knowingly preparing or making any written, electronic or oral statement, regardless of transmission, to any insurance company or producer licensed in that other state falsely indicating that the person to be insured:

(1) maintains a principal residence in the other state when, in fact, that person’s principal residence is in this State; or

(2) has his motor vehicle principally garaged in the other state, when, in fact, that person has his motor vehicle principally garaged in this State.
Section 2 of the bill does not apply to a person who legitimately insures a vehicle in another state based on a second residence, or attendance at an educational institution, in that other state.

Sections 3, 4, 5 and 6 of the bill amend the “Insurance Information Practices Act” by:

- Expanding the definition of “insurance-support organization” regarding insurance information practices, to permit any such organization to collect and report information about any person or entity in connection with an insurance transaction, going beyond the current scope as expressed in the definition, which focuses only on information collecting and reporting concerning an individual insured, applicant, or claimant;

- Expanding the definition of “privileged information” regarding insurance information practices, to indicate that such information may relate to any person or entity concerning an insurance transaction;

- Modifying the scope of permitted information disclosures with respect to insurance information practices, so that an insurance carrier, among other insurance institutions, or an agent or insurance-support organization may disclose privileged information (as defined above) about a person or entity in connection with, or in reasonable anticipation of, an insurance transaction, to: 1) another insurance institution, agent, or insurance-support organization; 2) any other person or entity involved in detecting or preventing criminal activity or insurance fraud; or 3) a law enforcement or other governmental authority; and

- Expanding the existing immunity provided to any person or entity for disclosing information, as well as the existing immunity associated with the mandatory reporting requirements and information furnishings set forth under the “New Jersey Insurance Fraud Prevention Act,” to apply to a cause of action of any nature, instead of the current law’s more limited immunity against causes of action in the nature of defamation, invasion of privacy, or other related actions.

Section 8 of the bill amends the “New Jersey Insurance Fraud Prevention Act,” in several different ways by:

- adding “electronic” statements to the statute to clarify that insurance transactions that are conducted via the Internet or other electronic means are subject to the act;

- providing that it is a violation of the act for a person or practitioner to use a business entity, including a corporation, partnership or limited liability company, which he owns, operates or otherwise controls to violate any of the provisions of this act;

- providing that a person or practitioner violates the act if he knowingly possesses, displays, distributes, or manufactures a fictitious motor vehicle insurance identification card or any other fictitious certificate of insurance;

- providing that a person or practitioner violates the act if he knowingly solicits or receives for himself or another, any kickback,
bribe, or rebate in cash or in kind, either: (1) in return for referring an individual to a person or practitioner for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part under any insurance policy; or (2) in return for purchasing, leasing, ordering, or arranging for or recommending purchasing, leasing, or ordering any good, facility, service or item for which payment may be made in whole or in part under any insurance policy, except that the prohibition against kickbacks, bribes, or rebates shall not apply to certain “safe harbor” activities permitted under federal law, or the waiver of an individual’s deductible, copayment, or coinsurance if a practitioner makes a determination of medical or financial hardship; and

- including “reverse rate evasion” as a form of insurance fraud that violates the “New Jersey Insurance Fraud Prevention Act.”

Section 9 of the bill makes a technical correction by removing language establishing a six-year statute of limitations for actions commenced by an insurance company under the “New Jersey Insurance Fraud Prevention Act” to be consistent with the 7-year statute of limitations established under the bill.

Section 10 of the bill expands the existing immunity provided to any person or entity for disclosing information, as well as the existing immunity associated with the mandatory reporting requirements and information furnishings set forth under the “New Jersey Insurance Fraud Prevention Act,” to apply to a cause of action “of any nature,” instead of the current law’s more limited immunity against causes of action in the nature of defamation, invasion of privacy, or other related actions.

Section 11 of the bill establishes a new, similarly expansive immunity under the “New Jersey Insurance Fraud Prevention Act” relating to making reports to, or providing information to, or receiving information from: (1) the Commissioner of Banking and Insurance, or any employee, agent, or representative of the commissioner; (2) federal, State, or local law enforcement, including the Office of the Insurance Fraud Prosecutor, or other governmental authority; (3) any person performing a business, professional, or insurance function concerning the detection or prevention of criminal activity, fraud, material misrepresentation, or material nondisclosure which violates the provisions of the “New Jersey Insurance Fraud Prevention Act”; (4) the National Association of Insurance Commissioners, a national nonprofit organization which assists state insurance regulators, individually and collectively, in serving the public interest and achieving insurance regulatory and market goals; or (5) the National Insurance Crime Bureau, a national nonprofit organization dedicated to preventing, detecting, and eliminating insurance fraud. This section does not provide any immunity to any person for disclosing or furnishing information with malice or willful intent to injure.
Section 12 of the bill provides that every State and local law enforcement agency, including the New Jersey State Police, would be required to make information in a police report available within 24 hours to: (1) investigators and claims representatives employed by insurers; (2) vehicle owners, operators, and passengers listed in the accident report, upon presentation of appropriate identification; (3) any person, or attorney who can provide documentation that the attorney has been retained to represent a person, who claims to have suffered personal injury or property damage as a result of the motor vehicle accident; and (4) any representative of the Bureau of Fraud Deterrence, the Office of the Insurance Fraud Prosecution in the Department of Law and Public Safety, or local county or State law enforcement. This section also would prohibit any other person from obtaining such information until 30 days have elapsed from the date of a motor vehicle accident.

Section 13 of the bill clarifies that the penalties for workers’ compensation fraud provided for under N.J.S.A.34:15-57.4 are in addition to, and shall not preclude any penalties provided for in the “New Jersey Insurance Fraud Prevention Act.”

**COMMITTEE AMENDMENTS:**

The committee amended the bill to:

- change the proposed amendment to the statute of limitation under the Insurance Fraud Prevention Act from 10 years to 7 years;
- provide an exception to the “reverse rate evasion” provisions of the bill (section 2 and subsection j. of section 8) for people who legitimately obtain insurance in another state based on a second residence or attendance at an educational institution in that state;
- lower the penalty for “reverse rate evasion” from a crime of the fourth degree to a disorderly persons offense;
- remove the word “false” from section 6 and subsection b. of section 11 of the bill regarding immunity for information sharing, so that sharing any information, whether truthful or false, with malice or willful intent to injure would not be immune from civil liability;
- remove joint insurance funds from the bill;
- remove all references to the “reckless” standard from the bill;
- remove the amendments to the definition of “statement” from the bill;
- clarify, in subsection i. of section 8 of the bill, that the subsection applies to a “kickback, bribe, or rebate” and removes the term “any remuneration;”
- clarify that subsection i. of section 8 of the bill does not apply to the waiver of an individuals’ deductible, copayment, or coinsurance by a person or practitioner after the practitioner makes a determination that the individual has a medical or financial hardship;
- Adds to the list of persons to whom law enforcement is required to make information from any accident report available: (1) any
attorney who can provide documentation that the attorney has been retained to represent a person who claims to have suffered personal injury or property damage as a result of the motor vehicle accident; and (2) any representative of the Bureau of Fraud Deterrence, the Office of the Insurance Fraud Prosecutor in the Department of Law and Public Safety, or local county or State law enforcement.

This bill was pre-filed for introduction in the 2012-2013 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.