

[First Reprint]

ASSEMBLY, No. 2297

STATE OF NEW JERSEY

217th LEGISLATURE

INTRODUCED FEBRUARY 4, 2016

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SYNOPSIS

Requires health insurance coverage for contraceptives to include prescriptions for six months.

CURRENT VERSION OF TEXT

As amended on July 31, 2017 by the General Assembly pursuant to the Governor's recommendations.

(Sponsorship Updated As Of: 12/8/2017)

1 AN ACT concerning insurance coverage for prescribed
2 contraceptives and amending P.L.2005, c.251.

3

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

6

7 1. Section 1 of P.L.2005, c.251 (C.17:48-6ee) is amended to
8 read as follows:

9 1. A hospital service corporation that provides hospital or
10 medical expense benefits for expenses incurred in the purchase of
11 outpatient prescription drugs under a contract shall provide
12 coverage under every such contract delivered, issued, executed or
13 renewed in this State or approved for issuance or renewal in this
14 State by the Commissioner of Banking and Insurance, on or after
15 the effective date of this act, for expenses incurred in the purchase
16 of prescription female contraceptives. For the purposes of this
17 section, "prescription female contraceptives" means any drug or
18 device used for contraception by a female, which is approved by the
19 federal Food and Drug Administration for that purpose, that can
20 only be purchased in this State with a prescription written by a
21 health care professional licensed or authorized to write
22 prescriptions, and includes, but is not limited to, birth control pills
23 and diaphragms. The coverage provided shall include prescriptions
24 for dispensing contraceptives for:

25 a. a three-month period for the first dispensing of the
26 contraceptive; and

27 b. a ¹~~twelve-month~~ six-month¹ period for any subsequent
28 dispensing of the same contraceptive, regardless of whether
29 coverage under the contract was in effect at the time of the first
30 dispensing ¹, except that an entity subject to this section may
31 provide coverage for a supply of contraceptives that is for less than
32 a six-month period, if a six-month period would extend beyond the
33 term of the contract¹.

34 A religious employer may request, and a hospital service
35 corporation shall grant, an exclusion under the contract for the
36 coverage required by this section if the required coverage conflicts
37 with the religious employer's bona fide religious beliefs and
38 practices. A religious employer that obtains such an exclusion shall
39 provide written notice thereof to prospective subscribers and
40 subscribers. The provisions of this section shall not be construed as
41 authorizing a hospital service corporation to exclude coverage for
42 prescription drugs that are prescribed for reasons other than
43 contraceptive purposes or for prescription female contraceptives
44 that are necessary to preserve the life or health of a subscriber. For

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:

¹Assembly amendments adopted in accordance with Governor's recommendations July 31, 2017.

1 the purposes of this section, "religious employer" means an
2 employer that is a church, convention or association of churches or
3 an elementary or secondary school that is controlled, operated or
4 principally supported by a church or by a convention or association
5 of churches as defined in 26 U.S.C.s.3121(w)(3)(A), and that
6 qualifies as a tax-exempt organization under 26 U.S.C.s.501(c)(3).

7 The benefits shall be provided to the same extent as for any other
8 outpatient prescription drug under the contract.

9 This section shall apply to those contracts in which the hospital
10 service corporation has reserved the right to change the premium.

11 (cf: P.L.2005, c.251, s.1)

12

13 2. Section 2 of P.L.2005, c.251 (C.17:48A-7bb) is amended to
14 read as follows:

15 2. A medical service corporation that provides hospital or
16 medical expense benefits for expenses incurred in the purchase of
17 outpatient prescription drugs under a contract shall provide
18 coverage under every such contract delivered, issued, executed or
19 renewed in this State or approved for issuance or renewal in this
20 State by the Commissioner of Banking and Insurance, on or after
21 the effective date of this act, for expenses incurred in the purchase
22 of prescription female contraceptives. For the purposes of this
23 section, "prescription female contraceptives" means any drug or
24 device used for contraception by a female, which is approved by the
25 federal Food and Drug Administration for that purpose, that can
26 only be purchased in this State with a prescription written by a
27 health care professional licensed or authorized to write
28 prescriptions, and includes, but is not limited to, birth control pills
29 and diaphragms. The coverage provided shall include prescriptions
30 for dispensing contraceptives for:

31 a. a three-month period for the first dispensing of the
32 contraceptive; and

33 b. a ~~twelve-month~~ six-month¹ period for any subsequent
34 dispensing of the same contraceptive, regardless of whether
35 coverage under the contract was in effect at the time of the first
36 dispensing ¹, except that an entity subject to this section may
37 provide coverage for a supply of contraceptives that is for less than
38 a six-month period, if a six-month period would extend beyond the
39 term of the contract¹.

40 A religious employer may request, and a medical service
41 corporation shall grant, an exclusion under the contract for the
42 coverage required by this section if the required coverage conflicts
43 with the religious employer's bona fide religious beliefs and
44 practices. A religious employer that obtains such an exclusion shall
45 provide written notice thereof to prospective subscribers and
46 subscribers. The provisions of this section shall not be construed as
47 authorizing a medical service corporation to exclude coverage for
48 prescription drugs that are prescribed for reasons other than

1 contraceptive purposes or for prescription female contraceptives
2 that are necessary to preserve the life or health of a subscriber. For
3 the purposes of this section, "religious employer" means an
4 employer that is a church, convention or association of churches or
5 an elementary or secondary school that is controlled, operated or
6 principally supported by a church or by a convention or association
7 of churches as defined in 26 U.S.C.s.3121(w)(3)(A), and that
8 qualifies as a tax-exempt organization under 26 U.S.C.s.501(c)(3).

9 The benefits shall be provided to the same extent as for any other
10 outpatient prescription drug under the contract.

11 This section shall apply to those contracts in which the medical
12 service corporation has reserved the right to change the premium.

13 (cf: P.L.2005, c.251, s.2)

14
15 3. Section 3 of P.L.2005, c.251 (C.17:48E-35.29) is amended
16 to read as follows:

17 3. A health service corporation that provides hospital or
18 medical expense benefits for expenses incurred in the purchase of
19 outpatient prescription drugs under a contract shall provide
20 coverage under every such contract delivered, issued, executed or
21 renewed in this State or approved for issuance or renewal in this
22 State by the Commissioner of Banking and Insurance, on or after
23 the effective date of this act, for expenses incurred in the purchase
24 of prescription female contraceptives. For the purposes of this
25 section, "prescription female contraceptives" means any drug or
26 device used for contraception by a female, which is approved by the
27 federal Food and Drug Administration for that purpose, that can
28 only be purchased in this State with a prescription written by a
29 health care professional licensed or authorized to write
30 prescriptions, and includes, but is not limited to, birth control pills
31 and diaphragms. The coverage provided shall include prescriptions
32 for dispensing contraceptives for:

33 a. a three-month period for the first dispensing of the
34 contraceptive; and

35 b. a ~~twelve-month~~ six-month¹ period for any subsequent
36 dispensing of the same contraceptive, regardless of whether
37 coverage under the contract was in effect at the time of the first
38 dispensing ¹, except that an entity subject to this section may
39 provide coverage for a supply of contraceptives that is for less than
40 a six-month period, if a six-month period would extend beyond the
41 term of the contract¹.

42 A religious employer may request, and a health service
43 corporation shall grant, an exclusion under the contract for the
44 coverage required by this section if the required coverage conflicts
45 with the religious employer's bona fide religious beliefs and
46 practices. A religious employer that obtains such an exclusion shall
47 provide written notice thereof to prospective subscribers and
48 subscribers. The provisions of this section shall not be construed as

1 authorizing a health service corporation to exclude coverage for
2 prescription drugs that are prescribed for reasons other than
3 contraceptive purposes or for prescription female contraceptives
4 that are necessary to preserve the life or health of a subscriber. For
5 the purposes of this section, "religious employer" means an
6 employer that is a church, convention or association of churches or
7 an elementary or secondary school that is controlled, operated or
8 principally supported by a church or by a convention or association
9 of churches as defined in 26 U.S.C.s.3121(w)(3)(A), and that
10 qualifies as a tax-exempt organization under 26 U.S.C.s.501(c)(3).

11 The benefits shall be provided to the same extent as for any other
12 outpatient prescription drug under the contract.

13 This section shall apply to those contracts in which the health
14 service corporation has reserved the right to change the premium.
15 (cf: P.L.2005, c.251, s.3)

16

17 4. Section 4 of P.L.2005, c.251 (C.17B:27-46.1ee) is amended
18 to read as follows:

19 4. A group health insurer that provides hospital or medical
20 expense benefits for expenses incurred in the purchase of outpatient
21 prescription drugs under a policy shall provide coverage under
22 every such policy delivered, issued, executed or renewed in this
23 State or approved for issuance or renewal in this State by the
24 Commissioner of Banking and Insurance, on or after the effective
25 date of this act, for expenses incurred in the purchase of
26 prescription female contraceptives. For the purposes of this section,
27 "prescription female contraceptives" means any drug or device used
28 for contraception by a female, which is approved by the federal
29 Food and Drug Administration for that purpose, that can only be
30 purchased in this State with a prescription written by a health care
31 professional licensed or authorized to write prescriptions, and
32 includes, but is not limited to, birth control pills and diaphragms.
33 The coverage provided shall include prescriptions for dispensing
34 contraceptives for:

35 a. a three-month period for the first dispensing of the
36 contraceptive; and

37 b. a ¹twelve-month¹ six-month¹ period for any subsequent
38 dispensing of the same contraceptive, regardless of whether
39 coverage under the policy was in effect at the time of the first
40 dispensing ¹, except that an entity subject to this section may
41 provide coverage for a supply of contraceptives that is for less than
42 a six-month period, if a six-month period would extend beyond the
43 term of the contract¹.

44 A religious employer may request, and an insurer shall grant, an
45 exclusion under the policy for the coverage required by this section
46 if the required coverage conflicts with the religious employer's bona
47 fide religious beliefs and practices. A religious employer that
48 obtains such an exclusion shall provide written notice thereof to

1 prospective insureds and insureds. The provisions of this section
2 shall not be construed as authorizing an insurer to exclude coverage
3 for prescription drugs that are prescribed for reasons other than
4 contraceptive purposes or for prescription female contraceptives
5 that are necessary to preserve the life or health of an insured. For
6 the purposes of this section, "religious employer" means an
7 employer that is a church, convention or association of churches or
8 an elementary or secondary school that is controlled, operated or
9 principally supported by a church or by a convention or association
10 of churches as defined in 26 U.S.C.s.3121(w)(3)(A), and that
11 qualifies as a tax-exempt organization under 26 U.S.C.s.501(c)(3).

12 The benefits shall be provided to the same extent as for any other
13 outpatient prescription drug under the policy.

14 This section shall apply to those policies in which the insurer has
15 reserved the right to change the premium.

16 (cf: P.L.2005, c.251, s.4)

17

18 5. Section 5 of P.L.2005, c.251 (C.17B:26-2.1y) is amended to
19 read as follows:

20 5. An individual health insurer that provides hospital or
21 medical expense benefits for expenses incurred in the purchase of
22 outpatient prescription drugs under a policy shall provide coverage
23 under every such policy delivered, issued, executed or renewed in
24 this State or approved for issuance or renewal in this State by the
25 Commissioner of Banking and Insurance, on or after the effective
26 date of this act, for expenses incurred in the purchase of
27 prescription female contraceptives. For the purposes of this section,
28 "prescription female contraceptives" means any drug or device used
29 for contraception by a female, which is approved by the federal
30 Food and Drug Administration for that purpose, that can only be
31 purchased in this State with a prescription written by a health care
32 professional licensed or authorized to write prescriptions, and
33 includes, but is not limited to, birth control pills and diaphragms.
34 The coverage provided shall include prescriptions for dispensing
35 contraceptives for:

36 a. a three-month period for the first dispensing of the
37 contraceptive; and

38 b. a ¹[twelve-month] six-month¹ period for any subsequent
39 dispensing of the same contraceptive, regardless of whether
40 coverage under the policy was in effect at the time of the first
41 dispensing ¹, except that an entity subject to this section may
42 provide coverage for a supply of contraceptives that is for less than
43 a six-month period, if a six-month period would extend beyond the
44 term of the contract¹.

45 A religious employer may request, and an insurer shall grant, an
46 exclusion under the policy for the coverage required by this section
47 if the required coverage conflicts with the religious employer's bona
48 fide religious beliefs and practices. A religious employer that

1 obtains such an exclusion shall provide written notice thereof to
2 prospective insureds and insureds. The provisions of this section
3 shall not be construed as authorizing an insurer to exclude coverage
4 for prescription drugs that are prescribed for reasons other than
5 contraceptive purposes or for prescription female contraceptives
6 that are necessary to preserve the life or health of an insured. For
7 the purposes of this section, "religious employer" means an
8 employer that is a church, convention or association of churches or
9 an elementary or secondary school that is controlled, operated or
10 principally supported by a church or by a convention or association
11 of churches as defined in 26 U.S.C.s.3121(w)(3)(A), and that
12 qualifies as a tax-exempt organization under 26 U.S.C.s.501(c)(3).

13 The benefits shall be provided to the same extent as for any other
14 outpatient prescription drug under the policy.

15 This section shall apply to those policies in which the insurer has
16 reserved the right to change the premium.

17 (cf: P.L.2005, c.251, s.5)

18

19 6. Section 6 of P.L.2005, c.251 (C.26:2J-4.30) is amended to
20 read as follows:

21 6. A certificate of authority to establish and operate a health
22 maintenance organization in this State shall not be issued or
23 continued on or after the effective date of this act for a health
24 maintenance organization that provides health care services for
25 outpatient prescription drugs under a contract, unless the health
26 maintenance organization also provides health care services for
27 prescription female contraceptives. For the purposes of this section,
28 "prescription female contraceptives" means any drug or device used
29 for contraception by a female, which is approved by the federal
30 Food and Drug Administration for that purpose, that can only be
31 purchased in this State with a prescription written by a health care
32 professional licensed or authorized to write prescriptions, and
33 includes, but is not limited to, birth control pills and diaphragms.
34 The coverage provided shall include prescriptions for dispensing
35 contraceptives for:

36 a. a three-month period for the first dispensing of the
37 contraceptive; and

38 b. a **['twelve-month]** six-month¹ period for any subsequent
39 dispensing of the same contraceptive, regardless of whether
40 coverage under the contract was in effect at the time of the first
41 dispensing ¹, except that an entity subject to this section may
42 provide coverage for a supply of contraceptives that is for less than
43 a six-month period, if a six-month period would extend beyond the
44 term of the contract¹.

45 A religious employer may request, and a health maintenance
46 organization shall grant, an exclusion under the contract for the
47 health care services required by this section if the required health
48 care services conflict with the religious employer's bona fide

1 religious beliefs and practices. A religious employer that obtains
2 such an exclusion shall provide written notice thereof to prospective
3 enrollees and enrollees. The provisions of this section shall not be
4 construed as authorizing a health maintenance organization to
5 exclude health care services for prescription drugs that are
6 prescribed for reasons other than contraceptive purposes or for
7 prescription female contraceptives that are necessary to preserve the
8 life or health of an enrollee. For the purposes of this section,
9 "religious employer" means an employer that is a church,
10 convention or association of churches or an elementary or
11 secondary school that is controlled, operated or principally
12 supported by a church or by a convention or association of churches
13 as defined in 26 U.S.C.s.3121(w)(3)(A), and that qualifies as a tax-
14 exempt organization under 26 U.S.C.s.501(c)(3).

15 The health care services shall be provided to the same extent as
16 for any other outpatient prescription drug under the contract.

17 The provisions of this section shall apply to those contracts for
18 health care services by health maintenance organizations under
19 which the right to change the schedule of charges for enrollee
20 coverage is reserved.

21 (cf: P.L.2005, c.251, s.6)

22

23 7. Section 7 of P.L.2005, c.251 (C.17B:27A-7.12) is amended
24 to read as follows:

25 7. An individual health benefits plan required pursuant to
26 section 3 of P.L.1992, c.161 (C.17B:27A-4) that provides benefits
27 for expenses incurred in the purchase of outpatient prescription
28 drugs shall provide coverage for expenses incurred in the purchase
29 of prescription female contraceptives. For the purposes of this
30 section, "prescription female contraceptives" means any drug or
31 device used for contraception by a female, which is approved by the
32 federal Food and Drug Administration for that purpose, that can
33 only be purchased in this State with a prescription written by a
34 health care professional licensed or authorized to write
35 prescriptions, and includes, but is not limited to, birth control pills
36 and diaphragms. The coverage provided shall include prescriptions
37 for dispensing contraceptives for:

38 a. a three-month period for the first dispensing of the
39 contraceptive; and

40 b. a ¹twelve-month¹ six-month¹ period for any subsequent
41 dispensing of the same contraceptive, regardless of whether
42 coverage under the plan was in effect at the time of the first
43 dispensing ¹, except that an entity subject to this section may
44 provide coverage for a supply of contraceptives that is for less than
45 a six-month period, if a six-month period would extend beyond the
46 term of the contract¹.

47 A religious employer may request, and a carrier shall grant, an
48 exclusion under the health benefits plan for the coverage required

1 by this section if the required coverage conflicts with the religious
2 employer's bona fide religious beliefs and practices. A religious
3 employer that obtains such an exclusion shall provide written notice
4 thereof to prospective covered persons and covered persons. The
5 provisions of this section shall not be construed as authorizing a
6 carrier to exclude coverage for prescription drugs that are
7 prescribed for reasons other than contraceptive purposes or for
8 prescription female contraceptives that are necessary to preserve the
9 life or health of a covered person. For the purposes of this section,
10 "religious employer" means an employer that is a church,
11 convention or association of churches or an elementary or
12 secondary school that is controlled, operated or principally
13 supported by a church or by a convention or association of churches
14 as defined in 26 U.S.C.s.3121(w)(3)(A), and that qualifies as a tax-
15 exempt organization under 26 U.S.C.s.501(c)(3).

16 The benefits shall be provided to the same extent as for any other
17 outpatient prescription drug under the health benefits plan.

18 This section shall apply to all individual health benefits plans in
19 which the carrier has reserved the right to change the premium.

20 (cf: P.L.2005, c.251, s.7)

21

22 8. Section 8 of P.L.2005, c.251 (C.17B:27A-19.15) is amended
23 to read as follows:

24 8. A small employer health benefits plan required pursuant to
25 section 3 of P.L.1992, c.162 (C.17B:27A-19) that provides benefits
26 for expenses incurred in the purchase of outpatient prescription
27 drugs shall provide coverage for expenses incurred in the purchase
28 of prescription female contraceptives. For the purposes of this
29 section, "prescription female contraceptives" means any drug or
30 device used for contraception by a female, which is approved by the
31 federal Food and Drug Administration for that purpose, that can
32 only be purchased in this State with a prescription written by a
33 health care professional licensed or authorized to write
34 prescriptions, and includes, but is not limited to, birth control pills
35 and diaphragms. The coverage provided shall include prescriptions
36 for dispensing contraceptives for:

37 a. a three-month period for the first dispensing of the
38 contraceptive; and

39 b. a ¹twelve-month¹ six-month¹ period for any subsequent
40 dispensing of the same contraceptive, regardless of whether
41 coverage under the plan was in effect at the time of the first
42 dispensing ¹, except that an entity subject to this section may
43 provide coverage for a supply of contraceptives that is for less than
44 a six-month period, if a six-month period would extend beyond the
45 term of the contract¹.

46 A religious employer may request, and a carrier shall grant, an
47 exclusion under the health benefits plan for the coverage required
48 by this section if the required coverage conflicts with the religious

1 employer's bona fide religious beliefs and practices. A religious
2 employer that obtains such an exclusion shall provide written notice
3 thereof to prospective covered persons and covered persons. The
4 provisions of this section shall not be construed as authorizing a
5 carrier to exclude coverage for prescription drugs that are
6 prescribed for reasons other than contraceptive purposes or for
7 prescription female contraceptives that are necessary to preserve the
8 life or health of a covered person. For the purposes of this section,
9 "religious employer" means an employer that is a church,
10 convention or association of churches or an elementary or
11 secondary school that is controlled, operated or principally
12 supported by a church or by a convention or association of churches
13 as defined in 26 U.S.C.s.3121(w)(3)(A), and that qualifies as a tax-
14 exempt organization under 26 U.S.C.s.501(c)(3).

15 The benefits shall be provided to the same extent as for any other
16 outpatient prescription drug under the health benefits plan.

17 This section shall apply to all small employer health benefits
18 plans in which the carrier has reserved the right to change the
19 premium.

20 (cf: P.L.2005, c.251, s.8)

21

22 9. Section 9 of P.L.2005, c.251 (C.17:48F-13.2) is amended to
23 read as follows:

24 9. A prepaid prescription service organization that provides
25 benefits for expenses incurred in the purchase of outpatient
26 prescription drugs under a contract shall provide coverage under
27 every such contract delivered, issued, executed or renewed in this
28 State or approved for issuance or renewal in this State by the
29 Commissioner of Banking and Insurance, on or after the effective
30 date of this act, for expenses incurred in the purchase of
31 prescription female contraceptives. For the purposes of this section,
32 "prescription female contraceptives" means any drug or device used
33 for contraception by a female, which is approved by the federal
34 Food and Drug Administration for that purpose, that can only be
35 purchased in this State with a prescription written by a health care
36 professional licensed or authorized to write prescriptions, and
37 includes, but is not limited to, birth control pills and diaphragms.
38 The coverage provided shall include prescriptions for dispensing
39 contraceptives for:

40 a. a three-month period for the first dispensing of the
41 contraceptive; and

42 b. a ¹twelve-month¹ six-month¹ period for any subsequent
43 dispensing of the same contraceptive, regardless of whether
44 coverage under the contract was in effect at the time of the first
45 dispensing ¹, except that an entity subject to this section may
46 provide coverage for a supply of contraceptives that is for less than
47 a six-month period, if a six-month period would extend beyond the
48 term of the contract¹.

1 A religious employer may request, and a prepaid prescription
2 service organization shall grant, an exclusion under the contract for
3 the coverage required by this section if the required coverage
4 conflicts with the religious employer's bona fide religious beliefs
5 and practices. A religious employer that obtains such an exclusion
6 shall provide written notice thereof to prospective enrollees and
7 enrollees. The provisions of this section shall not be construed as
8 authorizing a prepaid prescription service organization to exclude
9 coverage for prescription drugs that are prescribed for reasons other
10 than contraceptive purposes or for prescription female
11 contraceptives that are necessary to preserve the life or health of an
12 enrollee. For the purposes of this section, "religious employer"
13 means an employer that is a church, convention or association of
14 churches or an elementary or secondary school that is controlled,
15 operated or principally supported by a church or by a convention or
16 association of churches as defined in 26 U.S.C.s.3121(w)(3)(A),
17 and that qualifies as a tax-exempt organization under 26
18 U.S.C.s.501(c)(3).

19 The benefits shall be provided to the same extent as for any other
20 outpatient prescription drug under the contract.

21 This section shall apply to those prepaid prescription contracts in
22 which the prepaid prescription service organization has reserved the
23 right to change the premium.

24 (cf: P.L.2005, c.251, s.9)

25

26 10. Section 10 of P.L.2005, c.251 (C.52:14-17.29j) is amended
27 to read as follows:

28 10. The State Health Benefits Commission shall ensure that
29 every contract purchased by the commission on or after the
30 effective date of this act that provides benefits for expenses
31 incurred in the purchase of outpatient prescription drugs shall
32 provide benefits for expenses incurred in the purchase of
33 prescription female contraceptives.

34 For the purposes of this section, "prescription female
35 contraceptives" means any drug or device used for contraception by
36 a female, which is approved by the federal Food and Drug
37 Administration for that purpose, that can only be purchased in this
38 State with a prescription written by a health care professional
39 licensed or authorized to write prescriptions, and includes, but is
40 not limited to, birth control pills and diaphragms. The coverage
41 provided shall include prescriptions for dispensing contraceptives
42 for:

43 a. a three-month period for the first dispensing of the
44 contraceptive; and

45 b. a ¹twelve-month¹ six-month¹ period for any subsequent
46 dispensing of the same contraceptive, regardless of whether
47 coverage under the contract was in effect at the time of the first
48 dispensing ¹, except that an entity subject to this section may

1 provide coverage for a supply of contraceptives that is for less than
2 a six-month period, if a six-month period would extend beyond the
3 term of the contract¹.

4 (cf: P.L.2005, c.251, s.10)

5

6 11. This act shall take effect on the 90th day next following
7 enactment and shall apply to policies and contracts delivered,
8 issued, executed or renewed on or after the effective date of this act.