

ASSEMBLY, No. 753

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblymen **SULIGA** and **PASCHELL**

1 AN ACT concerning insurance producers and amending P.L.1987,  
2 c.293.

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 1. Section 17 of P.L.1987, c.293 (C.17:22A-17) is amended to  
8 read as follows:

9 17. a. The commissioner may refuse to issue or renew a license,  
10 or may revoke or suspend a license if he finds after notice and an  
11 opportunity for hearing in accordance with the "Administrative  
12 Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.) and any rules  
13 or regulations adopted thereunder, that the person has:

14 (1) Willfully violated any provision of the insurance laws of this  
15 State;

16 (2) Intentionally withheld material information or made a material  
17 misstatement in an application for a license;

18 (3) Obtained or attempted to obtain a license by fraud or  
19 misrepresentation;

20 (4) Committed any fraudulent act;

21 (5) Misappropriated or converted to his own use, or has illegally  
22 withheld, moneys which were received in the conduct of business and  
23 belonged to insurers, policyholders or others;

24 (6) Used the license not for the purpose of engaging in the  
25 insurance business with the general public, but primarily for the  
26 purpose of soliciting or negotiating insurance contracts or policies  
27 covering himself, members of his family, members or employees of any  
28 organization of which he is an officer, or officers or employees of an  
29 organization in which the licensee or members of his immediate family  
30 own a controlling interest, or the property or interests of those  
31 persons. A license shall be deemed to have been used principally for  
32 this purpose if the commissioner finds that during any 12-month period

**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.**

- 1 the aggregate commissions or other compensation accruing or to  
2 accrue from that business have exceeded or will exceed the aggregate  
3 commissions or other compensation accruing or to accrue on other  
4 business written by the applicant or licensee during the same period;
- 5 (7) Materially misrepresented the terms or conditions of insurance  
6 contracts or policies to any policyholder, insurance company,  
7 insurance producer or member of the general public;
- 8 (8) Paid a rebate to any person or paid a commission, brokerage  
9 fee or other compensation to a person who is not licensed as an  
10 insurance producer in this State, or any state other than this State, for  
11 services rendered as an insurance producer;
- 12 (9) Aided, abetted or assisted another person in violating any of the  
13 insurance laws of this State;
- 14 (10) Has been convicted of a crime involving moral turpitude or any  
15 crime reflecting on the insurance producer's fitness for licensure;
- 16 (11) Failed to file or maintain with the commissioner a complete  
17 and accurate business and home mailing address or to immediately  
18 notify the commissioner of any change in the business or home mailing  
19 address;
- 20 (12) Failed to file and maintain with the commissioner the name or  
21 names of licensed employers or employees or to immediately notify the  
22 commissioner of a change of employer or of licensed employees in a  
23 manner prescribed by rule or regulation of the commissioner;
- 24 (13) Failed to pay any fine imposed or restitution ordered by the  
25 commissioner;
- 26 (14) Failed to appear in response to any subpoena issued by the  
27 commissioner or his authorized designee; failed to produce any  
28 documents or other material requested in such a subpoena; or refused  
29 or failed to cooperate with an investigation by the commissioner of the  
30 activities of the person or any other licensee;
- 31 (15) Failed to keep, maintain or make available for inspection by the  
32 commissioner those records that the commissioner shall require to be  
33 kept and maintained by rule or regulation;
- 34 (16) Failed to notify the commissioner within 30 days of his  
35 conviction for any crime, indictment or the filing of any formal  
36 criminal charges, or the suspension or revocation of any insurance  
37 license or authority by a state, other than this State, or the initiation of  
38 formal disciplinary proceedings in a state, other than this State,  
39 affecting the producer's insurance license; or failed to supply any  
40 documentation that the commissioner may request in connection  
41 therewith;
- 42 (17) Failed at any time to possess cash and accounts receivable for  
43 insurance premiums in an amount equal to or in excess of the accounts  
44 payable by the licensee for insurance premiums. Those accounts  
45 receivable shall not include insurance premiums owing the licensee  
46 more than 120 days after the last day of the month during which the

1 insurance coverage became effective. As used in this section,  
2 "insurance premiums" include unearned premiums or premiums to be  
3 refunded to policyholders and both written and earned premiums  
4 whether actually collected from policyholders or not. The filing,  
5 within the preceding 10 years, of a petition in bankruptcy, a deed of  
6 assignment for the benefit of creditors pursuant to N.J.S. 2A:19-1 et  
7 seq., or any similar filing acknowledging at the time of that filing that  
8 the licensed insurance producer owed to one or more insurance  
9 companies, insurance producers, policyholders, premium finance  
10 companies or other persons any insurance premiums, including any  
11 unearned or return premiums due policyholders in an aggregate  
12 amount of \$5,000.00 or more, shall create a presumption that there  
13 has been a violation of this subsection;

14 (18) Collected from an insured or prospective insured any fee or  
15 other compensation other than a commission deductible from an  
16 insurance premium, except when acting as an insurance broker or  
17 insurance consultant and:

18 (a) The fee or other compensation is based upon a written  
19 memorandum signed by the party to be charged, which memorandum  
20 specifies or defines the amount of compensation; and

21 (b) The amount of the fee or other compensation bears a  
22 reasonable relationship to the services rendered and is not  
23 discriminatory.

24 (19) Failed willfully or repeatedly to comply with standards and  
25 practices established pursuant to the plan of operation of any statutory  
26 mechanism for providing insurance coverage in this State, including,  
27 but not limited to, any automobile insurance plan operating pursuant  
28 to P.L.1970, c. 215 (C. 17:29D-1)[, the New Jersey Automobile Full  
29 Insurance Underwriting Association operating pursuant to P.L.1983,  
30 c. 65 (C. 17:30E-1 et seq.)]and the New Jersey Insurance  
31 Underwriting Association operating pursuant to P.L.1968, c. 129 (C.  
32 17:37A-1 et seq.);

33 (20) Demonstrated unworthiness, lack of integrity, bad faith,  
34 dishonesty, financial irresponsibility or incompetency to transact  
35 business as an insurance producer.

36 b. In addition [or as an alternative] to any other penalty, the  
37 commissioner [may] shall impose a fine of up to \$5,000.00 for the first  
38 violation of any provision of this act, and not exceeding \$10,000.00  
39 for each subsequent violation, and in appropriate circumstances may  
40 , after notice and an opportunity for a hearing in accordance with the  
41 Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.),  
42 order restitution of twice the moneys owed any person and interest on  
43 such moneys which shall accrue at the percentage of interest  
44 prescribed in the Rules Governing the Courts of the State of New  
45 Jersey for judgments, awards and orders for the payment of money,  
46 from the time the violation occurred, and reimbursement of the costs

1 of investigation and prosecution.

2 No person whose license has been revoked shall be issued a license  
3 unless the costs assessed pursuant to this subsection are paid.

4 c. The commissioner may promulgate rules or regulations  
5 necessary to implement the provisions of this section.

6 (cf: P.L.1987, c. 293, s. 17)

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8 2. This act shall take effect immediately.

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STATEMENT

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13 This bill makes mandatory the imposition of penalties by the  
14 Commissioner of Insurance for violations of the provisions of the  
15 "New Jersey Insurance Producer Licensing Act P.L.1987, c.293  
16 (C.17:22A-1 et seq.)." Under current law the imposition of penalties  
17 for such violations is discretionary. The penalties that may currently  
18 be imposed include: the imposition of a fine of up to \$5,000 for the  
19 first violation of any provision of the act, and not exceeding \$10,000  
20 for each subsequent violation. Additionally, in appropriate  
21 circumstances, the commissioner may order restitution of moneys  
22 owed any person and reimbursement of the costs of investigation and  
23 prosecution. Under the provisions of the bill, the commissioner is  
24 authorized, after notice and an opportunity for a hearing, to order  
25 restitution of twice the moneys owed any person, which moneys shall  
26 bear interest at the percentage of interest prescribed in the Rules  
27 Governing the Courts of the State of New Jersey for judgments,  
28 awards and orders for the payment of money from the time that the  
29 violation occurred.

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34 Concerns penalties for violation of "New Jersey Insurance Producer  
35 Licensing Act."