

ASSEMBLY, No. 803

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblywoman FARRAGHER and Assemblyman BAGGER

1 AN ACT concerning oversight of certain activities of the National
2 Association of Insurance Commissioners, amending various parts
3 of the statutory law and supplementing Title 17 of the Revised
4 Statutes.

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

8
9 1. (New section) a. The Legislature finds and declares that:

10 (1) The National Association of Insurance Commissioners is a
11 private association whose members are the insurance commissioners
12 of the 50 states, the District of Columbia, and the several territories of
13 the United States.

14 (2) While the original purpose of the National Association of
15 Insurance Commissioners was to assist states in regulating insurance
16 companies, the association has deviated from its legitimate role in
17 recent years, and is now attempting to impose its views regarding
18 insurance regulation on all states through the association's
19 accreditation program. Federal law, such as the McCarran-Ferguson
20 Act, 15 U.S.C. §1011 et seq. and the Liability Risk Retention Act of
21 1986, 15 U.S.C. §3901 et seq. grants to states, not to the association,
22 the authority and responsibility to regulate the business of insurance.

23 (3) The accreditation program of the National Association of
24 Insurance Commissioners requires that each state adopt uniform model
25 laws, in derogation of state sovereignty and prerogatives, without
26 regard to the suitability of those laws to each state, and without regard
27 to the merits of each state's actual regulatory performance.

28 (4) As the impact of the National Association of Insurance
29 Commissioners on states, insurance consumers and insurance
30 companies has increased, the association has become less accountable
31 to the public, and has failed to act in a fundamentally fair manner:
32 meetings are regularly closed to the public or open only at the sole

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 discretion of officers of the association and individuals and
2 organizations that may be affected by the association's actions are not
3 given a reasonable opportunity to be heard.

4 (5) The budget of the National Association of Insurance
5 Commissioners has grown substantially in recent years, fueled by
6 significant increases in fees charged to companies, and passed along
7 to consumers: the association's 1990 annual budget of \$13.9 million
8 has increased to a 1995 projected budget of \$39.9 million and the
9 association's central office staff has increased over that time from 137
10 to 319. Despite the essentially public nature of the association's
11 budget, it is not subject to state legislative review, and the fees
12 charged by the association are not authorized by state law in the usual
13 and customary manner.

14 b. Accordingly, it is the purpose of this act to:

15 (1) Support joint efforts by states to coordinate and improve
16 interstate insurance regulation, in order to protect and advance the
17 interests of the people of the State of New Jersey. The Legislature
18 supports the system of state regulation of the business of insurance,
19 and it is the intention of this act to strengthen that system of state
20 regulation.

21 (2) Provide state legislative oversight of the National Association
22 of Insurance Commissioners where the association's activities affect
23 the interests of the people of the State of New Jersey.

24 (3) Ensure that fees charged by the National Association of
25 Insurance Commissioners to insurance companies doing business in
26 New Jersey are reasonable and subject to approval by a publicly
27 accountable person or body.

28

29 2. (New section) a. Annually on or before October 1, the National
30 Association of Insurance Commissioners shall file a report of its
31 activities with the Governor and the Legislature which shall include:

32 (1) a summary of the activities of the National Association of
33 Insurance Commissioners during the preceding year;

34 (2) a fiscal report, in accordance with generally accepted
35 accounting principles, stating each and every category of personal,
36 operating and capital expenditures; each and every category of revenue
37 received from all sources during the association's preceding fiscal year;
38 and anticipated expenses and revenues for the current and succeeding
39 six fiscal years, on a form approved by the Governor, the President of
40 the Senate and the Speaker of the General Assembly. The fiscal report
41 shall include for each such fiscal year statements of expenditures by
42 major program, an audit opinion of the association's fiscal report, the
43 salaries and other compensation of officers and professional and
44 managerial employees, compensation under each personal services
45 contract, and such other information as may be requested on or before
46 August 1 of each year by the Governor or the President of the Senate

1 or the Speaker of the General Assembly, on behalf of their respective
2 Houses;

3 (3) a list of each law or regulation, identified by name and version,
4 required or proposed to be required by the National Association of
5 Insurance Commissioners to be enacted or adopted in order for a state
6 to receive or continue with its status as a state accredited by the
7 National Association of Insurance Commissioners, together with a
8 detailed explanation of why each such requirement is in the public
9 interest, and why alternative means, less restrictive of state sovereignty
10 and innovation, could not accomplish the public purpose of each such
11 requirement;

12 (4) a description of the policies and procedures in effect with the
13 National Association of Insurance Commissioners that are designed to
14 ensure that a state's accreditation status is determined solely based on
15 the merits of a state's regulatory effectiveness, a statement of whether
16 the association has complied with those policies and procedures, and
17 a detailed explanation of any noncompliance with those policies and
18 procedures;

19 (5) a description of the policies and procedures designed to ensure
20 that the National Association of Insurance Commissioners conducts its
21 deliberations and makes its decisions in meetings that are open to the
22 public and in a manner that provides fair notice and a fair opportunity
23 for all affected persons to be heard, a statement on whether the
24 association has complied with those policies and procedures, and a
25 detailed explanation of any noncompliance with those policies and
26 procedures; and

27 (6) any other information requested on or before August 1 of each
28 year by the Governor or the President of the Senate or the Speaker of
29 the General Assembly, on behalf of their respective Houses.

30 b. Upon receiving the report of the National Association of
31 Insurance Commissioners, the President of the Senate or the Speaker
32 of the General Assembly, on behalf of their respective Houses, may
33 request that the National Conference of Insurance Legislators review
34 the report and make recommendations to them. If that request is made
35 and agreed to, the National Conference of Insurance Legislators shall
36 report to the Legislature on or before January 1 following that request.
37

38 3. (New section) Insurers domiciled in this State and licensed by
39 the Department of Insurance, including captive insurance companies
40 and risk retention groups, shall not be required to pay any fee,
41 assessment, or charge of any kind to the National Association of
42 Insurance Commissioners, including annual statement filing fees,
43 securities valuation fees, statement filing instruction manual charges,
44 database sales charges, publications charges, software license charges
45 or national meeting registration fees, unless those fees, assessments or
46 charges have been established and authorized by rules adopted by the

1 commissioner.

2

3 4. Section 1 of P.L.1950, c.231 (C.17:32-15) is amended to read
4 as follows:

5 1. a. When by the laws of any other state or foreign country any
6 premium or income or other taxes, or any fees, fines, penalties,
7 licenses, deposit requirements or other obligations, prohibitions or
8 restrictions are imposed upon New Jersey insurance companies, or
9 reciprocal or interinsurance exchanges, doing business in such other
10 state or foreign country, or upon their agents therein, which are in
11 excess of such taxes, fees, fines, penalties, licenses, deposit
12 requirements or other obligations, prohibitions or restrictions imposed
13 upon insurance companies, or reciprocal or interinsurance exchanges
14 of such other state or foreign country doing business in New Jersey,
15 or upon their agents therein, so long as such laws continue in force the
16 same premium or income or other taxes, or fees, fines, penalties,
17 licenses, deposit requirements or other obligations, prohibitions and
18 restrictions of whatever kind shall be imposed upon insurance
19 companies, or reciprocal or interinsurance exchanges of such other
20 state or foreign country doing business in New Jersey, or upon their
21 agents therein. Any tax obligation imposed by any city, county, school
22 district or other political subdivision of any other state or foreign
23 country on New Jersey insurance companies, or reciprocal or
24 interinsurance exchanges, shall be deemed to be imposed by such state
25 or foreign country within the meaning of this section, and the
26 Commissioner of Insurance for the purpose of this section may
27 compute the burden of any such tax obligation on an aggregate
28 statewide or foreign countrywide basis as an addition to the rate of tax
29 payable by similar New Jersey companies, or reciprocal or
30 interinsurance exchanges, in such state or foreign country. The
31 addition to the rate of tax payable by similar New Jersey companies,
32 or reciprocal or interinsurance exchanges, shall be calculated by
33 dividing (i) the aggregate of their tax obligations paid to any such city,
34 county, school district or other political subdivision of such state or
35 foreign country by (ii) the aggregate of the taxable premiums under the
36 premium taxing statute of such state or foreign country. The
37 commissioner may issue regulations to carry out the purpose of this
38 act. The provisions of this section shall not apply to ad valorem taxes
39 on real or personal property or to personal income taxes or to special
40 purpose assessments imposed in connection with particular kinds of
41 insurance.

42 b. If the Commissioner of Insurance determines that an insurance
43 department or other regulatory agency of another state or territory of
44 the United States has imposed any sanctions, fines, penalties, financial
45 or deposit requirements, prohibitions, restrictions, regulatory
46 requirements, or other obligations of any kind on New Jersey

1 insurance companies licensed to transact insurance in that other state
2 or territory because:

3 (1) the Department of Insurance is not accredited or otherwise
4 approved by the National Association of Insurance Commissioners, or
5 by any agent or representative of the association;

6 (2) the Department of Insurance has not complied with any
7 directive, annual financial statement requirement, model act or
8 regulation, market conduct or financial examination report or
9 requirement, or any report or requirement of any kind imposed directly
10 or indirectly through the laws or regulations of that other state or
11 territory, by the National Association of Insurance Commissioners, or
12 by any agent or representative of the association; or

13 (3) a New Jersey insurance company has refused to comply with,
14 file or pay any requirement, report, fee, assessment or charge
15 determined by the commissioner to be unreasonable and imposed
16 directly or indirectly through the laws or regulations of that other state
17 or territory by the National Association of Insurance Commissioners,
18 or by any agent or representative of the association.

19 then the commissioner shall impose similar sanctions, fines, penalties,
20 financial or deposit requirements, prohibitions, restrictions, regulatory
21 requirements or other obligations of any kind on the domestic
22 insurance companies of that other state or territory doing business in
23 this State. The commissioner shall adopt by rule standards and
24 procedures for imposing, calculating, apportioning and collecting
25 those similar sanctions, fines, penalties, financial or deposit
26 requirements, prohibitions, restrictions, regulatory requirements or
27 other obligations.

28 c. If any other state or territory of the United States requires a
29 New Jersey company licensed to transact insurance in that state or
30 territory to pay, directly or indirectly a fee, assessment, or charge of
31 any kind to the National Association of Insurance Commissioners in
32 excess of the fees, assessments or charges, if any, approved by the
33 Commissioner of Insurance under section 3 of P.L. , c. (C.)
34 (now before the Legislature as this bill) those fees, assessments, or
35 charges shall be considered excessive and shall be imposed upon the
36 domestic insurance companies of that other state or territory doing
37 business in this State. The commissioner shall adopt by rule standards
38 and procedures for imposing, calculating, apportioning and collecting
39 those excessive fees, assessments, or charges.

40 (cf: P.L.1985, c.88, s.1)

41

42 5. N.J.S.17B:23-5 is amended to read as follows:

43 17B:23-5. a. When by or pursuant to the laws of any other state
44 or a province of Canada, any taxes, licenses and other fees, in the
45 aggregate, and any fines, penalties, deposit requirements or other
46 obligations, prohibitions or restrictions are or would be imposed upon

1 New Jersey insurers, or upon the agents or representatives of such
2 insurers, which are in excess of such taxes, licenses and other fees, in
3 the aggregate, or which are in excess of the fines, penalties, deposit
4 requirements or other obligations, prohibitions, or restrictions directly
5 imposed upon similar insurers, or upon the agents or representatives
6 of such insurers of such other state or province under the statutes of
7 this State, so long as such laws of such other state or province
8 continue in force or are so applied, the same taxes, licenses and other
9 fees, in the aggregate, or fines, penalties or deposit requirements or
10 other obligations, prohibitions, or restrictions of whatever kind shall
11 be imposed by the commissioner upon the insurers or upon the agents
12 or representatives of such insurers, of such other state or province
13 doing business or seeking to do business in New Jersey. Any tax,
14 license or other fee or other obligation imposed by any city, county, or
15 other political subdivision or agency of such other state or province on
16 New Jersey insurers or their agents or representatives shall be deemed
17 to be imposed by such state or province within the meaning of this
18 section and the commissioner may compute the burden of any such
19 taxes on an aggregate basis as an addition to the rate of tax payable by
20 similar New Jersey insurers in such state or province. The addition to
21 the rate of tax payable by similar New Jersey insurers shall be
22 determined by dividing (1) the aggregate of the tax obligations paid to
23 such city, county or other political subdivisions of such state or
24 province by such New Jersey insurers, by (2) the aggregate of the
25 taxable premiums of such insurers under the premium taxing statute of
26 such state or province. The commissioner may issue regulations to
27 carry out the purpose of this section.

28 b. This section shall not apply as to personal income taxes, nor as
29 to ad valorem taxes on real or personal property nor as to special
30 purpose obligations or assessments imposed by another state or
31 province in connection with particular kinds of insurance; except that
32 deductions, from premium taxes or other taxes otherwise payable,
33 allowed on account of real estate or personal property taxes shall be
34 taken into consideration by the commissioner in determining the
35 propriety and extent of retaliatory action under this section.

36 c. For the purposes of this section the domicile of an alien insurer,
37 other than insurers formed under the laws of Canada or a province
38 thereof, shall be that state designated by the insurer in writing filed
39 with the commissioner at time of admission to this State or within 6
40 months after the effective date of this code, whichever date is the later,
41 and may be any one of the following states:

42 (1) That in which the insurer was first authorized to transact
43 insurance;

44 (2) That in which is located the insurer's principal place of business
45 in the United States;

46 (3) That in which is held the larger deposit of trust assets of the

1 insurer for the protection of its policyholders and creditors in the
2 United States[;].

3 If the insurer makes no such designation its domicile shall be deemed
4 to be that state in which is located its principal place of business in the
5 United States. In the case of an insurer formed under the laws of
6 Canada or a province thereof, its domicile shall be deemed to be that
7 province in which its head office is situated.

8 d. If the Commissioner of Insurance determines that an insurance
9 department or other regulatory agency of another state or territory of
10 the United States has imposed any sanctions, fines, penalties, financial
11 or deposit requirements, prohibitions, restrictions, regulatory
12 requirements, or other obligations of any kind on New Jersey insurers
13 licensed to transact insurance in that other state or territory because:

14 (1) the Department of Insurance is not accredited or otherwise
15 approved by the National Association of Insurance Commissioners, or
16 by any agent or representative of the association;

17 (2) the Department of Insurance has not complied with any
18 directive, annual financial statement requirement, model act or
19 regulation, market conduct or financial examination report or
20 requirement, or any report or requirement of any kind imposed directly
21 or indirectly through the laws or regulations of that other state or
22 territory, by the National Association of Insurance Commissioners, or
23 by any agent or representative of the association; or

24 (3) a New Jersey insurer has refused to comply with, file or pay any
25 requirement, report, fee, assessment or charge determined by the
26 commissioner to be unreasonable and imposed directly or indirectly
27 through the laws or regulations of that other state or territory by the
28 National Association of Insurance Commissioners, or by any agent or
29 representative of the association, then the commissioner shall impose
30 similar sanctions, fines, penalties, financial or deposit requirements,
31 prohibitions, restrictions, regulatory requirements or other obligations
32 of any kind on the domestic insurers of that other state or territory
33 doing business in this State. The commissioner shall adopt by rule
34 standards and procedures for imposing, calculating, apportioning and
35 collecting those similar sanctions, fines, penalties, financial or deposit
36 requirements, prohibitions, restrictions, regulatory requirements or
37 other obligations.

38 e. If any other state or territory of the United States requires a
39 New Jersey insurer licensed to transact insurance in that state or
40 territory to pay, directly or indirectly a fee, assessment, or charge of
41 any kind to the National Association of Insurance Commissioners in
42 excess of the fees, assessments or charges, if any, approved by the
43 Commissioner of Insurance under section 3 of P.L. , c. (C.)
44 (now before the Legislature as this bill), those fees, assessments, or
45 charges shall be considered excessive and shall be imposed upon the
46 domestic insurers of that other state or territory doing business in this

1 State. The commissioner shall adopt by rule standards and procedures
2 for imposing, calculating, apportioning and collecting those excessive
3 fees, assessments, or charges.

4 (cf: N.J.S.17B:23-5)

5

6 6. Section 4 of P.L.1993, c.242 (C.17:24-5.1) is amended to read
7 as follows:

8 4. Except as otherwise required by the commissioner, securities
9 held by an insurance company transacting business in this State in
10 accordance with the provisions of Title 17 of the Revised Statutes
11 shall be valued in accordance with the published valuation standards
12 of the Securities Valuation Office of the National Association of
13 Insurance Commissioners. The commissioner may order that those
14 securities need not be valued in accordance with the published
15 valuation standards of the Securities Valuation Office of the National
16 Association of Insurance Commissioners and may order that they be
17 valued in accordance with alternative procedures or methods that are
18 reasonable under the circumstances if the commissioner determines
19 that the association has substantially and without cause failed to
20 comply with the provisions of section 2 of P.L. c. (C.) (now
21 before the Legislature as this bill.), or has imposed fees, assessments,
22 or charges in excess of those approved pursuant to section 3 of that
23 act (C.). Every insurance company licensed to transact business in
24 this State shall comply with the filing and valuation requirements of
25 the Securities Valuation Office of the National Association of
26 Insurance Commissioners or requirements established by the
27 commissioner, as applicable, with respect to the valuation of securities.
28 Any insurance company that fails to comply with the provisions of this
29 section shall be subject to a penalty of not less than \$1,000 nor more
30 than \$5,000 for a first violation, and not less than \$2,000 nor more
31 than \$10,000 for each subsequent violation.

32 (cf: P.L.1993, c.242, s.4.

33

34 7. Section 6 of P.L.1993, c.242 (C.17:46B-22.1) is amended to
35 read as follows:

36 6. Except as otherwise required by the commissioner, securities
37 held by a title insurance company transacting business in this State in
38 accordance with P.L.1975, c.106 (C.17:46B-1 et seq.), shall be
39 valued in accordance with the published valuation standards of the
40 Securities Valuation Office of the National Association of Insurance
41 Commissioners. The commissioner may order that those securities
42 need not be valued in accordance with the published valuation
43 standards of the Securities Valuation Office of the National
44 Association of Insurance Commissioners and may order that they be
45 valued in accordance with alternative procedures or methods that are
46 reasonable under the circumstances if the commissioner determines

1 that the association has substantially and without cause failed to
2 comply with the provisions of section 2 of P.L. c. (C.) (now
3 before the Legislature as this bill.), or has imposed fees, assessments,
4 or charges in excess of those approved pursuant to section 3 of that
5 act (C.). Every title insurance company licensed to transact
6 business in this State shall comply with the filing and valuation
7 requirements of the Securities Valuation Office of the National
8 Association of Insurance Commissioners or requirements established
9 by the commissioner, as applicable, with respect to the valuation of
10 securities. Any title insurance company that fails to comply with the
11 provisions of this section shall be subject to a penalty of not less than
12 \$1,000 nor more than \$5,000 for a first violation, and not less than
13 \$2,000 nor more than \$10,000 for each subsequent violation.
14 (cf: P.L.1993, c.242, s.6)

15

16 8. N.J.S.17B:20-8 is amended to read as follows:

17 17B:20-8. Except as otherwise required by the commissioner,
18 securities held by insurers authorized to do business in this State shall
19 be valued in accordance with the published valuation standards of the
20 Securities Valuation Office of the National Association of Insurance
21 Commissioners. The commissioner may order that those securities
22 need not be valued in accordance with the published valuation
23 standards of the Securities Valuation Office of the National
24 Association of Insurance Commissioners and may order that they be
25 valued in accordance with alternative procedures or methods that are
26 reasonable under the circumstances if the commissioner determines
27 that the association has substantially and without cause failed to
28 comply with the provisions of section 2 of P.L. c. (C.) (now
29 before the Legislature as this bill.), or has imposed fees, assessments,
30 or charges in excess of those approved pursuant to section 3 of that
31 act (C.). Every insurer licensed to transact business in this State
32 shall comply with the filing and valuation requirements of the
33 Securities Valuation Office of the National Association of Insurance
34 Commissioners or requirements established by the commissioner, as
35 applicable, with respect to the valuation of securities. Any insurer that
36 fails to comply with the provisions of this section shall be subject to a
37 penalty of not less than \$1,000 nor more than \$5,000 for a first
38 violation, and not less than \$2,000 nor more than \$10,000 for each
39 subsequent violation.

40 (cf: P.L.1993, c.242, s.1)

41

42 9. Section 3 of P.L.1993, c.236 (C.17:23-22) is amended to read
43 as follows:

44 3. a. The commissioner or any of his examiners may conduct an
45 examination of the assets and liabilities, method of conducting
46 business and all other affairs of any company as often as the

1 commissioner in his sole discretion deems appropriate but shall at a
2 minimum, conduct an examination of every insurer licensed in this
3 State not less frequently than once every five years. In scheduling and
4 determining the nature, scope and frequency of the examinations, the
5 commissioner shall consider such matters as the results of financial
6 statement analyses and ratios, changes in management or ownership,
7 actuarial opinions, reports of independent certified public accountants
8 and other criteria as set forth in the Examiners' Handbook adopted by
9 the National Association of Insurance Commissioners and in effect
10 when the commissioner exercises discretion under this section.

11 b. For purposes of completing an examination of any company
12 under this act, the commissioner may examine or investigate any
13 person, or the business of any person, insofar as such examination or
14 investigation is, in the sole discretion of the commissioner, necessary
15 or material to the examination of the company.

16 c. In lieu of an examination under this act of any foreign or alien
17 insurer licensed in this State, the commissioner may accept an
18 examination report on the company as prepared by the insurance
19 department or other regulatory agency for the company's state of
20 domicile or port-of-entry state [until January 1, 1994. Thereafter,
21 such reports may only be accepted if:

22 (1) the insurance department or other regulatory agency was at the
23 time of the examination accredited under the National Association of
24 Insurance Commissioners' Financial Regulation Standards and
25 Accreditation Program; or

26 (2) the examination is performed under the supervision of an
27 accredited insurance department or other regulatory agency or with
28 the participation of one or more examiners who are employed by such
29 an accredited state insurance department or other regulatory agency
30 and who, after a review of the examination workpapers and report,
31 state under oath that the examination was performed in a manner
32 consistent with the standards and procedures required by their
33 insurance department or other regulatory agency].

34 d. The reasonable expenses of any examination and any
35 proceedings conducted under this act shall be fixed and determined by
36 the commissioner, and he shall collect them from the company
37 examined, which shall pay them on a presentation of an account of the
38 expenses on such form as determined by the commissioner. If any
39 company, after the examination, is adjudged insolvent by a court of
40 competent jurisdiction, the expense of the examination, if unpaid, shall
41 be ordered out of the assets of the company.

42 (cf: P.L.1993, c.236, s.3)

43

44 10. Section 2 of P.L.1993, c.238 (C.17:23B-2) is amended to read
45 as follows:

46 2. a. Every insurer authorized to do business in this State shall

1 annually, on or before March 1 of each year, file with the NAIC a copy
2 of its annual statement of financial condition, along with such
3 additional filings, as prescribed by the commissioner pursuant to law
4 for the preceding year. The information filed with the NAIC shall be
5 in the same form and detail as that required by the commissioner and
6 shall include the signed jurat page and the actuarial certification. Any
7 amendments and addendums to the annual statement of financial
8 condition and any other financial information subsequently filed with
9 the commissioner, including, but not limited to, quarterly financial
10 statements, shall also be filed with the NAIC at the time this
11 information is filed with the commissioner.

12 b. Foreign insurers that are domiciled in a state which has a law
13 substantially similar to subsection a. of this section shall be deemed in
14 compliance with this section.

15 c. The commissioner may require other entities which are required
16 to file financial information with the commissioner to file such
17 information with the NAIC.

18 d. (1) The commissioner shall waive one or more of the
19 requirements established by subsection a. of this section with respect
20 to any domestic insurer authorized to transact insurance in this State
21 if the commissioner determines in his sole discretion that the NAIC has
22 substantially failed to comply with the provisions of section 2 of P.L.
23 .c. (C.) (now before the Legislature as this bill) or has imposed
24 fees, assessments or charges in excess of those approved pursuant to
25 section 3 of that act (C.).

26 (2) The commissioner shall waive one or more of the requirements
27 established by subsection a. of this section with respect to any foreign
28 or alien insurer authorized to transact insurance in this State if the
29 commissioner determines in his sole discretion that the domiciliary or
30 port-of-entry state of that insurer has waived for that foreign or alien
31 insurer and for domestic insurers authorized to transact insurance in
32 this State one or more of the requirements established by subsection
33 a. of this section, pursuant to a provision of law substantially similar
34 to this section. A law is not substantially similar to the provisions of
35 this section unless it requires the domiciliary or port-of-entry state of
36 a foreign or alien insurer to waive for insurers domiciled in this State
37 any filing requirements of that other state that are similar to those
38 requirements waived by the commissioner under paragraph (1) of this
39 subsection d.

40 (cf: P.L.1993, c.238, s.2)

41

42 11. Section 3 of P.L.1993, c.238 (C.17:23B-3) is amended to read
43 as follows:

44 3. Members of the NAIC, their duly authorized committees,
45 subcommittees, and task forces, their delegates, NAIC employees, and
46 all others charged with the responsibility of collecting, reviewing,

1 analyzing and disseminating the information developed from the filing
2 of the annual statement of financial condition shall be acting as agents
3 of the commissioner under the authority of this act, and in the absence
4 of actual malice, shall not be subject to civil liability for libel, slander
5 or any other cause of action by virtue of their collection, review, and
6 analysis or dissemination of the data and information collected from
7 the filings required hereunder. Nothing herein shall abrogate or lessen
8 the common and statutory law privileges and immunities of an
9 authorized governmental agency or any of its respective employees.

10 The immunity conferred by this section shall not apply if the
11 commissioner in his sole discretion determines that the NAIC has
12 substantially failed to comply with the provisions of section 2 of P.L.
13 c. (C.) (now before the Legislature as this bill), or has imposed
14 fees, assessments or charges in excess of those approved pursuant to
15 section 3 of that act (C.).

16 (cf: P.L.1993, c.238, s.3)

17

18 12. This act shall take effect October 1, 1995.

19

20

21

STATEMENT

22

23 This bill grants to the Governor and Legislature of New Jersey
24 certain oversight powers with respect to the activities of the National
25 Association of Insurance Commissioners (NAIC). As section 1 of the
26 bill indicates, it is being introduced in response to increasing concerns
27 regarding the lack of accountability of the NAIC to the states it was
28 created to assist. The rapid rise in the NAIC's budget to which state
29 insurance regulators and the industry contribute, is of particular
30 concern. The 1995 budget is more than \$39 million, or three times the
31 1990 budget of \$13.9 million. Yet, at the same time, as a private
32 association, there is no clear line of public accountability, although the
33 organization, through passage of its model legislation in many states,
34 has effectively become a public regulator.

35 The bill requires the NAIC to report annually to the Legislature and
36 the Governor on NAIC activities, expenses, revenues and salaries. In
37 addition, the report must include an update of model legislation which
38 a state is expected to enact to retain its NAIC accreditation; a
39 description of how it insures that its proceedings are open to the
40 public; and any other information the Governor or the Legislature may
41 require. The bill further requires that fees charged by the NAIC to
42 insurers doing business in New Jersey first be approved by the
43 Commissioner of Insurance. Finally, it amends various statutes to
44 provide alternatives to certain NAIC-recommended regulatory
45 procedures if the NAIC fails to comply with the reporting and fee
46 approval provisions of the bill.

- 1 _____
- 2
- 3 Establishes oversight of certain activities of the National Association
- 4 of Insurance Commissioners.