

SENATE, No. 184

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Senator RICE

1 AN ACT providing for the disclosure of information regarding the  
2 availability, affordability and adequacy of insurance coverage in this  
3 State and supplementing Title 17 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. This act shall be known and may be cited as the "Insurance  
9 Disclosure Act."

10

11 2. a. The Legislature finds and declares that:

12 (1) There are anecdotal reports of disparities in the affordability,  
13 availability and adequacy of insurance coverage provided by insurers  
14 in this State when comparing areas of the State which differ by income  
15 and racial composition;

16 (2) Such disparities in affordability and availability of insurance, as  
17 reported, severely limit the ability of qualified consumers to obtain  
18 credit for home, business, and automobile purchases; and

19 (3) Similarly, such disparities in affordability and availability of  
20 commercial insurance for small businesses, severely curtail the  
21 establishment and growth of such businesses.

22 b. The Legislature therefore proposes:

23 (1) To establish a Statewide database for determining the  
24 availability, affordability, and adequacy of insurance coverage for  
25 consumers and small businesses wherever they are located in the State;  
26 and

27 (2) To determine whether the extent and characteristics of  
28 insurance availability, affordability, and coverage require public  
29 officials to take any actions regarding areas underserved by insurers or  
30 to remedy "redlining" or other illegal or unfair discriminatory  
31 insurance practices.

32

33 3. As used in this act:

34 "Agent" means, with respect to an insurer, an agent licensed by this  
35 State to sell property and casualty insurance. The term includes agents

1 who are employees of the insurer, agents who are independent  
2 contractors working exclusively for the insurer, and agents who are  
3 independent contractors appointed to represent the insurer on a  
4 nonexclusive basis.

5 "Applicable region" means the following planning areas as  
6 designated in the New Jersey State Development and Redevelopment  
7 Plan: Metropolitan Planning Area; Suburban Planning Area; Fringe  
8 Planning Area; Rural Planning Area; and Environmentally Sensitive  
9 Planning Area.

10 "Commercial insurance" means any line of property and casualty  
11 insurance, homeowner's insurance and dwelling fire and allied lines,  
12 and other personal lines of insurance, except private passenger  
13 automobile insurance.

14 "Commissioner" means the Commissioner of Insurance.

15 "Designated census tract" means census tracts in this State selected  
16 by the commissioner pursuant to subsection a. of section 14 of this act.

17 "Designated insurer" means, with respect to a designated line, an  
18 insurer designated by the commissioner under subsection b. of section  
19 14 of this act as a designated insurer for that line, or any insurer that  
20 is part of an insurer group selected under that subsection.

21 "Designated investment" means making or purchasing a loan for the  
22 purchase of commercial real estate, making or purchasing a mortgage  
23 loan for the purchase of a one to four family dwelling, making or  
24 purchasing a commercial or industrial loan, or making any other  
25 investment designated by the commissioner under subsection b. of  
26 section 9 of this act.

27 "Designated line" means a line of insurance or performance and  
28 payment bonds designated by the commissioner under subsection c. of  
29 section 14 of this act.

30 "Exposure units" means an automobile or dwelling, as the case may  
31 be, covered under an insurance policy for private passenger  
32 automobile or homeowners or dwelling fire and allied lines coverage.

33 "Insurance" means property and casualty insurance and includes  
34 primary insurance, surplus lines insurance, and any other arrangement  
35 for the shifting and distributing of risks that is determined to be  
36 insurance under the laws of this State.

37 "Insurer," except with respect to mortgage insurance as provided  
38 in section 8 of this act, means any corporation, association, society,  
39 order, firm, company, mutual, partnership, individual, aggregation of  
40 individuals, or any other legal entity that is authorized to transact the  
41 business of property or casualty insurance in this State or that is  
42 engaged in a property or casualty insurance business. With respect to  
43 section 7 of this act, "insurer" means any person authorized to transact  
44 the business of performance and payment bonds for small businesses.  
45 With respect to section 9 of this act, "insurer" means any person  
46 authorized to transact the business of insurance in this State that

1 makes designated investments in property in this State. The term does  
2 not include an individual or entity which represents an insurer as agent  
3 solely for the purpose of selling or which represents a consumer as a  
4 broker solely for the purpose of buying insurance.

5 "Issued" means, with respect to an insurance policy, newly issued  
6 or renewed.

7 "Joint underwriting association" means an unincorporated  
8 association of insurers established to provide a particular form of  
9 insurance to the public.

10 "Mortgage insurance" means insurance against the nonpayment of,  
11 or default on, a mortgage or loan for residential or commercial  
12 property.

13 "Private mortgage insurance" means mortgage insurance other than  
14 mortgage insurance made available under the National Housing Act,  
15 38 U.S.C §3711 et seq., or title V of the Housing Act of 1949, 42  
16 U.S.C.§1471 et seq.

17 "Property and casualty insurance" means insurance against loss of  
18 or damage to property, insurance against loss of income or extra  
19 expense incurred because of loss of, or damage to, property and  
20 insurance against third party liability claims caused by negligence or  
21 imposed by statute or contract. Such term does not include workers'  
22 compensation, professional liability, or title insurance.

23 "Residual market" means an assigned risk plan, joint underwriting  
24 association, or any similar mechanism designed to make insurance  
25 available to those unable to obtain it in the voluntary market, pursuant  
26 to P.L.1968, c. 129 (C.17:37A-1 et seq.) or section 1 of P.L.1970,  
27 c.215 (C.17:29D-1).

28 "Urban center" means an urban center as identified in the New  
29 Jersey State Development and Redevelopment Plan.

30

31 4. a. The commissioner shall, by regulation, require insurers to  
32 compile and submit information to the commissioner for each annual  
33 reporting period, in accordance with this act.

34 b. In establishing the requirements for the submission of  
35 information under this act, the commissioner shall consult with federal  
36 agencies having appropriate expertise, the National Association of  
37 Insurance Commissioners, insurance regulators in the states, statistical  
38 agents, representatives of small businesses, representatives of  
39 insurance agents (including minority insurance agents), representatives  
40 of property and casualty insurers, and community, consumer, and civil  
41 rights organizations, as appropriate.

42

43 5. a. The requirements established pursuant to section 4 of this act  
44 shall:

45 (1) Be designed to ensure that information is submitted and  
46 compiled under this section as may be necessary to permit analysis and

- 1 comparison of:
- 2 (a) the availability and affordability of insurance coverage and the  
3 quality or type of insurance coverage, by designated census tract,  
4 applicable region, urban center, race and gender of policyholders; and  
5 (b) the location of the principal place of business of insurance  
6 agents and the race of such agents, and the location of the principal  
7 place of business of insurance agents terminated and the race of such  
8 agents, by designated census tract, urban center and applicable region;  
9 and
- 10 (2) Specify the data elements required to be reported under this  
11 section and require uniformity in the definitions of the data elements.
- 12 b. (1) The regulations issued under section 4 shall require that  
13 each designated insurer for a designated line under subparagraph (a)  
14 or (b) of paragraph (1) of subsection c. of section 14 of this act  
15 compile and submit to the commissioner, for each annual reporting  
16 period:
- 17 (a) the total number of policies issued in that line, total exposures  
18 covered by that line, total exposures covered by such policies, and  
19 total amount of premiums for such policies, by designated line and by  
20 designated census tract in which the insured risk is located;
- 21 (b) the total number of cancellations and nonrenewals (expressed  
22 in terms of policies or exposures, as determined by the commissioner),  
23 by designated line and by designated census tract in which the insured  
24 risk is located;
- 25 (c) the total number and racial characteristics of:
- 26 (i) licensed agents of that insurer selling insurance in the designated  
27 line, by designated census tract in which the agent's principal place of  
28 business is located; and
- 29 (ii) those agents who were terminated by the insurer, by designated  
30 census tract in which the agent's principal place of business was  
31 located; and
- 32 (d) for that designated line of insurance, information that will  
33 enable the commissioner to assess the aggregate loss experience for  
34 the insurer, by designated census tract in which the insured risk is  
35 located.
- 36 (2) (a) The regulations issued under section 4 of this act regarding  
37 annual reporting requirements for designated insurers for a designated  
38 line of insurance under subparagraph (a) or (b) of paragraph (1) of  
39 subsection c. of section 14 of this act shall, with respect to policies  
40 issued under the designated line or exposure units covered by those  
41 policies, as determined by the commissioner:
- 42 (i) specify the data elements that shall be submitted;
- 43 (ii) provide for the submission of information on an individual  
44 insurer basis;
- 45 (iii) provide for the submission of the information with the least  
46 burden on insurers, particularly small insurers, and insurance agents;

- 1 (iv) take into account existing statistical reporting systems in the  
2 insurance industry;
- 3 (v) require reporting by designated census tract in which the  
4 insured risk is located;
- 5 (vi) provide for the submission of information that identifies the  
6 designated line, and subline or coverage type;
- 7 (vii) provide for submission of information that distinguishes  
8 policies written in a residual market from policies written in the  
9 voluntary market;
- 10 (viii) specify:
- 11 (I) whether information shall be submitted on the basis of policy or  
12 exposure unit; and
- 13 (II) whether information, when submitted, shall be aggregated by  
14 like policyholders with like policies, except that the commissioner shall  
15 not permit such aggregation if it will adversely affect the accuracy of  
16 the information reported;
- 17 (ix) provide for the submission of information regarding the  
18 number of cancellations and nonrenewals of policies under the  
19 designated line by designated census tract in which the insured risk is  
20 located, by race and gender of the policyholder (if known to the  
21 insurer), and by whether the policy was issued in a voluntary or  
22 residual market; and
- 23 (x) provide for the submission of information on the racial  
24 characteristics and gender of policyholders at the level of detail  
25 comparable to that required by the federal "Home Mortgage  
26 Disclosure Act of 1975," 12 U.S.C. §2801 et seq., and the regulations  
27 promulgated thereunder, 12 C.F.R. §203 et seq.
- 28 (b) with respect to the information specified in subparagraph  
29 (x) of subparagraph (a) of this paragraph (2), applicants for, and  
30 policyholders of, insurance may be asked their racial characteristics  
31 only in writing. Any such written question shall clearly indicate that  
32 a response to the question is voluntary on the part of the applicant or  
33 policyholder, but encouraged, and that the information is being  
34 requested by the State to monitor the availability and affordability of  
35 insurance in this State and further that such information will be held  
36 confidential and used only in aggregation with other similar  
37 information. If an applicant for, or policyholder of, insurance declines  
38 to provide that information, the agent or insurer for the insurance may  
39 provide that information.
- 40 c. The regulations issued under section 4 of this act shall require  
41 each insurer that issues an insurance policy in a designated line of  
42 insurance under subparagraph (a) or (b) of paragraph (1) of subsection  
43 c. of section 14 of this act that covers an insured risk located in a  
44 designated census tract and which is not a designated insurer for the  
45 line in this State, to compile and submit to the commissioner, for each  
46 annual reporting period, by designated census tract in which the

1 insured risk is located:

- 2 (1) The total number of policies issued in that line;
- 3 (2) The total exposures covered by those policies; and
- 4 (3) The total amount of premiums for those policies.

5

6 6. a. The commissioner shall conduct a study to determine the  
7 availability, affordability, and quality of types of commercial insurance  
8 coverage for residential properties and small businesses in urban  
9 centers.

10 b. To acquire information for the study under this section, the  
11 commissioner shall, by regulation, establish requirements for insurers  
12 providing commercial insurance for residential properties and small  
13 businesses to compile and submit to the commissioner on an annual  
14 basis information regarding that insurance, as follows:

15 (1) The commissioner shall carry out the study only with respect  
16 to the urban centers in this State.

17 (2) For each of the urban centers specified pursuant to paragraph  
18 (1) of this subsection b., the commissioner shall designate the insurers  
19 required to submit the information. The commissioner shall designate  
20 a sufficient number of insurers to provide a representative sample of  
21 the insurers providing that insurance in each urban center.

22 (3) The commissioner shall require the submission of information  
23 regarding the lines, sublines, or coverage types of commercial  
24 insurance the commissioner determines are necessary or important  
25 with respect to establishing, operating, or maintaining residential  
26 properties and each type of small business selected under paragraph  
27 (4) of this subsection b., and shall require submission of the  
28 information by lines, sublines, or coverage types, as appropriate.

29 (4) For purposes of paragraph (3) of this subsection b., the  
30 commissioner shall determine the types of businesses that are typically  
31 small businesses and shall select a representative sample of those  
32 types.

33 (5) The commissioner shall identify the data elements required to  
34 be submitted.

35 (6) The commissioner shall require the information to be submitted  
36 by designated census tract in which the insured risk is located.

37 (7) The commissioner shall require the submission of information  
38 on an individual insurer basis and shall specify whether information,  
39 when submitted, shall be aggregated by like policies, except that the  
40 commissioner shall not permit such aggregation if it will adversely  
41 affect the accuracy of the information reported.

42 (8) The commissioner shall require the submission of information  
43 under this section only for each of the first five annual reporting  
44 periods beginning more than 24 months after the effective date of this  
45 act.

46 c. In establishing the requirements for submission of information

1 under this section, the commissioner shall:

2 (1) Take into consideration the administrative, paperwork, and  
3 other burdens on insurers and insurance agents involved in complying  
4 with the requirements of this section;

5 (2) Minimize the burdens imposed by those requirements with  
6 respect to insurers and agents; and

7 (3) Take into consideration existing statistical reporting systems in  
8 the insurance industry.

9 d. Not later than six months after the expiration of the five-year  
10 period referred to in paragraph (8) of subsection b. of this section, the  
11 commissioner shall submit a report to the Governor and the  
12 Legislature describing the information submitted in the study  
13 conducted under this section and any findings of the commissioner  
14 from the study regarding disparities in the availability, affordability,  
15 and quality or types of commercial insurance coverage for residential  
16 properties and small businesses in urban centers.

17

18 7. a. The commissioner shall, by regulation in accordance with  
19 section 4 of this act, require insurers to compile and submit to the  
20 commissioner, for each annual reporting period, information regarding  
21 performance and payment bonds for small businesses, by lines  
22 designated under subparagraph (c) of paragraph (1) of subsection c.  
23 of section 14 of this act, that is similar to the information required to  
24 be submitted under section 5.

25 b. The regulations under this section shall:

26 (1) Designate insurers required to submit the information, pursuant  
27 to standards comparable to the standards for designation under  
28 subsection b. of section 14 of this act, and require submission of the  
29 information on an individual insurer basis;

30 (2) Identify data elements required to be submitted;

31 (3) Require that the information be submitted by designated census  
32 tract;

33 (4) Require that the information be submitted in a manner similar  
34 to that required for information submitted under section 5;

35 (5) Provide an appropriate definition of small businesses; and

36 (6) Require that the information be submitted for each annual  
37 reporting period.

38

39 8. a. (1) On an annual basis the commissioner by regulation shall  
40 require each insurer authorized to provide private mortgage insurance  
41 in this State to provide to the commissioner information regarding its  
42 mortgage insurance policies that is equivalent to the information  
43 regarding mortgages required to be reported under the "Home  
44 Mortgage Disclosure Act of 1975," 12 U.S.C. §2801 et seq, and the  
45 regulations promulgated thereunder, 12 C.F.R. §203 et seq.

46 (2) Each insurer that provides private mortgage insurance in

1 this State shall provide to the public information concerning its private  
2 mortgage insurance policies that is equivalent to the information  
3 depository institutions are required to make available under the "Home  
4 Mortgage Disclosure Act of 1975," 12 U.S.C. §2801 et seq, and the  
5 regulations promulgated thereunder, 12 C.F.R. §203 et seq.

6 b. (1) If, for any annual period referred to in subsection a. of this  
7 section, the commissioner determines that any insurer providing  
8 private mortgage insurance is not making available to the public or  
9 submitting the information referred to in subsection a. of this section  
10 or that the information made available or submitted is not equivalent  
11 information as described in subsection a. of this section, then the  
12 commissioner shall notify the insurer of that noncompliance.

13 (2) If, after the expiration of three months, the insurer has not  
14 remedied that noncompliance to the satisfaction of the commissioner,  
15 then the commissioner shall, by regulation, require the insurer to  
16 submit to the commissioner information regarding private mortgage  
17 insurance which complies with the provisions of section 5 of this act  
18 that are applicable to that insurance. These regulations shall be issued  
19 not later than six months after the expiration of the three months  
20 provided the insurer to comply with the notice provided the insurer  
21 pursuant to paragraph (1) of this subsection, and shall apply to the first  
22 succeeding annual reporting period that begins at least six months after  
23 issuance of these regulations and to each annual reporting period  
24 thereafter.

25

26 9. a. The commissioner shall, by regulation, require that each  
27 designated insurer that makes a designated investment in a property or  
28 business located in this State shall compile and submit to the  
29 commissioner for each annual reporting period, the following  
30 information:

31 (1) (a) The total number of loans for the purchase of commercial  
32 real estate located in this State made by the designated insurer, the  
33 aggregate amount of such loans, and the amount of each such loan, by  
34 designated census tract in which the real estate for which the loan was  
35 made is located.

36 (b) The total number of mortgage loans for the purchase of one to  
37 four family dwellings located in this State made by the designated  
38 insurer, the aggregate amount of those loans, and the amount of each  
39 loan, by designated census tract in which the dwelling for which the  
40 loan was made is located, and information on the racial characteristics,  
41 income level, and gender of the borrower under the loan.

42 (c) The total number of commercial and industrial loans made by  
43 the designated insurer, the aggregate amount of those loans, and the  
44 amount of each loan, by designated census tract in which the property  
45 or business involved in the loan is located, and information on the size  
46 of business of the borrower under the loan and on the ownership

1 characteristic of the business, which shall be classified as either  
2 minority-owned, women-owned, or otherwise-owned.

3 (2) (a) The total number of commercial real estate mortgage loans  
4 purchased by the designated insurer, the aggregate amount of those  
5 loans, and the amount of each loan, by designated census tract in  
6 which the real estate is located.

7 (b) The total number of residential mortgage loans for one to four  
8 family dwellings purchased by the designated insurer, the aggregate  
9 amount of those loans, and the amount of each loan, by designated  
10 census tract in which the dwelling for which the loan was made is  
11 located, and information on the racial characteristics, income level, and  
12 gender of the borrower under the loan.

13 (c) The total number of commercial and industrial loans purchased  
14 by the designated insurer, the aggregate amount of those loans, and  
15 the amount of each loan, by designated census tract in which the  
16 property or business involved in the loan is located, and information  
17 on the size of business of the borrower under the loan and on the  
18 ownership characteristic of the business, which shall be classified as  
19 either minority-owned, women-owned, or otherwise-owned.

20 (3) For such other investments made by the designated insurer  
21 pursuant to subsection b. of this section, the total number of those  
22 investments, the aggregate amount of those investments, and the  
23 amount of each investment, by designated census tract in which the  
24 property or business involved in the investment is located, as  
25 determined by the commissioner, and information on the size of  
26 business of the borrower under the loan and on the ownership  
27 characteristic of the business, which shall be classified as either  
28 minority-owned, women-owned, or otherwise-owned.

29 b. (1) For purposes of paragraph (3) of subsection a. of this  
30 section, the commissioner may designate activities and investments  
31 other than the investments described in paragraphs (1) and (2) of  
32 subsection a. of this section for which designated insurers shall  
33 compile and submit information under this section.

34 (2) In making designations under this subsection, the commissioner  
35 shall designate:

36 (a) Activities and investments that significantly benefit low and  
37 moderate income families and persons, small businesses in distressed  
38 communities, or minority or women owned businesses; and

39 (b) Activities and investments that contribute to the creation of  
40 jobs and economic development of distressed communities.

41 (3) The commissioner shall specifically consider for designation  
42 under this subsection investments in community development financial  
43 institutions, community development corporations, State-issued bonds,  
44 and securities backed by State development funds.

45 c. The commissioner shall, by regulation, establish various  
46 categories of businesses by size, for purposes of gathering information

1 under subparagraph (c) of paragraph (1), subparagraph (c) of  
2 paragraph (2) and paragraph (3) of subsection a. of this section.

3  
4 10. a. The commissioner may contract with a data collection  
5 contractor to collect the information required to be maintained and  
6 submitted under sections 5, 6, 7, 8, and 9 of this act if the contractor  
7 agrees to collect the information pursuant to the terms and conditions  
8 of those sections and this act and the regulations issued thereunder.  
9 Information submitted to the contractor shall be available to the public  
10 to the same extent as if the information were submitted directly to the  
11 commissioner.

12 b. (1) The commissioner shall provide, by regulation, that insurers  
13 may submit any information required by sections 5, 6, 7, 8 and 9 of  
14 this act through statistical agents acting on behalf of more than one  
15 insurer.

16 (2) The regulations issued under this subsection shall permit  
17 submission of information through a statistical agent only if the  
18 commissioner determines that:

19 (a) The statistical agent has adequate procedures to protect the  
20 integrity of the information submitted;

21 (b) The statistical agent has a statistical plan and format for  
22 submitting the information that meets the requirements of this act;

23 (c) The statistical agent has procedures in place that ensure that  
24 information reported under the statistical plan in connection with  
25 reporting under this act and submitted to the commissioner is not  
26 subject to any adjustment by the statistical agent or an insurer for  
27 reasons other than technical accuracy and conformance to the  
28 statistical plan;

29 (d) The information of an insurer is not subject to review by any  
30 other insurer before being made available to the public; and

31 (e) Acceptance of the information through the statistical agent will  
32 not adversely affect the accuracy of the information report.

33 (3) The commissioner may discontinue accepting information  
34 reported through a statistical agent pursuant to this subsection if the  
35 commissioner determines that the requirements for such reporting are  
36 no longer met or that continued acceptance of such information is  
37 contrary to the goal of ensuring the accuracy of the information  
38 reported.

39 (4) The State Treasurer shall, at the request of the commissioner,  
40 audit information collection and submission performed under this  
41 subsection by data collection contractors or statistical agents to  
42 ensure that the integrity of the information collected and submitted is  
43 protected. In determining whether to request an audit of a statistical  
44 agent, the commissioner shall consider the sufficiency, for purposes of  
45 this act, of audits of the statistical agent conducted in connection with  
46 State insurance regulation.

1 (5) Notwithstanding any use of a statistical agent as authorized  
2 under this subsection, an insurer using such an agent shall be  
3 responsible for compliance with the requirements of this act.

4  
5 11. a. Each insurer required by this act to compile and submit  
6 information to the commissioner shall maintain that information for the  
7 three-year period beginning upon the conclusion of the annual  
8 reporting period to which that information is related. The  
9 commissioner shall maintain any information submitted to the  
10 commissioner for such period as the commissioner considers  
11 appropriate and feasible to carry out the purposes of this act and to  
12 allow for historical analysis and comparison of the information.

13 b. The commissioner shall issue regulations, taking into  
14 consideration the provisions of subsection a. of section 13 of this act,  
15 prescribing a standard schedule, format, and method for submitting  
16 information under this act to the commissioner. The format and  
17 method of submitting the information shall facilitate and encourage the  
18 submission in a form readable by a computer. Any insurer submitting  
19 information to the commissioner may submit in writing to the  
20 commissioner any additional information or explanations that the  
21 insurer considers relevant to the decision by the insurer to sell  
22 insurance.

23  
24 12. a. For each annual reporting period, the commissioner shall:

25 (1) Compile, for each designated census tract, by designated line,  
26 and by subline or coverage type, if such information is submitted:

27 (a) Information submitted under sections 5, 6, 7 and 8 of this act  
28 and loss ratios, if the submission of loss information is required, which  
29 information shall also be aggregated by applicable region and urban  
30 center for all insurers submitting that information; and

31 (b) That information and loss ratios, if the submission of loss  
32 information is required, aggregated by applicable region and urban  
33 center for each insurer; and

34 (2) Produce tables based on information submitted under sections  
35 5, 6, 7 and 8 for each designated census tract by insurer and for all  
36 insurers, by designated line (and if such information is submitted, by  
37 subline or coverage type), indicating:

38 (a) Insurance underwriting patterns for the applicable regions and  
39 urban centers, and maintaining the identity of each designated census  
40 tract within those regions or centers, if patterns emerge at those levels  
41 also, and including additional information with respect to the  
42 designated census tracts, such as average age of property, mean and  
43 median income level, racial characteristics of neighborhoods expressed  
44 in percentages and any other information the commissioner considers  
45 helpful in making the comparisons required by this act; and

46 (b) Loss ratios based on the information obtained pursuant to

1 sections 5, 6, 7 and 8, if the submission of loss information is required,  
2 aggregated for the applicable regions and urban centers, and  
3 maintaining the identity of each designated census tract within those  
4 regions or centers, if patterns emerge at those levels also, and  
5 including additional information with respect to the designated census  
6 tracts, such as average age of property, mean and median income level,  
7 racial characteristics of neighborhoods expressed in percentages and  
8 any other information the commissioner considers helpful in making  
9 the comparisons required by this act.

10 b. For each annual reporting period and for each designated census  
11 tract, the commissioner shall compile, by designated line, the  
12 information submitted under subparagraph (c) of paragraph (1) of  
13 subsection b. of section 5 of this act:

14 (1) By designated insurer for each applicable region and urban  
15 center, maintaining the identity of each designated census tract within  
16 each region or center, and including additional information with  
17 respect to each designated census tract, such as average age of  
18 property, mean and median income level, racial characteristics of  
19 neighborhoods expressed in percentages and any other information the  
20 commissioner considers helpful in making the comparisons required by  
21 this act;

22 (2) By designated insurer aggregated for the applicable regions and  
23 urban centers and including additional information with respect to  
24 applicable regions and urban centers compiled from information on the  
25 designated census tracts, such as average age of property, mean and  
26 median income level, racial characteristics of neighborhoods expressed  
27 in percentages and any other information the commissioner considers  
28 helpful in making the comparisons required by this act; and

29 (3) For all designated insurers that have submitted such  
30 information for the designated census tracts, aggregated for the  
31 applicable regions and urban centers, maintaining the identity of the  
32 designated census tracts within those regions or centers if patterns  
33 emerge at those geographical levels, and including additional  
34 information with respect to applicable regions and urban centers  
35 compiled from information on the designated census tracts, such as  
36 average age of property, mean and median income level, racial  
37 characteristics of neighborhoods expressed in percentages and any  
38 other information the commissioner considers helpful in making the  
39 comparisons required by this act.

40 c. For each annual reporting period, the commissioner shall:

41 (1) Compile the information submitted under section 9 of this act,  
42 for each designated census tract:

43 (a) Aggregated for each applicable region and urban center for all  
44 insurers, by designated investment; and

45 (b) Aggregated for each applicable region and urban center for  
46 each insurer, by designated investment; and

1 (2) Produce tables for each applicable region and urban center for  
2 each insurer and for all insurers, indicating patterns of designated  
3 investments, and maintaining the identity of each designated census  
4 tract within each applicable region and urban center, if patterns emerge  
5 at those geographical levels, and include additional information with  
6 respect to each applicable region and urban center compiled from the  
7 designated census tracts, such as mean and median income level,  
8 proportion of business ownership by gender, proportion of borrowers  
9 by gender and average size of business of borrowers and any other  
10 information the commissioner considers helpful in making the  
11 comparisons required by this act.

12 d. For each annual reporting period, the commissioner shall  
13 compile tables providing comparisons across the applicable regions  
14 and urban centers with respect to the information submitted pursuant  
15 to sections 5, 6, 7, 8 and 9 of this act.

16

17 13. a. (1) The commissioner shall maintain and make available to  
18 the public, in accordance with the requirements of this section, any  
19 information submitted to the commissioner under this act and any  
20 information compiled by the commissioner under this act.

21 (2) The commissioner shall make such information publicly  
22 available on a timetable determined by the commissioner, but not later  
23 than nine months after the conclusion of the annual reporting period  
24 to which the information relates, except that such information shall not  
25 be made available to the public until it is available in its entirety or  
26 unless in the commissioner's discretion, partial information can be  
27 released.

28 b. (1) The commissioner shall implement a system to facilitate  
29 access to any information required to be made available to the public  
30 under this act.

31 (2) The system shall provide access in the following manners:

32 (a) To information submitted under sections 5, 6, 7, 8 and 9, on the  
33 basis of the insurer submitting the information and on the basis of  
34 designated census tracts, and on any other basis the commissioner  
35 considers feasible and appropriate.

36 (b) To aggregate information compiled under section 12, on the  
37 basis of:

38 (i) the insurer submitting the information;

39 (ii) designated census tracts within each applicable region and  
40 urban center;

41 (iii) applicable regions and urban centers; and

42 (iv) on any other basis the commissioner considers feasible and  
43 appropriate.

44 (3) The access system shall include a toll free number that can be  
45 used by the public to request the information and the address at which  
46 a written request for the information may be submitted.

1 (4) The commissioner shall, by regulation, establish the forms in  
2 which the information may be furnished by the commissioner. The  
3 forms shall include written statements, forms readable by widely used  
4 personal computers, and, if feasible, on-line access on personal  
5 computers. The commissioner shall provide the information available  
6 under this section in any form requested by the person requesting the  
7 information, except that the commissioner may charge a fee for  
8 providing this information, which may not exceed the amount,  
9 determined by the commissioner, that is equal to the cost of  
10 reproducing the information.

11 (5) The commissioner shall make available to the public software  
12 that can be used on a personal computer to analyze the information  
13 provided under this section. The software shall be capable of  
14 analyzing the information by insurer, designated line, race, gender,  
15 census tract, urban center and applicable region. It shall also contain  
16 data compiled by the commissioner for each census tract, urban center  
17 and applicable region on income levels, age of property, and racial  
18 characteristics that can be used to evaluate the information provided  
19 under this act by insurers. The software and any accompanying data  
20 shall be made available to the public for an amount, determined by the  
21 commissioner, which shall not exceed the actual cost of reproducing  
22 the software and the accompanying data.

23 c. (1) Notwithstanding any other provision of this act, the  
24 commissioner may not make available to the public or otherwise  
25 disclose any information submitted under this act regarding the amount  
26 or number of claims paid by any insurer, except:

27 (a) In the form of a loss ratio, expressing the relationship of claims  
28 paid to premiums, made available or disclosed in compliance with the  
29 provisions of paragraph (2) of this subsection c., or

30 (b) As provided in paragraph (3) of this subsection c.

31 (2) In making available to the public or otherwise disclosing a loss  
32 ratio for an insurer:

33 (a) The commissioner may not identify the insurer to which the loss  
34 ratio relates; and

35 (b) The commissioner may disclose the loss ratio only in a manner  
36 that does not allow any party to determine the identity of the specific  
37 insurer to which the loss ratio relates, except parties having access to  
38 information under paragraph (3) of this subsection c.

39 (3) The commissioner may make information referred to in  
40 paragraph (1) of this subsection c. and the identity of the specific  
41 insurer to which such information relates available to any federal entity  
42 and any State agency responsible for regulating insurance in this State  
43 and may otherwise disclose that information to any such entity or  
44 agency, but only to the extent that entity or agency agrees not to make  
45 that information known to any other person.

1       14. a. For purposes of this act and with respect to the first five  
2 annual reporting periods to which the reporting requirements under  
3 this act apply, "designated census tract" means census tracts selected  
4 as follows:

5       (1) The commissioner, in consultation with the New Jersey State  
6 Planning Commission, shall select census tracts within the applicable  
7 regions and urban centers in a manner and in a sufficient number to be  
8 representative of each applicable region and urban center. In addition,  
9 and to the extent considered necessary for the comparisons required  
10 under this act, the applicable regions may be stratified initially in terms  
11 of Northern, Central and Southern New Jersey.

12       (2) The designations shall be made for each successive five year  
13 period at the time provided in paragraph (3), and the first such period  
14 shall be the five year period beginning upon the commencement of the  
15 sixth annual reporting period to which the reporting requirements  
16 under this act apply.

17       (3) The commissioner shall make the designation of census tracts  
18 for an ensuing five year period by regulations issued not later than the  
19 date occurring 12 months before the commencement of the five year  
20 period.

21       (4) The designations for a five year period shall take effect upon  
22 the commencement of the first annual reporting period of the five year  
23 period that begins at least 12 months after the issuance of the  
24 regulations making such designations, and shall remain in effect until  
25 the expiration of the five year period.

26       Notwithstanding any other provision of this section, if changes are  
27 made by the federal government in their delineation of census tracts  
28 in this State or in planning areas or urban centers by the New Jersey  
29 Planning Commission which would impact on the representativeness  
30 of designated census tracts, the commissioner, in consultation with the  
31 New Jersey Planning Commission and with a concern for comparisons  
32 across years, may modify the list of designated census tracts.

33       b. The commissioner shall designate, for each designated line,  
34 insurers doing business in this State in the lines as designated insurers  
35 for purposes of this act, subject to the following requirements:

36       (1) (a) the commissioner shall designate, for each designated line,  
37 each of the insurers and insurer groups included in the class  
38 established under this paragraph for the State.

39       (b) the commissioner shall rank the insurers and insurer groups in  
40 each designated line from the insurer or group having the largest  
41 aggregate premium volume in the State for such line to the insurer or  
42 group having the smallest such aggregate premium volume and shall  
43 include in the class for the State only:

44       (i) the insurer or group of the highest rank; and

45       (ii) each insurer or group of successively lower rank if the inclusion  
46 of that insurer or group in the class does not result in the sum of those

1 aggregate premium volumes for insurers and groups in the class  
2 exceeding 80 percent of the total aggregate premium volume in the  
3 State for the line; and

4 (iii) the first such successively lower ranked insurer or insurer  
5 group whose inclusion in the class results in that sum exceeding 80  
6 percent of the total aggregate premium volume in the State for the  
7 line.

8 (2) the commissioner shall designate, for each designated line, each  
9 insurer and insurer group not designated pursuant to paragraph (1) of  
10 this subsection b. whose premium volume in the State for the  
11 designated line exceeds one percent of the total aggregate premium  
12 volume in the State for the line.

13 (3) the commissioner shall designate, for each designated line:

14 (a) Each Statewide plan under P.L.1968, c.129 (C.17:37A-1 et  
15 seq.) and section 1 of P.L.1970, c.215 (C.17:29D-1), and

16 (b) Each joint underwriting association, that provides insurance  
17 under that line.

18 (4) The commissioner shall designate insurers under this subsection  
19 once every five years. Each insurer designated shall be a designated  
20 insurer for each of the first five successive annual reporting periods  
21 commencing after that designation.

22 c. (1) The commissioner shall, by regulation, designate lines of  
23 insurance as designated lines for purposes of this act, as follows:

24 (a) private passenger automobile insurance;

25 (b) homeowners insurance and dwelling fire insurance. For  
26 purposes of this act, homeowners insurance shall not include any  
27 renters coverage or coverage for the personal property of a  
28 condominium owner;

29 (c) performance and payment bonds for small businesses, for which  
30 reporting is required pursuant to section 7; and

31 (d) any other line the commissioner considers appropriate for the  
32 study undertaken pursuant to this act.

33 (2) (a) Except as provided in subparagraph (b) of this paragraph  
34 (2), the commissioner shall make the designations under this  
35 subsection once every five years, by regulation, and each line and  
36 subline or coverage type designated under those regulations shall be  
37 designated for each of the first five successive annual reporting periods  
38 occurring after issuance of the regulations.

39 (b) During any five year period referred to in subparagraph (a) of  
40 this paragraph (2) in which designations are in effect, the  
41 commissioner may amend or revise the designated lines, sublines and  
42 coverage types only by regulation and only in accordance with the  
43 requirements of this subsection. Those regulations amending or  
44 revising designations shall apply only to annual reporting periods  
45 beginning after the expiration of the six month period beginning on the  
46 date of issuance of the regulations.

1 d. The commissioner shall designate insurers for purposes of  
2 collecting the information required pursuant to section 9 of this act  
3 with respect to investments in commercial and residential property.

4 e. The commissioner shall make the designations required by this  
5 section and notify the affected parties during the six month period  
6 ending six months before the commencement of the first annual  
7 reporting period to which such designations apply.

8 f. The commissioner may require insurers to submit information the  
9 commissioner considers necessary to make designations specifically  
10 required under this act. The commissioner may not require insurers to  
11 submit any information under this subsection that relates to any line of  
12 insurance not specifically authorized to be designated pursuant to this  
13 act.

14  
15 15. a. The commissioner shall develop, or assist in the  
16 improvement of, methods of matching addresses, census tracts and  
17 applicable regions and urban centers to facilitate compliance by  
18 insurers, in as economical a manner as possible, with the requirements  
19 of this act. The commissioner shall allow insurers, or statistical agents  
20 acting on behalf of insurers, to match addresses and designated census  
21 tracts through the use of 9-digit zip codes if the commissioner  
22 determines that such use will substantially reduce the cost and burden  
23 to insurers of that matching without significant adverse impact on the  
24 reliability of the matching.

25 b. The commissioner shall make available, to any insurer required  
26 to provide information to the commissioner under this act, computer  
27 software that can be used to convert addresses to designated census  
28 tracts. The software shall be made available in forms that provide that  
29 conversion for designated census tracts on a Statewide basis. The  
30 software shall be made available not less than six months before the  
31 first annual reporting period to which the reporting requirements under  
32 this act apply and shall be updated annually. The software shall be  
33 made available for an amount, determined by the commissioner, which  
34 shall not exceed the actual cost of reproducing the software.

35  
36 16. a. For purposes of this act, the annual reporting periods shall  
37 be the 12 month periods commencing in each calendar year on the  
38 same day, which shall be selected under subsection b. by the  
39 commissioner.

40 b. Not later than the expiration of the six month period beginning  
41 on the effective date of this act, the commissioner shall, by regulation,  
42 select a day of the year upon which all annual reporting periods shall  
43 commence. In determining that day, the commissioner shall consider  
44 the reporting periods used for purposes of State and other insurance  
45 statistical reporting systems, in order to minimize the burdens on  
46 insurers.

1       17. a. The commissioner shall, by regulation, require the following  
2 disclosures:

3       (1) Each insurer that, through the insurer, or an agent or broker,  
4 declines a written application or written request to issue an insurance  
5 policy under a designated line shall provide to the applicant at the time  
6 of that declination, through that insurer, agent, or broker, one of the  
7 following:

8       (a) A written explanation of the specific reasons for the  
9 declination.

10       (b) Written notice that:

11       (i) the applicant may submit to the insurer, agent, or broker, within  
12 90 days of that notice, a written request for a written explanation of  
13 the reasons for the declination; and

14       (ii) pursuant to such a request, an explanation shall be provided to  
15 the applicant within 21 days after receipt of that request.

16       If an insurer, agent, or broker making a declination receives a  
17 written request referred to in subparagraph (b) within that 90 day  
18 period, the insurer, agent, or broker shall provide a written explanation  
19 referred to in that subparagraph within that 21 day period.

20       (2) Each insurer that cancels or refuses to renew an insurance  
21 policy under a designated line shall provide to the policyholder, in  
22 writing and within an appropriate period of time as determined by the  
23 commissioner, the reasons for canceling or refusing to renew the  
24 policy.

25       b. In issuing regulations under subsection a., the commissioner  
26 shall consider relevant portions of model acts developed by the  
27 National Association of Insurance Commissioners.

28       c. In issuing regulations under subsection a. of this section, the  
29 commissioner shall specifically consider the necessity of providing  
30 insurers, agents, and brokers immunity solely for the act of conveying  
31 or communicating the reasons for a declination or cancellation of, or  
32 refusal to renew insurance on behalf of a principal making that  
33 decision. The commissioner may provide for immunity under the  
34 regulations issued under subsection a. if the commissioner determines  
35 that such a provision is necessary and in the public interest, except that  
36 the commissioner may not provide immunity for any conduct that is  
37 negligent, reckless, or willful.

38

39       18. a. Any insurer who is determined by the commissioner, after  
40 providing opportunity for a hearing on the record, to have violated any  
41 requirement of this act shall be subject to a civil penalty not to exceed  
42 \$5,000 for each day during which that violation continues.

43       b. The commissioner may bring an action in any court of competent  
44 jurisdiction for appropriate declaratory and injunctive relief against any  
45 insurer who violates the requirements of this act.

46       c. An insurer shall be responsible under subsections a. and b. of

1 this section for any violation of a statistical agent acting on behalf of  
2 the insurer.

3

4 19. The commissioner shall annually report to the Governor and  
5 the Legislature on the implementation of this act and shall make  
6 recommendations to the Governor and the Legislature on any  
7 additional legislation the commissioner deems appropriate to carry out  
8 this act. The commissioner shall include in each annual report a  
9 description of any complaints or problems resulting from the  
10 implementation of this act made by, or on behalf of, insurance  
11 policyholders that concern the disclosure of information regarding  
12 policyholders and any recommendations for addressing those  
13 problems. Each report shall specifically address whether granting  
14 property and casualty insurance powers to other financial  
15 intermediaries would significantly reduce redlining and other  
16 discriminatory insurance practices and the commissioner shall consult  
17 with the appropriate financial institution regulators regarding such  
18 issues in preparing the report.

19

20 20. a. Not later than 90 days after the effective date of this act, the  
21 commissioner shall establish a task force on insurance agency  
22 appointments. The task force shall:

23 (1) Consist of representatives of property and casualty insurance  
24 agents, specifically including minority insurance agents, property and  
25 casualty insurers, State insurance regulators, and community,  
26 consumer, and civil rights organizations;

27 (2) Have a significant representation from minority insurance  
28 agents; and

29 (3) Be chaired by the commissioner or the commissioner's  
30 designee.

31 b. The task force shall:

32 (1) Review the problems inner city and minority agents may have  
33 in receiving appointments to represent property and casualty insurers  
34 and consider the effects those problems have on the availability,  
35 affordability, and quality or type of insurance, especially in  
36 underserved areas;

37 (2) Review the practices of insurers in terminating agents and  
38 consider the effects those practices have on the availability,  
39 affordability, and quality or type of insurance, especially in  
40 underserved areas; and

41 (3) Recommend solutions to improve the ability of inner city and  
42 minority insurance agents to market property and casualty insurance  
43 products, including steps property and casualty insurers should take to  
44 increase their appointments of such agents.

45 c. The task force shall report to the Governor and the Legislature  
46 its findings under paragraphs (1) and (2) of subsection b. of this

1 section and its recommendations under paragraph (3) of subsection b.  
2 of this section not later than two years after the effective date of this  
3 act. The task force shall terminate when the report is submitted to the  
4 Governor and the Legislature.

5  
6 21. a. (1) The commissioner shall conduct a study to determine  
7 the feasibility and utility of requiring insurers to report information  
8 with respect to the characteristics of applicants for insurance and  
9 reasons for rejection of applicants. The study shall examine the extent  
10 to which:

11 (a) Oral applications or representations are used by insurers and  
12 agents in making determinations regarding whether or not to insure a  
13 prospective insured;

14 (b) Written applications are used by insurers and agents in making  
15 determinations regarding whether or not to insure a prospective  
16 insured;

17 (c) Written applications are submitted after the insurer or agent has  
18 already made a determination to provide insurance to a prospective  
19 insured or has determined that the prospective insured is eligible for  
20 insurance; and

21 (d) Prospective insureds are discouraged from submitting  
22 applications for insurance based, in whole or in part, on:

23 (i) the location of the risk to be insured;

24 (ii) the racial characteristics of the prospective insured;

25 (iii) the racial composition of the neighborhood in which the risk  
26 to be insured is located; and

27 (iv) in the case of residential property insurance, the age and value  
28 of the risk to be insured.

29 (2) The commissioner shall report the results of the study under  
30 paragraph (1) of this subsection a. to the Governor and the Legislature  
31 not later than two years after the effective date of this act. The report  
32 shall include recommendations of the commissioner:

33 (a) With respect to requiring insurers to report on the disposition  
34 of oral and written applications for insurance; and

35 (b) For any legislation that the commissioner considers appropriate  
36 regarding the issues described in the report.

37 b. The commissioner shall conduct a study of various practices,  
38 actions, and methods undertaken by insurers to meet the property and  
39 casualty insurance needs of residents of low and moderate income  
40 neighborhoods, minority neighborhoods, and small businesses located  
41 in those neighborhoods. The commissioner shall report the results of  
42 the study, including any recommendations, to the Governor and the  
43 Legislature not later than two years after the effective date of this act.

44 c. (1) The commissioner shall conduct a study to determine  
45 whether, and the extent to which, insurers engage in disparate  
46 treatment in handling claims of policyholders under designated lines of

1 insurance based on the race, gender, and income level of the  
2 policyholder, and on the racial characteristics and income levels of the  
3 area in which the insured risk is located. In conducting the study, the  
4 commissioner shall specifically consider whether residents of low  
5 income neighborhoods or areas and minority neighborhoods or areas  
6 are more likely than residents of other areas to have their claims  
7 contested or their insurance coverage canceled.

8 (2) The commissioner shall submit a report on the results of the  
9 study to the Governor and the Legislature not later than two years  
10 after the effective date of this act.

11 d. The commissioner shall conduct a study to determine whether  
12 the practice in the insurance industry of basing insurance premium  
13 amounts on the territory in which the insured risk is located has a  
14 disparate impact for policyholders on the availability, affordability, or  
15 quality of insurance by race, gender, or type of neighborhood. The  
16 commissioner shall submit a report on the results of the study to the  
17 Governor and the Legislature not later than 12 months after the  
18 effective date of this act.

19 e. (1) The commissioner shall conduct a study to determine the  
20 feasibility of requiring insurers to reinvest in communities and  
21 neighborhoods from which they collect premiums for insurance and  
22 whether, and the extent to which, community reinvestment  
23 requirements for insurers should be established that are comparable to  
24 the community reinvestment requirements applicable to depository  
25 institutions. The commissioner shall consult with representatives of  
26 insurers and consumer, community, and civil rights organizations  
27 regarding the results of the study and any recommendations to be  
28 made based on the results of the study.

29 (2) The commissioner shall report the results of the study,  
30 including any such recommendations, to the Governor and the  
31 Legislature not later than six months after the conclusion of the first  
32 annual reporting period to which the reporting requirements under this  
33 act apply.

34  
35 22. Reporting shall not be required under this act with respect to  
36 insurance provided by any program underwritten or administered by  
37 the United States.

38  
39 23. a. The commissioner shall issue regulations, pursuant to the  
40 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
41 seq.), necessary to effectuate the provisions of this act. Except as  
42 otherwise provided in this act, final regulations shall be issued not later  
43 than the expiration of the 12 month period beginning on the effective  
44 date of this act.

45 b. In prescribing such regulations, the commissioner shall take into  
46 consideration the administrative, paperwork, and other burdens on

1 insurance agents, including independent insurance agents, involved in  
2 complying with the requirements of this act and shall minimize the  
3 burdens imposed by those requirements with respect to those agents.  
4

5 24. The requirements of this act relating to reporting of  
6 information by insurers shall take effect with respect to the first annual  
7 reporting period that begins more than 24 months after the effective  
8 date of this act.  
9

10 25. This act shall take effect immediately.  
11  
12

### 13 STATEMENT 14

15 This bill requires the Commissioner of Insurance to promulgate  
16 regulations to require property and casualty insurers to compile and  
17 provide information to the commissioner on a annual basis which  
18 would enable the commissioner to determine the availability and  
19 affordability of personal lines and small business insurance and the  
20 adequacy of coverage for consumers and small businesses wherever  
21 they are located in this State.

22 Under the bill, information would be collected and studies would be  
23 conducted with respect to property and casualty insurance, residential  
24 properties and small businesses in urban centers, insurers issuing  
25 performance and payment bonds, private mortgage insurers and  
26 insurers making investments in commercial and residential property in  
27 this State.

28 To provide a basis for comparison, information is to be collected  
29 for designated census tracts, which in turn are to be chosen by the  
30 commissioner based on the location and number of census tracts within  
31 each applicable region and urban center of the State necessary to  
32 provide a representative sample from each. Additional information on  
33 census tracts is also to be taken from census data, such as mean and  
34 median income, age of housing, racial composition and any other  
35 characteristic of census tracts the commissioner thinks will be helpful  
36 in making the comparisons required by this act. This information is to  
37 be presented in tables for applicable regions and urban centers. These  
38 regions and centers are identified in the New Jersey State Planning  
39 Commission's report, Communities of Place.

40 The commissioner is required to develop software to be provided  
41 to insurers which will enable them to use nine-digit zip codes to locate  
42 the information required to be provided within census tracts. In  
43 addition, the commissioner is required to develop a program which  
44 would enable the public access to the data aggregated at a census tract  
45 level or greater.

46 The first annual reporting period as established in bill would not

1 take place until at least 24 months after its effective date, in order to  
2 provide the commissioner time to set up the information reporting  
3 system envisioned by the bill.

4

5

6

7

8 Enacts the "Insurance Disclosure Act."