

ASSEMBLY, No. 2264

STATE OF NEW JERSEY

INTRODUCED JUNE 27, 1996

By Assemblymen HOLZAPFEL and KELLY

1 AN ACT concerning the New Jersey State Firemen's Association,
2 amending and repealing various sections of the statutory law, and
3 supplementing Title 54 of the Revised Statutes.

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

7
8 1. R.S.54:18-1 is amended to read as follows:
9 54:18-1. Each insurer, not organized under the laws of [this] the
10 State of New Jersey, which takes fire insurance risks on property in
11 this State, shall on or before March 1 in each year, for the period
12 during the 12 months ending December 31 of the preceding year,
13 cause to be made to the [treasurer] Treasurer of the [duly
14 incorporated firemen's relief association] New Jersey State Firemen's
15 Association, on behalf of each municipality[, portion of a township] or
16 fire district in [which] this State, for any property on which the insurer
17 has taken [a] any fire insurance risk [is] situate therein, a true return
18 in writing, verified by the oath of an officer or representative of the
19 insurer, showing the amount of all premiums received by [the
20 insurer,] or agreed to be paid to[it, during the 12 months ending
21 December 31 of the preceding year, for insurance by] the insurer, for
22 insurance underwritten by that insurer against loss or injury by fire
23 upon real or personal property, [(except automobiles and aircraft
24 unless stored for sale)] except automobiles that are not stored for sale,
25 including loss of use thereof[, in the municipality, [portion of a
26 township] or fire district. The return also shall contain the Insurance
27 Services Office "ISO" numerical identification code or designation
28 assigned by the New Jersey State Firemen's Association for such
29 municipality or fire district. The insurer shall, on or before March 1
30 of each year, pay to the [treasurer] Treasurer of the New Jersey State
31 Firemen's Association the sum of 2% upon the amount of all the
32 premiums [so] received or agreed to be paid during the 12 months
33 ending December 31 of the preceding year. [Such insurer may, upon
34 prior notice to the treasurer of each duly incorporated firemen's relief

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 association of each municipality, portion of a township or fire district,
2 request any regularly appointed agents of the insurer, or any brokers
3 who may have placed any insurance in the insurer, to make the return
4 and the payment herein provided to be made by the insurer, but any
5 such payment, when brought to the notice of the insurer, may be
6 accounted for by it, under oath, and deducted from any payment so
7 made by it.]

8 If the insurer fails to comply herewith, and the failure is reported to
9 the [commissioner of banking and insurance] Commissioner of
10 Insurance in writing, attested by the oath of the [treasurer] Treasurer
11 of [a duly incorporated firemen's relief association,] the New Jersey
12 State Firemen's Association, then the commissioner shall forthwith
13 revoke the certificate of authority issued to the insurer, and, until the
14 provisions of this chapter have been complied with by the insurer, it
15 shall not transact further business in this State.

16 (cf: P.L.1955, c.204, s.1)

17

18 2. R.S.54:18-2 is amended to read as follows:

19 54:18-2. If [a] any person residing or having an office or place of
20 business in this State [shall], in the capacity either of agent [or] ,
21 broker, or insurer shall effect, or cause to be effected, any insurance,
22 or shall receive any application for the effecting of insurance upon
23 property in [a] any municipality[, portion of a township] or fire district
24 in this State, [which shall have a duly incorporated firemen's relief
25 association,]and shall directly or indirectly place the insurance or cause
26 the same to be placed in an insurer not organized under the laws of
27 this State, the agent [or], broker [may, upon request of the] or
28 insurer[(as set forth in section 54:18-1)]shall make a return to the
29 [treasurer] Treasurer of the [duly incorporated firemen's relief
30 association] New Jersey State Firemen's Association on behalf of the
31 municipality[, portion of a township] or fire district[,]in which the
32 property is situate, as set forth in R.S.54:18-1, on or before March 1
33 in each year[, containing]. The return shall contain an account, under
34 oath, of all premiums received by [him] such agent, broker or insurer,
35 or by any other person for him, or agreed to be paid, during the 12
36 months ending December 31 of the preceding year, for insurance
37 against loss or injury by fire upon real or personal property[(except
38 automobiles and aircraft unless stored for sale)], except automobiles
39 that are not stored for sale, including loss of use thereof in the
40 municipality[, portion of a township] or fire district[, which insurance
41 shall have been placed by him, or by any other person for him, or at his
42 request, in any insurer not organized under the laws of this State.
43 Such]. The return also shall contain the Insurance Services Office
44 "ISO" numerical identification code or designation assigned by the
45 New Jersey State Firemen's Association of such municipality or fire
46 district. The agent [or] , broker or insurer shall, on or before March

1 1 of each year, pay to the [treasurer] Treasurer of the [firemen's relief
2 association] New Jersey State Firemen's Association the sum of 2%
3 upon the amount of all the premiums received or agreed to be paid as
4 aforesaid within the 12 months ending December 31 of the preceding
5 year. The Treasurer of the New Jersey State Firemen's Association
6 shall allocate the tax monies received to the appropriate local firemen's
7 relief association incorporated and affiliated with the State association,
8 collected on behalf of the municipality or fire district under the control
9 thereof, and to the Board of Managers of the New Jersey Firemen's
10 Home. Any monies received, allocated or paid by any agent, broker
11 or insurer pursuant to the provisions of this chapter on behalf of any
12 municipality or fire district that does not have a local firemen's relief
13 association affiliated with the New Jersey State Firemen's Association
14 shall be allocated to the New Jersey Firemen's Home in accordance
15 with the provisions of section 7 of P.L. , c. (C.) (now pending
16 before the Legislature as this bill).
17 (cf: P.L.1955, c.204, s.2)

18

19 3. R.S.54:18-3 is amended to read as follows:

20 54:18-3. Every agent [or] , broker, or insurer residing or having an
21 office or [place of business in this State, requested by the insurer to]
22 authorized or licensed to do business in this State shall make the return
23 and payment as set forth in [section] R.S.54:18-2 and shall keep
24 accurate books of account of all business done by him [as agent or
25 broker for which such a return is required, in which shall be put down]
26 . The agent, broker or insurer shall record the name of the insured, the
27 date and expiration of the insurance, a description of the property
28 insured, a statement of its location, including the Insurance Services
29 Office "ISO" numerical identification code or designation of the
30 municipality or fire district, the amount of the insurance and [of the
31 premium] premiums paid therefor. If [any such] an agent [or] , broker
32 or insurer fails, neglects or refuses to comply with any provisions of
33 this chapter, or [in case] if any fraud or dishonesty in the returns[,
34 hereinbefore provided to be made by him,]required pursuant to the
35 provisions of this chapter is apparent or becomes known, the
36 [treasurer] Treasurer of [a duly incorporated firemen's relief
37 association injured thereby may obtain an order from a judge of the
38 Superior Court in the county in which the association is located,]the
39 New Jersey State Firemen's Association, on behalf of the municipality
40 or fire district, may obtain from a judge of the Superior Court, in the
41 county wherein the insured property is located, an order compelling
42 the agent [or] , broker or insurer to produce [in the court his] all
43 books [of] and records required to be kept by this chapter for an
44 [account for] accounting and examination by the court.

45 (cf: P.L.1991, c.91, s.508)

46

1 4. R.S.54:18-4 is amended to read as follows:

2 54:18-4. Any such agent [or] , broker or insurer who fails, neglects
3 or refuses to keep books of account as [aforesaid] required, or to
4 produce them in the Superior Court upon an order of the court, or to
5 make proper and accurate returns as hereinbefore provided, or to pay
6 over the percentage due upon any premium as [aforesaid] required, at
7 the time and in the manner specified in this chapter, or who is found,
8 upon examination by the court, to have made a false return of the
9 business done by him, shall, for each offense, be guilty of a crime of
10 the fourth degree and forfeit and pay the amount owed to the
11 [treasurer] Treasurer of [any duly incorporated firemen's relief
12 association that may be injured by his failure, neglect or refusal, or by
13 the making of the false returns, the sum of \$500.00] the New Jersey
14 State Firemen's Association.

15 (cf: P.L.1991, c.91, s.509)

16

17 5. R.S.54:18-5 is amended to read as follows:

18 54:18-5. If any such agent [or] , broker or insurer fails, neglects or
19 refuses to pay any percentage herein provided for, or to pay and
20 satisfy any forfeiture or penalty adjudged to be due under the
21 provisions of this chapter, and that fact is reported to the
22 [commissioner banking and insurance] Commissioner of Insurance in
23 writing, attested by the oath of the [treasurer] Treasurer of [a duly
24 incorporated firemen's relief association] the New Jersey State
25 Firemen's Association, the commissioner shall forthwith revoke any
26 certificate of authority previously issued under which the failure has
27 occurred. The revocation of a certificate shall not release any penalty
28 or forfeiture previously incurred.

29 (cf: P.L.1955, c.204, s.5)

30

31 6. R.S.54:18-7 is amended to read as follows:

32 54:18-7. This chapter shall not alter or abridge any reciprocal
33 legislation existing between different states of the United States, in
34 regard to the percentage of taxes collected [by the state tax
35 commissioner of this state, but the amount of premiums paid by any
36 insurance company to the treasurer of any duly incorporated firemen's
37 relief association in this state shall be deemed a part of the reciprocal
38 tax to be collected by the state tax commissioner of this state] and
39 received for this State. The amount of premiums paid by any
40 insurance company pursuant to this chapter shall be deemed part of the
41 reciprocal tax to be collected for this State. The Commissioner of
42 Insurance, in consultation with the Treasurer of the State of New
43 Jersey, shall enforce the provisions of this chapter and shall require the
44 Treasurer of the New Jersey State Firemen's Association to provide a
45 certified annual accounting of the monies received and allocated under
46 the provisions of this chapter and R.S.43:17-1 et seq., and shall hold

1 the treasurer and officers accountable and subject to the penalties
2 provided herein.

3 (cf: R.S.54:18-7)

4

5 7. (New section) All monies received by the Treasurer of the New
6 Jersey State Firemen's Association from the 2% tax on fire insurance
7 premiums paid by insurance companies not organized in this State, on
8 behalf of municipalities or fire districts which do not have a duly
9 incorporated local firemen's relief association affiliated with the State
10 Association under R.S.43:17-2 et seq., shall be dedicated to the New
11 Jersey Firemen's Home. Upon adoption of the budget, subject to the
12 approval of the Governor, in accordance with R.S.30:7-1 et seq., these
13 funds shall be allocated to the Board of Managers for the operation of
14 the New Jersey Firemen's Home. A certified copy of the budget
15 approved by the Governor shall be filed immediately with the
16 Treasurer of the New Jersey State Firemen's Association.

17 The Treasurer of the New Jersey State Firemen's Association shall
18 return to the general fund of the State Association the balance of the
19 monies not required for the annual operation of the New Jersey
20 Firemen's Home.

21 If there are not sufficient funds in the account for the annual
22 operating expenses of the New Jersey Firemen's Home in accordance
23 with R.S.30:7-1 et seq., the Board of Managers of the New Jersey
24 Firemen's Home shall certify the amount of the deficiency to the
25 Treasurer of the New Jersey State Firemen's Association. The
26 certification shall be filed before the fiscal year for the New Jersey
27 Firemen's Home commences. The certification shall set forth the
28 specific sum necessary to fund the operational expenses of the New
29 Jersey Firemen's Home. The Operational Budget shall include all
30 necessary costs for the maintenance and operation of the home,
31 including purchase of equipment. Upon receipt of the certification, the
32 Treasurer of the New Jersey State Firemen's Association shall pay the
33 certified amount to the New Jersey Firemen's Home no later than May
34 1 of each year.

35 The procedure set forth below shall be followed if the Board of
36 Managers proposes a capital project consisting of a building addition
37 to the New Jersey Firemen's Home or the construction of a new
38 facility:

39 a. At least 30 days before the capital project is submitted to the
40 Governor, the Board of Managers of the New Jersey Firemen's Home
41 shall submit to the officers and executive committee of the New Jersey
42 State Firemen's Association, a description of the proposed project, and
43 costs thereof, including future operational costs. Within 30 days of
44 receipt of the notice the officers of the New Jersey Firemen's Home
45 and New Jersey State Firemen's Association shall approve or
46 disapprove the funding necessary therefor. After the project has been

1 approved or disapproved, the executive committee shall meet in a
2 special executive session to confirm the action of the officers.

3 b. If the officers or the executive committee disapproves the
4 proposed capital project, the board of managers or the officers may
5 appeal to the Commissioner of Insurance who shall issue a final
6 decision within 30 days, but in any event not later than November 1 of
7 any year. The budget then shall be submitted to the Governor for
8 approval pursuant to law.

9

10 8. The following are hereby repealed:

11 N.J.S.54:17-4 through 54:17-5;

12 N.J.S.54:18-6;

13 Section 6 of P.L.1955, c.204 (C.54:18-1.1).

14

15 9. This act shall take effect immediately.

16

17

18 STATEMENT

19

20 This bill revises statutes governing the collection and distribution
21 of monies paid by insurance companies to the New Jersey State
22 Firemen's Association established pursuant to R.S.43:17-1 et seq. and
23 the local firemen's relief associations established pursuant to
24 R.S.43:17-40 et seq.

25 Current law (R.S.43:17-1 et seq.) provides for the establishment of
26 a firemen's relief organization in any municipality where there are
27 organized one or more fire companies. The purpose of the relief
28 association is to establish and maintain a fund for the relief, support or
29 burial of indigent exempt firemen and their families. These local
30 associations are funded by monies received from the two percent tax
31 on premiums of foreign and alien insurers transacting fire insurance in
32 this State.

33 Under the provisions of this bill, foreign and alien insurers and their
34 brokers and agents would pay the tax monies to the State firemen's
35 association rather than a local relief organization. The treasurer of the
36 State association would then distribute the tax monies to (1) each local
37 firemen's relief association depending upon the amount of revenue
38 derived from insurance policies written in that municipality, and (2) the
39 managers of the New Jersey Firemen's Home pursuant to the home's
40 annual budget. Any monies paid by an agent, broker or insurer on
41 behalf of a municipality or fire district that does not have a local
42 firemen's relief association also would be paid directly to the Treasurer
43 of the New Jersey State Firemen's Association rather than the
44 Treasurer of the State of New Jersey for the operational expenses of
45 the New Jersey Firemen's Home.

46 The bill requires an insurer's return to indicate the Insurance

1 Services Office "ISO" numerical identification or designation assigned
2 by the State firemen's association. The bill also requires every agent,
3 broker or insurer to record the Insurance Services Office "ISO"
4 numerical code or designation of the municipality or fire district along
5 with the other insurance information concerning premium payments.

6 The bill permits the State association on behalf of the municipality
7 or fire district to obtain a court order in the county wherein the
8 insured property is located compelling the agent, broker or insurer to
9 produce all the books and records required to be maintained under the
10 current law. The bill also increases penalties for noncompliance with
11 payment requirements. Under current law, the penalty is a fine of
12 \$500. Under this bill, the violator is required to pay any amounts
13 owed and is guilty of a crime of the fourth degree for each offense.
14 Under current law, upon receiving notice of such noncompliance
15 attested to by a local relief association, the Commissioner of Insurance
16 would be required to revoke any certificate of authority previously
17 issued. Under this bill, the State association would attest to the
18 noncompliance.

19 Upon adoption of the budget, subject to the approval of the
20 Governor, in accordance with R.S.30:7-1 et seq., the bill provides that
21 the two percent tax monies must be allocated to the Board of
22 Managers for the operation of the New Jersey Firemen's Home. A
23 certified copy of the budget approved by the Governor must be filed
24 immediately with the Treasurer of the New Jersey State Firemen's
25 Association.

26 The Treasurer of the New Jersey State Firemen's Association would
27 return to the general fund of the State association the balance of the
28 monies not required for the annual operation of the New Jersey
29 Firemen's Home. If there are not sufficient funds in the account for
30 the annual operating expenses of the New Jersey Firemen's Home in
31 accordance with R.S.30:7-1 et seq., the Board of Managers of the
32 New Jersey Firemen's Home would certify the amount of the
33 deficiency to the Treasurer of the New Jersey State Firemen's
34 Association. Upon receipt of the certification, the Treasurer of the
35 New Jersey State Firemen's Association would pay the certified
36 amount to the New Jersey Firemen's Home no later than May 1 of each
37 year.

38 The bill establishes a procedure to be followed if the Board of
39 Managers proposes a capital project consisting of a building addition
40 to the New Jersey Firemen's Home or the construction of a new
41 facility. Within 30 days before the capital project is submitted to the
42 Governor, the Board of Managers of the New Jersey Firemen's Home
43 must submit to the officers and executive committee of the New Jersey
44 State Firemen's Association a description of the proposed project and
45 costs. Within 30 days of receipt of the notice, the officers of the New
46 Jersey Firemen's Home and New Jersey State Firemen's Association

1 would approve or disapprove the funding. After the project has been
2 approved or disapproved, the executive committee would meet in a
3 special executive session to confirm the action of the officers.

4 If the proposed capital project is disapproved by the officers or the
5 executive committee, the Board of Managers or the officers may
6 appeal to the Commissioner of Insurance, who is required to issue a
7 final decision within 30 days, or by November 1, whichever occurs
8 first. The budget would then be submitted to the Governor for
9 approval pursuant to law.

10 Finally, the bill requires the Commissioner of Insurance in
11 consultation with the Treasurer of the State of New Jersey to enforce
12 all provisions of the applicable laws. The bill also requires (1) the
13 Treasurer of the New Jersey State Firemen's Association to provide a
14 certified annual accounting of the monies received and allocated, and
15 (2) the treasurer and officers to be held accountable for compliance
16 with the provisions of chapter 18 of Title 54 and R.S.43:17-1 et seq.

17 The committee amendment is technical in nature; it replaces the
18 term "report" with the term "return."

19 This bill was drafted as a result of hearings held by the Senate Law
20 and Public Safety Committee to investigate criticisms of the collection
21 and distribution of funds by the New Jersey State Firemen's
22 Association. The sponsors intend to clarify the archaic laws governing
23 the association and to codify the procedures governing the tax monies
24 collected and distributed by the association.

25

26

27

28

29 Revises procedures concerning collection and distribution of funds by
30 New Jersey State Firemen's Association.