

[First Reprint]

ASSEMBLY, No. 1759

STATE OF NEW JERSEY

INTRODUCED MARCH 25, 1996

By Assemblymen GARRETT and GARCIA

1 AN ACT establishing the automobile insurance urban enterprise zone
2 program ¹[, amending P.L.1970, c.215, P.L.1970, c.217, P.L.1988,
3 c.119, P.L.1990, c.8, and supplementing Title 17 of the Revised
4 Statutes] and revising parts of the statutory law¹.

5

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

8

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

10 a. That the creation of business incentives aimed at increasing and
11 promoting economic activity in specially designated Urban Enterprise
12 Zones has been effectively utilized by the State in the past.

13 b. That consumers located in a limited number of the State's urban
14 centers would benefit from an increase in the number of locations at
15 which they could secure automobile insurance.

16 c. That to better serve the needs of automobile insurance
17 consumers and stimulate competition and economic activity, access to
18 automobile insurance needs to be expanded in certain defined urban
19 areas of the State.

20 d. That the development of increased access to automobile
21 insurance needs to be encouraged by establishing incentives for
22 insurers to increase their writings in these urban centers through,
23 among other things, the appointment of urban enterprise zone agents.

24 e. That there be conducted a comprehensive study on the effects
25 that territorial rate caps have on the overall availability of automobile
26 insurance and that in conducting the study, other highly urbanized
27 locations in the nation be examined.

28

29 2. (New section) As used in this act:

30 "Automobile" means an automobile as defined pursuant to
31 subsection a. of section 2 of P.L.1972, c.70 (C.39:6A-2).

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AIN committee amendments adopted May 13, 1996.

1 "Automobile insurance urban enterprise zone" means a geographic
2 area identified and designated by the commissioner pursuant to section
3 3 of this act.

4 "Automobile insurance urban enterprise zone program" or
5 "program" means an automobile insurance urban enterprise zone
6 program established pursuant to section 3 of this act.

7 "Automobile insurer" means an insurer admitted or authorized to
8 transact the business of automobile insurance in this State.

9 "Commissioner" means the Commissioner of Insurance.

10 "Eligible person" means an eligible person as defined in section 25
11 of P.L.1990, c.8 (C.17:33B-13).

12 "Qualified insurer" means an automobile insurer that is a qualified
13 insurer pursuant to section 4 of this act.

14 "Urban enterprise zone agent" or "UEZ agent" means a producer
15 who is licensed pursuant to P.L.1987, c.293 (C.17:22A-1 et seq.), is
16 appointed by a qualified insurer to represent it in an automobile
17 insurance urban enterprise zone under the terms of this act and
18 maintains a bona fide office within that automobile insurance urban
19 enterprise zone.

20

21 3. ¹(New section)¹ a. The commissioner shall establish in a fair
22 and equitable manner an automobile insurance urban enterprise zone
23 program designed to encourage greater availability of automobile
24 insurance in certain urban areas of this State as designated pursuant to
25 ¹subsection b. of¹ this section ¹[of this act]¹. The program shall
26 provide for incentives that the commissioner deems necessary to
27 encourage qualified insurers to increase their writing of automobile
28 insurance business in those areas and that adequately safeguard the
29 interests of policyholders and the public.

30 b. The commissioner shall undertake a review of the availability of
31 automobile insurance in this State and shall identify and designate as
32 automobile insurance urban enterprise zones those urban-based
33 geographic areas in which consumers would benefit from increased
34 access to automobile insurance. In making this determination, the
35 commissioner shall consider, among other things, representation by
36 automobile insurers in those rating territories historically deemed
37 underserved. To assist in this review, the commissioner may appoint
38 an advisory committee composed of representatives of automobile
39 insurers and producer associations and individuals who reside in urban
40 areas of this State. Automobile insurance urban enterprise zones
41 designated pursuant to this section shall be defined by regulations
42 promulgated by the commissioner. The commissioner shall conduct
43 periodic reviews of the availability of automobile insurance throughout
44 the State and may amend the regulations to modify the composition of
45 designated automobile insurance urban enterprise zones for the
46 purpose of furthering the intent of this act.

1 4. (New section) a. The commissioner shall establish by regulation
2 standards for a qualified insurer. These standards may include, but not
3 be limited to, ¹demonstration by the automobile insurer that it has a
4 plan to increase access to automobile insurance for consumers residing
5 in an automobile insurance urban enterprise zone;¹ demonstration by
6 the automobile insurer that it has a plan to assist newly appointed UEZ
7 agents in developing the skills necessary to manage a successful
8 business; procedures to monitor and evaluate the impact of efforts to
9 expand services to urban areas; and materials designed to assist urban
10 consumers in understanding automobile insurance coverages. For an
11 automobile insurer doing business on a direct writing basis, the
12 standards may include, but not be limited to, the insurer's marketing
13 plans and goals for increasing its writing of risks in automobile
14 insurance urban enterprise zones.

15 b. An automobile insurer, which meets the applicable standards
16 established pursuant to subsection a. of this section, may certify to the
17 commissioner that it is a qualified insurer.

18 c. An automobile insurer that certifies to the commissioner that it
19 meets the standards established pursuant to subsection a. of this
20 section shall be considered a qualified insurer for the purposes of this
21 act. If at any time the commissioner determines that a qualified insurer
22 fails to meet the standards established pursuant to subsection a. of this
23 section, or if the commissioner determines it necessary for the
24 protection of the public, he may suspend or revoke the insurer's
25 certification as a qualified insurer. ¹If the commissioner determines
26 that a qualified insurer has experienced a pattern of decreases in its in-
27 force exposures in an automobile insurance urban enterprise zone for
28 two or more consecutive years, the commissioner may suspend or
29 revoke the insurer's certification as a qualified insurer. In making this
30 determination, the commissioner shall consider the past performance
31 of the insurer in providing automobile insurance in urban areas.¹ If an
32 automobile insurer certifies that it meets the standards for becoming
33 a qualified insurer and it does not meet those standards, that insurer
34 shall not be a qualified insurer for purposes of this act and may, at the
35 discretion of the commissioner, be subject of a fine of not more than
36 \$25,000.

37 d. Only qualified insurers shall be eligible to participate in the
38 automobile insurance urban enterprise zone program.

39
40 5. (New section) a. A qualified insurer may appoint a UEZ agent
41 or agents. Any appointment of a UEZ agent shall comply with the
42 provisions of section 15 of P.L.1987, c.293 (C.17:22A-15), except
43 when there is a conflict with a provision of this act or any regulation
44 promulgated ¹[thereunder] hereunder¹, this act is controlling. An
45 agency contract between a qualified insurer and a UEZ agent shall be
46 in writing, set forth specific duties and responsibilities of the parties

1 regarding the obligations imposed pursuant to this section and section
2 4 of this act, and detail the provisions of any limit on the number of
3 exposures provided in subsection b. of this section.

4 b. A qualified insurer may limit the number of exposures written
5 through a UEZ agent ¹or in the case of a qualified insurer doing
6 business on a direct writing basis, the qualified insurer may limit the
7 number of exposures written in an automobile insurance urban
8 enterprise zone consistent with its marketing plans and goals as
9 provided in subsection a. of section 4 of this act¹. An eligible person
10 applying for automobile insurance coverage after the limit is reached
11 shall be advised by the UEZ agent that coverage may be available from
12 another agent of the qualified insurer or direct from the qualified
13 insurer if the insurer is a direct writer. Any such limit shall be imposed
14 on an equitable and nondiscriminatory basis consistent with the
15 provisions of subsections a. and b. of section 27 of P.L.1990, c.8
16 (C.17:33B-15) until the specified limit is reached.

17 c. The commissioner shall establish by regulation requirements that
18 shall be satisfied if a qualified insurer limits the number of exposures
19 written through a UEZ agent, and the manner in which a qualified
20 insurer engaged in the business of automobile insurance on a direct
21 writer basis may utilize the provisions of this section.

22

23 6. (New section) a. The commissioner shall study the effect of
24 ¹territorial¹ rating caps imposed on automobile insurance rates
25 pursuant to section 7 of P.L.1983, c.65 (C.17:29A-36). The study
26 shall include an evaluation of the general market conditions resulting
27 from the imposition of ¹territorial¹ rating caps, including, but not
28 limited to: market availability; affordability of automobile insurance
29 coverage; the actuarial soundness of, and statistical basis for,
30 territorial cap systems; and the creation of competitive market
31 conditions.

32 In conducting this study, the commissioner shall examine the rating
33 systems in use in other highly urbanized areas of this nation.

34 c. The commissioner shall report his findings and recommendations
35 within 12 months of the effective date of this act to the Governor and
36 the Legislature.

37

38 7. Section 27 of P.L.1990, c.8 (C.17:33B-15) is amended to read
39 as follows:

40 27. a. On or after April 1, 1992, every insurer, either by one or
41 more separate rating plans filed in accordance with the provisions of
42 section 6 of P.L.1988, c.156 (C.17:29A-45) or through one or more
43 affiliated insurers, shall provide automobile insurance coverage for
44 eligible persons.

45 b. No insurer shall refuse to insure, refuse to renew, or limit
46 coverage available for automobile insurance to an eligible person who

1 meets its underwriting rules as filed with and approved by the
2 commissioner in accordance with the provisions of section 7 of
3 P.L.1988, c.156 (C.17:29A-46).

4 c. Notwithstanding the provisions of subsections a. and b. of this
5 section to the contrary, any qualified insurer engaged in writing
6 automobile insurance in an automobile insurance urban enterprise zone
7 pursuant to P.L. _____, c. _____¹(C. _____)¹ (now before the Legislature as
8 this bill) may limit the number of exposures written through its UEZ
9 agent or agents¹, or in the case of a qualified insurer doing business on
10 a direct writing basis, the qualified insurer may limit the number of
11 exposures written in an automobile insurance urban enterprise zone
12 consistent with its marketing plans and goals as provided in subsection
13 a. of section 4 of P.L. _____, c. _____ (C. _____)(now before the Legislature as
14 this bill)¹. Nothing in this subsection shall be construed to relieve a
15 qualified insurer from its obligation under subsections a. and b. of this
16 section to write all eligible persons residing within an automobile
17 insurance urban enterprise zone through its non-UEZ agent points of
18 access.

19 d. The commissioner may suspend, revoke or otherwise terminate
20 the certificate of authority to transact automobile insurance business
21 in this State of any insurer who violates the provisions of this section.
22 (cf: P.L.1990, c.8, s.27)

23

24 8. Section 30 of P.L.1990, c.8 (C.17:33B-18) is amended to read
25 as follows:

26 30. a. A licensed insurance agent shall, as a condition of licensure:

27 (1) Provide each eligible person seeking automobile insurance
28 premium quotations for the forms or types of automobile insurance
29 coverages which are offered by all insurers represented by the agent
30 or with which the agent places risks;

31 (2) Not attempt to channel an eligible person away from an insurer
32 or insurance coverage with the purpose or effect of avoiding an agent's
33 obligation to submit an application or an insurer's obligation to accept
34 an eligible person; and

35 (3) Upon request, submit an application of the eligible person for
36 automobile insurance to the insurer selected by the eligible person.

37 If a UEZ agent has a contract with a qualified insurer pursuant to
38 the provisions of P.L. _____, c. _____ (now before the Legislature as this
39 bill) and the UEZ agent is unable to place an otherwise eligible person
40 with that qualified insurer because of the limitation on the number of
41 exposures imposed by that qualified insurer on the UEZ agent, the
42 UEZ agent shall be deemed to have met the requirements of this
43 subsection, provided that the limitation on the number of exposures
44 has been reached and the UEZ agent fulfills all applicable regulatory
45 requirements.

46 b. With respect to automobile insurance, an insurer shall not

1 penalize an agent by paying less than normal commissions or normal
2 compensation or salary because of the expected or actual experience
3 produced by the agent's automobile insurance business or because of
4 the geographic location of automobile insurance business written by
5 the agent.

6 (cf: P.L.1990, c.8, s.30)

7

8 9. Section 1 of P.L.1970, c.215 (C.17:29D-1) is amended to read
9 as follows:

10 1. The Commissioner of Insurance may adopt, issue and
11 promulgate rules and regulations establishing a plan for the providing
12 and apportionment of insurance coverage for applicants therefor who
13 are in good faith entitled to, but are unable to procure the same,
14 through ordinary methods. Every insurer admitted to transact and
15 transacting any line, or lines, of insurance in the State of New Jersey
16 shall participate in such plan and provide insurance coverage to the
17 extent required in such rules and regulations.

18 Any plan established pursuant to this section to provide insurance
19 for automobiles, as defined in section 2 of P.L.1972, c.70
20 (C.39:6A-2), shall provide:

21 a. For a rating system which shall produce rates for each coverage
22 which are adequate for the safeness and soundness of the plan, and are
23 not excessive nor unfairly discriminatory with regard to risks in the
24 plan involving essentially the same hazards and expense elements;

25 b. For rates charged to plan insureds which shall be sufficient to
26 meet the plan's expenses and the plan's losses on an incurred basis,
27 including the establishment and maintenance of actuarially sound loss
28 reserves to cover all future costs associated with the exposure;

29 c. For a limited assignment distribution system permitting insurers
30 to enter into agreements with other mutually agreeable insurers or
31 other qualified entities to transfer their applicants and insureds under
32 such plan to such insurers or other entities;

33 d. That it shall not provide insurance coverage for more than 10
34 percent of the aggregate number of private passenger automobile
35 non-fleet exposures being written in the total private passenger
36 automobile insurance market in this State. The plan shall provide for
37 the cessation of the acceptance of applications or the issuance of new
38 policies at any time it reaches 10 percent of market share, as certified
39 by the commissioner, until such time that the commissioner certifies
40 that the plan is insuring less than 10 percent of the aggregate number
41 of private passenger automobile non-fleet exposures being written in
42 the total private passenger automobile insurance market in this State;

43 e. That it shall not provide coverage to an eligible person as
44 defined pursuant to section 25 of P.L.1990, c.8 (C.17:33B-13);

45 f. That insurers who write automobile risks in those urban
46 territories designated by the commissioner shall receive one assigned

1 risk credit for every two voluntary risks written in those designated
2 territories; [and]

3 g. That the plan shall not be subsidized by any source external to
4 the plan; and

5 h. That a qualified insurer who writes automobile insurance risks
6 in those automobile insurance urban enterprise zones designated by the
7 commissioner pursuant to section 3 of P.L. , c. ¹(C.)¹ (now
8 before the Legislature as this bill) shall receive one assigned risk credit
9 for every ¹[one] new ¹voluntary risk written in those designated
10 automobile insurance urban enterprise zones through its UEZ agent or
11 agents ¹or through any agent with whom the insurer has an in-force
12 contract as of the effective date of that act¹. The commissioner shall
13 establish by regulation the manner in which a qualified insurer engaged
14 in the business of automobile insurance on a direct writing basis may
15 utilize the provisions of this subsection.

16 Prior to the adoption or amendment of such rules and regulations,
17 the commissioner shall consult with such members of the insurance
18 industry as he deems appropriate. Such consultation shall be in
19 addition to any otherwise required public hearing or notice with regard
20 to the adoption or amendment of rules and regulations.

21 The governing body administering the plan shall report annually to
22 the Legislature and the Governor on the activities of the plan. The
23 report shall contain an actuarial analysis regarding the adequacy of the
24 rates for each coverage for the safeness and soundness of the plan.
25 (cf: P.L.1995, c.151, s.1)

26
27 10. Section 26 of P.L.1988, c.119 (C.17:29C-7.1) is amended to
28 read as follows:

29 26. a. Notwithstanding the provisions of section 3 of P.L.1972,
30 c.70 (C.39:6A-3), a licensed insurer may, in accordance with
31 subsections b. and c. of this section, refuse to renew a policy of private
32 passenger automobile insurance that provides coverage required to be
33 maintained pursuant to P.L.1972, c.70 (C.39:6A-1 et seq.).

34 b. For each calendar year period, an insurer may issue notices of
35 intention not to renew an automobile insurance policy in the voluntary
36 market in an amount not to exceed 2% of the total number of
37 voluntary market automobile insurance policies of the insurer, rounded
38 to the nearest whole number, which are in force at the end of the
39 previous calendar year in each of the insurer's rating territories in use
40 in this State.

41 c. (1) For every two newly insured automobiles which an insurer
42 voluntarily writes in each territory during each calendar year period,
43 the insurer shall be permitted to refuse to renew one additional policy
44 of automobile insurance in that territory in excess of the 2% limitation
45 established by subsection b. of this section, subject to a fair and
46 nondiscriminatory formula developed by rule or regulation of the

1 commissioner. For the purposes of this section, "voluntarily writes"
2 shall not include any exposure voluntarily written by or assigned to an
3 insurer to meet any quota established pursuant to section 26 of
4 P.L.1983, c.65 (C.17:30E-14).

5 (2) For every ¹[one] three ¹newly insured [automobile]
6 automobiles¹ which a qualified insurer voluntarily writes in an
7 automobile insurance urban enterprise zone through its UEZ agent
8 pursuant to P.L. _____, c. _____¹(C. _____)¹ (now before the Legislature as
9 this bill)¹ or through any agent with whom the insurer has an in-force
10 contract as of the effective date of that act,¹ during each calendar year
11 period, a qualified insurer shall be permitted to refuse to renew
12 insurance on ¹[one] two¹ additional¹ [automobile] automobiles¹ in any
13 rating territory except in an automobile insurance urban enterprise
14 zone. The commissioner shall establish by regulation the manner in
15 which a qualified insurer engaged in the business of automobile
16 insurance on a direct writing basis may utilize the provisions of this
17 ¹[subsection.] paragraph (2). The nonrenewal provisions of this
18 paragraph (2) shall be permitted only in rating territories in which the
19 insurer experiences growth in the aggregate number of in-force
20 exposures. An automobile that is newly insured pursuant to the
21 provisions of this paragraph (2) shall not be considered a newly
22 insured automobile for the purposes of paragraph (1) of this
23 subsection. The commissioner shall develop and promulgate a
24 standardized reporting form which insurers shall utilize for the purpose
25 of reporting their activity pursuant to this paragraph (2).¹

26 d. The provisions of this section shall not apply to any cancellation
27 made pursuant to subsection (A) of section 2 of P.L.1968, c.158
28 (C.17:29C-7).

29 e. The commissioner shall monitor the implementation and
30 operation of this section and shall report his findings, including any
31 legislative proposals, to the Senate Labor, Industry and Professions
32 Committee and the Assembly Insurance Committee, or their
33 successors, within three years of the effective date of this act.

34 (cf: P.L.1988, c.119, s.26)

35

36 11. Section 1 of P.L.1970, c.217 (C.17:22-6.14a) is amended to
37 read as follows:

38 1. a. In the event that a policy is canceled by the insurer, either at
39 its own behest or at the behest of the agent or broker of record, the
40 unearned premium, including the unearned commission, shall be
41 returned to the policyholder.

42 b. In the event that a policy of insurance, issued by the automobile
43 insurance plan established pursuant to P.L.1970, c.215 (C.17:29D-1)
44 or any successor thereto, is canceled by reason of nonpayment of
45 premium to the insurer issuing the policy or nonpayment of an
46 installment payment due pursuant to an insurance premium finance

1 agreement, the broker of record for that policy may retain the full
2 annual commission due thereon and, if a premium finance agreement
3 is not involved, the effective date of cancellation of the policy shall be
4 no earlier than 10 days prior to the last full day for which the premium
5 paid by the insured, net of the broker's full annual commission, would
6 pay for coverage on a pro rata basis in accordance with rules
7 established by the commissioner.

8 c. Contracts between insurance companies and agents for the
9 appointment of the agent as the representative of the company shall set
10 forth the rate of commission to be paid to the agent for each class of
11 insurance within the scope of such appointment written on all risks or
12 operations in this State, except:

13 (1) Reinsurance.

14 (2) Life insurance.

15 (3) Annuities.

16 (4) Accident and health insurance.

17 (5) Title insurance.

18 (6) Mortgage guaranty insurance.

19 (7) Hospital service, medical service, health service, or dental
20 service corporations, investment companies, mutual benefit
21 associations, or fraternal beneficiary associations.

22 Said rates of commission shall continue in force and effect unless
23 changed by mutual written consent or until termination of said contract
24 as hereinafter provided. Failure to achieve such mutual consent shall
25 require that the agent's contract be terminated as hereinbelow
26 provided. The rate of commission being paid on each class of
27 insurance on the date of enactment hereof shall be deemed to be
28 pursuant to the existing contract between agent and company.

29 d. Termination of any such contract for any reason other than one
30 excluded herein shall become effective after not less than 90 days'
31 notice in writing given by the company to the agent and the
32 Commissioner of Insurance. No new business or changes in liability
33 on renewal or in force business, except as provided in subsection l. of
34 this section, shall be written by the agent for the company after notice
35 of termination without prior written approval of the company.
36 However, during the term of the agency contract, including the said
37 90-day period, the company shall not refuse to renew such business
38 from the agent as would be in accordance with said company's current
39 underwriting standards. The company shall, during a period of 12
40 months from the effective date of such termination, provided the
41 former agent has not been replaced as the broker of record by the
42 insured, and upon request in writing of the terminated agent, renew all
43 contracts of insurance for such agent for said company as may be in
44 accordance with said company's then current underwriting standards
45 and pay to the terminated agent a commission in accordance with the
46 agency contract in effect at the time notice of termination was issued.

1 Said commission can be paid only to the holder of a valid New Jersey
2 insurance producer's license. In the event any risk shall not meet the
3 then current underwriting standards of said company, that company
4 may decline its renewal, provided that the company shall give the
5 terminated agent and the insured not less than 60 days' notice of its
6 intention not to renew said contract of insurance.

7 e. The agency termination provisions of this act shall not apply to
8 those contracts:

9 (1) in which the agent is paid on a salary basis without commission
10 or where he agrees to represent exclusively one company or to the
11 termination of an agent's contract for insolvency, abandonment, gross
12 and willful misconduct, or failure to pay over to the company moneys
13 due to the company after his receipt of a written demand therefor, or
14 after revocation of the agent's license by the Commissioner of
15 Insurance; and in any such case the company shall, upon request of the
16 insured, provided he meets the then current underwriting standards of
17 the company, renew any contract of insurance formerly processed by
18 the terminated agent, through an active agent, or directly pursuant to
19 such rules and regulations as may be promulgated by the
20 Commissioner of Insurance, or

21 (2) which are entered into between a qualified insurer and a UEZ
22 agent pursuant to section 5 of P.L. , c. ¹(C.)¹ (now before the
23 Legislature as this bill).

24 f. The Commissioner of Insurance, on the written complaint of any
25 person stating that there has been a violation of this act, or when he
26 deems it necessary without a complaint, may inquire and otherwise
27 investigate to determine whether there has been any violation of this
28 act.

29 g. All existing contracts between agent and company in effect in
30 the State of New Jersey on the effective date of this act are subject to
31 all provisions of this act.

32 h. The Commissioner of Insurance may, if he determines that a
33 company is in unsatisfactory financial condition, exclude such
34 company from the provisions of this act.

35 i. Whenever under this act it is required that the company shall
36 renew a contract of insurance, the renewal shall be for a time period
37 equal to one additional term of the term specified in the original
38 contract, but in no event to be less than one year.

39 j. The provisions of subsection b. of this section shall not apply to
40 policies written by the New Jersey Automobile Full Insurance
41 Underwriting Association established pursuant to sections 13 through
42 34 of P.L.1983, c.65 (C.17:30E-1 et seq.).

43 k. The New Jersey Automobile Full Insurance Underwriting
44 Association established pursuant to sections 13 through 34 of
45 P.L.1983, c.65 (C.17:30E-1 et seq.), shall not be liable to pay any
46 commission required by subsection b. of this section on any policies

1 written by the association prior to January 1, 1986.

2 1. A company which terminates its contractual relationship with an
3 agent subject to the provisions of subsection d. of this section shall, at
4 the time of the agent's termination, with respect to insurance covering
5 an automobile as defined in subsection a. of section 2 of P.L.1972,
6 c.70 (C.39:6A-2), notify each named insured whose policy is serviced
7 by the terminated agent in writing of the following: (1) that the
8 agent's contractual relationship with the company is being terminated
9 and the effective date of that termination; and (2) that the named
10 insured may (a) continue to renew and obtain service through the
11 terminated agent; or (b) renew the policy and obtain service through
12 another agent of the company.

13 Notwithstanding any provision of this section to the contrary, no
14 insurance company which has terminated its contractual relationship
15 with an agent subject to subsection d. of this section shall, upon the
16 expiration of any automobile insurance policy renewed pursuant to
17 subsection d. of this section which is required to be renewed pursuant
18 to section 3 of P.L.1972, c.70 (C.39:6A-3), refuse to renew, accept
19 additional or replacement vehicles, refuse to provide changes in the
20 limits of liability or refuse to service a policyholder in any other
21 manner which is in accordance with the company's current
22 underwriting standards, upon the written request of the agent or as
23 otherwise provided in this section, provided the agent maintains a valid
24 New Jersey insurance producer's license and has not been replaced as
25 the broker of record by the insured. However, nothing in this section
26 shall be deemed to prevent nonrenewal of an automobile insurance
27 policy pursuant to the provisions of section 26 of P.L.1988, c.119
28 (C.17:29C-7.1).

29 The company shall pay a terminated agent who continues to service
30 policies pursuant to the provisions of this subsection a commission in
31 an amount not less than that provided for under the agency contract
32 in effect at the time the notice of termination was issued. A terminated
33 agent who continues to service automobile insurance policies pursuant
34 to this subsection shall be deemed to be an insurance broker as defined
35 in section 2 of P.L.1987, c.293 (C.17:22A-2), and not an agent of the
36 company, except that the terminated agent shall have the authority to
37 bind coverage for renewals, additional or replacement vehicles, and for
38 changed limits of liability as provided in this subsection to the same
39 extent as an active agent for the company. The company shall provide
40 the terminated agent with a written copy of its current underwriting
41 guidelines during the time the agent continues to service policies
42 pursuant to this subsection.

43 If a terminated agent who is continuing to service policies pursuant
44 to the provisions of this subsection violates the written underwriting
45 guidelines of the company in such a manner or with such frequency as
46 to substantially affect the company's ability to underwrite or provide

1 coverage, the company may discontinue accepting renewal and service
2 requests from, and paying commissions to, the terminated agent;
3 provided, however, that the company provides the terminated agent
4 with at least 45 days' written notice which shall include a detailed
5 explanation of the reasons for discontinuance. A copy of this notice,
6 along with supporting documentation providing evidence that the
7 terminated agent received proper notice of discontinuance pursuant to
8 this subsection and evidence in support of the company's action, shall
9 be sent by the company to the Division of Enforcement and Consumer
10 Protection in the Department of Insurance.

11 The provisions of this subsection shall not apply to any policy
12 issued by the New Jersey Automobile Full Insurance Underwriting
13 Association created pursuant to the provisions of P.L.1983, c.65
14 (C.17:30E-1 et seq.).

15 m. A qualified insurer which terminates its contractual relationship
16 with its UEZ agent pursuant to ¹[paragraph (2) of subsection e. of
17 this]¹ section ¹5 of P.L. , c. (C.) (now before the Legislature
18 as this bill)¹ shall terminate its relationship in accordance with the
19 following provisions:

20 (1) The qualified insurer shall give the UEZ agent at least 60 days'
21 written notice of termination. Notice of termination shall be on a form
22 prescribed by the commissioner and shall indicate the date of
23 termination and the reason therefore. A copy of the notice of
24 termination shall be sent to the commissioner.

25 (2) Notwithstanding the provisions of ¹this¹ section ¹[1 of
26 P.L.1970, c.217 (C.17:22-6.14a)]¹ and section 26 of P.L.1988, c.119
27 (C.17:29C-7.1), a qualified insurer may refuse to renew the business
28 written through a UEZ agent in an orderly and non-discriminatory
29 manner over the course of at least a three-year period commencing on
30 the effective date of termination of its relationship with its UEZ agent.
31 A qualified insurer intending to refuse renewal business written by a
32 terminated UEZ agent shall notify the commissioner and file its plan
33 for complying with the requirements of this paragraph prior to the date
34 of the UEZ agent's termination.

35 (3) ¹[The] Pursuant to the conditions of an orderly and non-
36 discriminatory non-renewal plan filed with the commissioner as
37 required by paragraph (2) of this subsection, the¹ terminated UEZ
38 agent shall continue to receive commissions for any renewal business
39 pursuant to the terms of the contract in force with the qualified insurer
40 at the time of termination, provided that the UEZ agent maintains a
41 valid New Jersey insurance producer's license and has not been
42 replaced as the broker of record by the insured. A terminated UEZ
43 agent who continues to service automobile insurance policies shall be
44 deemed to be an insurance broker and not ¹[as]¹ the UEZ agent of the
45 qualified insurer.

46 (cf: P.L.1989, c.129, s.1)

1 12. (New section) Notwithstanding the provisions of section 7 of
2 P.L.1983, c.65 (C.17:29A-36), an automobile insurance rate for any
3 coverage, except bodily injury, including uninsured or underinsured
4 motorist coverage, property damage liability and personal injury
5 protection, for the base class in any automobile insurance urban
6 enterprise zone established pursuant to section 3 of P.L. , c.
7 (now before the Legislature as this bill) for any filer shall not exceed
8 1.5 times the filer's statewide average base rate for the coverage,
9 exclusive of driving record surcharges and discounts.

10
11 ¹13. Section 4 of P.L.1947, c.379 (C.17:29B-4) is amended to read
12 as follows:

13 4. The following are hereby defined as unfair methods of
14 competition and unfair and deceptive acts or practices in the business
15 of insurance:

16 (1) Misrepresentations and false advertising of policy contracts.
17 Making, issuing, circulating, or causing to be made, issued or
18 circulated, any estimate, illustration, circular or statement
19 misrepresenting the terms of any policy issued or to be issued or the
20 benefits or advantages promised thereby or the dividends or share of
21 the surplus to be received thereon, or making any false or misleading
22 statement as to the dividends or share of surplus previously paid on
23 similar policies, or making any misleading representation or any
24 misrepresentation as to the financial condition of any insurer, or as to
25 the legal reserve system upon which any life insurer operates, or using
26 any name or title of any policy or class of policies misrepresenting the
27 true nature thereof, or making any misrepresentation to any
28 policyholder insured in any company for the purpose of inducing or
29 tending to induce such policyholder to lapse, forfeit, or surrender his
30 insurance.

31 (2) False information and advertising generally. Making,
32 publishing, disseminating, circulating, or placing before the public, or
33 causing, directly or indirectly, to be made, published, disseminated,
34 circulated, or placed before the public, in a newspaper, magazine or
35 other publication, or in the form of a notice, circular, pamphlet, letter
36 or poster, or over any radio station, or in any other way, an
37 advertisement, announcement or statement containing any assertion,
38 representation or statement with respect to the business of insurance
39 or with respect to any person in the conduct of his insurance business,
40 which is untrue, deceptive or misleading.

41 (3) Defamation. Making, publishing, disseminating, or circulating,
42 directly or indirectly, or aiding, abetting or encouraging the making,
43 publishing, disseminating or circulating of any oral or written
44 statement or any pamphlet, circular, article or literature which is false,
45 or maliciously critical of or derogatory to the financial condition of an
46 insurer, and which is calculated to injure any person engaged in the

1 business of insurance.

2 (4) Boycott, coercion and intimidation. Entering into any
3 agreement to commit, or by any concerted action committing, any act
4 of boycott, coercion or intimidation resulting in or tending to result in
5 unreasonable restraint of, or monopoly in, the business of insurance;
6 or resulting in or tending to result in unreasonable influence being
7 exerted upon any producer that has an in-force contract as of the
8 effective date of P.L. , c. (C.)(now before the Legislature as
9 this bill) for the purpose of replacing the in-force contract with a UEZ
10 agent contract pursuant to section 5 of P.L. , c. (C.)(now before
11 the Legislature as this bill).

12 (5) False financial statements. Filing with any supervisory or other
13 public official, or making, publishing, disseminating, circulating or
14 delivering to any person, or placing before the public, or causing
15 directly or indirectly, to be made, published, disseminated, circulated,
16 delivered to any person, or placed before the public, any false
17 statement of financial condition of an insurer with intent to deceive.

18 Making any false entry in any book, report or statement of any
19 insurer with intent to deceive any agent or examiner lawfully appointed
20 to examine into its condition or into any of its affairs, or any public
21 official to whom such insurer is required by law to report, or who was
22 authorized by law to examine into its condition or into any of its
23 affairs, or, with like intent, willfully omitting to make a true entry of
24 any material fact pertaining to the business of such insurer in any
25 book, report or statement of such insurer.

26 (6) Stock operations and advisory board contracts. Issuing or
27 delivering or permitting agents, officers, or employees to issue or
28 deliver, agency company stock or other capital stock, or benefit
29 certificates or shares in any common-law corporation, or securities or
30 any special or advisory board contracts or other contracts of any kind
31 promising returns and profits as an inducement to insurance.

32 (7) Unfair discrimination. (a) Making or permitting any unfair
33 discrimination between individuals of the same class and equal
34 expectation of life in the rates charged for any contract of life
35 insurance or of life annuity or in the dividends or other benefits
36 payable thereon, or in any other of the terms and conditions of such
37 contract.

38 (b) Making or permitting any unfair discrimination between
39 individuals of the same class and of essentially the same hazard in the
40 amount of premium, policy fees, or rates charged for any policy or
41 contract of accident or health insurance or in the benefits payable
42 thereunder, or in any of the terms or conditions of such contract, or in
43 any other manner whatever.

44 (c) Making or permitting any discrimination against any person or
45 group of persons because of race, creed, color, national origin or
46 ancestry of such person or group of persons in the issuance,

1 withholding, extension or renewal of any policy of insurance, or in the
2 fixing of the rates, terms or conditions therefor, or in the issuance or
3 acceptance of any application therefor.

4 (d) Making or permitting discrimination in the use of any form of
5 policy of insurance which expresses, directly or indirectly, any
6 limitation or discrimination as to race, creed, color, national origin or
7 ancestry or any intent to make any such limitation or discrimination.

8 (e) Making or permitting any unfair discrimination solely because
9 of age in the issuance, withholding, extension or renewal of any policy
10 or contract of automobile liability insurance or in the fixing of the
11 rates, terms or conditions therefor, or in the issuance or acceptance of
12 any application therefor, provided, that nothing herein shall be
13 construed to interfere with the application of any applicable rate
14 classification filed with and approved by the commissioner pursuant to
15 P.L.1944, c. 27 (C.17:29A-1 to 17:29A-28), or any amendment or
16 supplement thereof, which is in effect with respect to such policy or
17 contract of insurance.

18 (8) Rebates. (a) Except as otherwise expressly provided by law,
19 knowingly permitting or offering to make or making any contract of
20 life insurance, life annuity or accident and health insurance, or
21 agreement as to such contract other than as plainly expressed in the
22 contract issued thereon, or paying or allowing, or giving or offering to
23 pay, allow, or give, directly or indirectly, as inducement to such
24 insurance, or annuity, any rebate of premiums payable on the contract,
25 or any special favor or advantage in the dividends or other benefits
26 thereon, or any valuable consideration or inducement whatever not
27 specified in the contract; or giving, or selling, or purchasing or
28 offering to give, sell, or purchase as inducement to such insurance or
29 annuity or in connection therewith, any stocks, bonds, or other
30 securities of any insurance company or other corporation, association,
31 or partnership, or any dividends or profits accrued thereon, or
32 anything of value whatsoever not specified in the contract.

33 (b) Nothing in clause 7 or paragraph (a) of this clause 8 shall be
34 construed as including within the definition of discrimination or
35 rebates any of the following practices (i) in the case of any contract of
36 life insurance or life annuity, paying bonuses to policyholders or
37 otherwise abating their premiums in whole or in part out of surplus
38 accumulated from nonparticipating insurance; provided, that any such
39 bonuses or abatement of premiums shall be fair and equitable to
40 policyholders and for the best interests of the company and its
41 policyholders; (ii) in the case of life insurance policies issued on the
42 industrial debit plan, making allowance to policyholders who have
43 continuously for a specified period made premium payments directly
44 to an office of the insurer in an amount which fairly represents the
45 saving in collection expense; (iii) readjustment of the rate of premium
46 for a group policy based on the loss or expense experience thereunder,

- 1 at the end of the first or any subsequent policy year of insurance
2 thereunder, which may be made retroactive only for such policy year.
- 3 (9) Unfair claim settlement practices. Committing or performing
4 with such frequency as to indicate a general business practice any of
5 the following:
- 6 (a) Misrepresenting pertinent facts or insurance policy provisions
7 relating to coverages at issue;
 - 8 (b) Failing to acknowledge and act reasonably promptly upon
9 communications with respect to claims arising under insurance
10 policies;
 - 11 (c) Failing to adopt and implement reasonable standards for the
12 prompt investigation of claims arising under insurance policies;
 - 13 (d) Refusing to pay claims without conducting a reasonable
14 investigation based upon all available information;
 - 15 (e) Failing to affirm or deny coverage of claims within a reasonable
16 time after proof of loss statements have been completed;
 - 17 (f) Not attempting in good faith to effectuate prompt, fair and
18 equitable settlements of claims in which liability has become
19 reasonably clear;
 - 20 (g) Compelling insureds to institute litigation to recover amounts
21 due under an insurance policy by offering substantially less than the
22 amounts ultimately recovered in actions brought by such insureds;
 - 23 (h) Attempting to settle a claim for less than the amount to which
24 a reasonable man would have believed he was entitled by reference to
25 written or printed advertising material accompanying or made part of
26 an application;
 - 27 (i) Attempting to settle claims on the basis of an application which
28 was altered without notice to, or knowledge or consent of the insured;
 - 29 (j) Making claims payments to insureds or beneficiaries not
30 accompanied by statement setting forth the coverage under which the
31 payments are being made;
 - 32 (k) Making known to insureds or claimants a policy of appealing
33 from arbitration awards in favor of insureds or claimants for the
34 purpose of compelling them to accept settlements or compromises less
35 than the amount awarded in arbitration;
 - 36 (l) Delaying the investigation or payment of claims by requiring an
37 insured, claimant or the physician of either to submit a preliminary
38 claim report and then requiring the subsequent submission of formal
39 proof of loss forms, both of which submissions contain substantially
40 the same information.
 - 41 (m) Failing to promptly settle claims, where liability has become
42 reasonably clear, under one portion of the insurance policy coverage
43 in order to influence settlements under other portions of the insurance
44 policy coverage;
 - 45 (n) Failing to promptly provide a reasonable explanation of the
46 basis in the insurance policy in relation to the facts or applicable law

1 for denial of a claim or for the offer of a compromise settlement.

2 (10) Failure to maintain complaint handling procedures. Failure of
3 any person to maintain a complete record of all the complaints which
4 it has received since the date of its last examination. This record shall
5 indicate the total number of complaints, their classification by line of
6 insurance, the nature of each complaint, the disposition of these
7 complaints, and the time it took to process each complaint. For
8 purposes of this subsection, "complaint" shall mean any written
9 communication primarily expressing a grievance.

10 (11) The enumeration of this act of specific unfair methods of
11 competition and unfair or deceptive acts and practices in the business
12 of insurance is not exclusive or restrictive or intended to limit the
13 powers of the commissioner or any court of review under the
14 provisions of section 9 of this act.¹

15 (cf: P.L.1975, c.100, s.1)

16

17 ¹[13.] 14.¹ This act shall take effect on the 180th day after
18 enactment.

19

20

21

22

23 Establishes the automobile insurance urban enterprise zone program.