

SENATE, No. 754

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 15, 1996

By Senator CARDINALE

1 AN ACT concerning insurance fraud and certain self-insurance funds  
2 and amending P.L.1983, c.320.

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

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7 1. Section 3 of P.L.1983, c.320 (C.17:33A-3) is amended to read  
8 as follows:

9 3. As used in this act:

10 "Attorney General" means the Attorney General of New Jersey or  
11 his designated representatives.

12 "Commissioner" means the Commissioner of Insurance.

13 "Director" means the Director of the Division of Insurance Fraud  
14 Prevention in the Department of Insurance.

15 "Division" means the Division of Insurance Fraud Prevention  
16 established by this act.

17 "Hospital" means any general hospital, mental hospital,  
18 convalescent home, nursing home or any other institution, whether  
19 operated for profit or not, which maintains or operates facilities for  
20 health care.

21 "Insurance company" means:

22 a. Any corporation, association, partnership, reciprocal exchange,  
23 interinsurer, Lloyd's insurer, fraternal benefit society or other person  
24 engaged in the business of insurance pursuant to Subtitle 3 of Title 17  
25 of the Revised Statutes (C.17:17-1 et seq.), or Subtitle 3 of Title 17B  
26 of the New Jersey Statutes (C.17B:17-1 et seq.);

27 b. Any medical service corporation operating pursuant to  
28 P.L.1940, c.74 (C.17:48A-1 et seq.);

29 c. Any hospital service corporation operating pursuant to  
30 P.L.1938, c.366 (C.17:48-1 et seq.);

31 d. Any health service corporation operating pursuant to P.L.1985,  
32 c.236 (C.17:48E-1 et seq.);

33 e. Any dental service corporation operating pursuant to P.L.1968,  
34 c.305 (C.17:48C-1 et seq.);

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

- 1 f. Any dental plan organization operating pursuant to P.L.1979,  
2 c.478 (C.17:48D-1 et seq.);
- 3 g. Any insurance plan operating pursuant to P.L.1970, c.215  
4 (C.17:29D-1);
- 5 h. The New Jersey Insurance Underwriting Association operating  
6 pursuant to P.L.1968, c.129 (C.17:37A-1 et seq.);
- 7 i. The New Jersey Automobile Full Insurance Underwriting  
8 Association operating pursuant to P.L.1983, c.65 (C.17:30E-1 et seq.)  
9 and the Market Transition Facility operating pursuant to section 88 of  
10 P.L.1990, c.8 (C.17:33B-11); [and]
- 11 j. Any risk retention group or purchasing group operating pursuant  
12 to the "Liability Risk Retention Act of 1986," 15 U.S.C. §3901 et seq.;
- 13 k. Any fund or joint self-insurance fund operating pursuant to  
14 Article 1 of chapter 10 of Title 40A of the New Jersey Statutes  
15 (N.J.S.40A:10-1 et seq.), Article 3 of chapter 10 of Title 40A of the  
16 New Jersey Statutes (N.J.S.40A:10-6 et seq.), Article 4 of chapter 10  
17 of Title 40A of the New Jersey Statutes (N.J.S.40A:10-12 et seq.),  
18 P.L.1983, c.372 (C.40A:10-36 et seq.), P.L.1983, c.108  
19 (C.18A:18B-1 et seq.), or P.L.1992, c.51 (C.40A:10-52 et seq.); and
- 20 l. The New Jersey State Health Benefits Program operating  
21 pursuant to P.L.1961, c.49 (C.52:14-17.25 et seq.).

22 "Person" means a person as defined in R.S.1:1-2, and shall include,  
23 unless the context otherwise requires, a practitioner.

24 "Practitioner" means a licensee of this State authorized to practice  
25 medicine and surgery, psychology, chiropractic, or law or any other  
26 licensee of this State whose services are compensated, directly or  
27 indirectly, by insurance proceeds, or a licensee similarly licensed in  
28 other states and nations or the practitioner of any nonmedical  
29 treatment rendered in accordance with a recognized religious method  
30 of healing.

31 "Producer" means an insurance producer as defined in section 2 of  
32 P.L.1987, c.293 (C.17:22A-2), licensed to transact the business of  
33 insurance in this State pursuant to the provisions of the "New Jersey  
34 Insurance Producer Licensing Act," P.L.1987, c.293 (C.17:22A-1 et  
35 seq.).

36 "Statement" includes, but is not limited to, any application, writing,  
37 notice, expression, statement, proof of loss, bill of lading, receipt,  
38 invoice, account, estimate of property damage, bill for services,  
39 diagnosis, prescription, hospital or physician record, X-ray, test result  
40 or other evidence of loss, injury or expense.

41 (cf: P.L.1991, c.331, s.1)

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43 2. Section 8 of P.L.1983, c.320 (C.17:33A-8) is amended to read  
44 as follows:

45 8. a. There is established in the Department of Insurance the  
46 Division of Insurance Fraud Prevention. The division shall assist the

1 commissioner in administratively investigating allegations of insurance  
2 fraud and in developing and implementing programs to prevent  
3 insurance fraud and abuse. The division shall promptly notify the  
4 Attorney General of any insurance application or claim which involves  
5 criminal activity. When so required by the commissioner and the  
6 Attorney General, the division shall cooperate with the Attorney  
7 General in the investigation and prosecution of criminal violations.

8 b. The commissioner shall appoint the full-time supervisory and  
9 investigative personnel of the division, including the director, who  
10 shall hold their employment at the pleasure of the commissioner  
11 without regard to the provisions of Title 11A of the New Jersey  
12 Statutes and shall receive such salaries as the commissioner from time  
13 to time designates, and who shall be qualified by training and  
14 experience to perform the duties of their position.

15 c. When so requested by the commissioner, the Attorney General  
16 may assign one or more deputy attorneys general to assist the division  
17 in the performance of its duties.

18 d. The commissioner shall also appoint the clerical and other staff  
19 necessary for the division to fulfill its responsibilities under this act.  
20 The personnel shall be employed subject to the provisions of Title 11A  
21 of the New Jersey Statutes, and other applicable statutes.

22 e. The commissioner shall appoint an insurance fraud advisory  
23 board consisting of eight representatives from insurers doing business  
24 in this State. The members of the board shall serve for two year terms  
25 and until their successors are appointed and qualified. The members  
26 of the board shall receive no compensation. The board shall advise the  
27 commissioner with respect to the implementation of this act, when so  
28 requested by the commissioner.

29 f. The Director of the Division of Budget and Accounting in the  
30 Department of the Treasury shall, on or before September 1 in each  
31 year, ascertain and certify to the commissioner the total amount of  
32 expenses incurred by the State in connection with the administration  
33 of this act during the preceding fiscal year, which expenses shall  
34 include, in addition to the direct cost of personal service, the cost of  
35 maintenance and operation, the cost of retirement contributions made  
36 and the workers' compensation paid for and on account of personnel,  
37 rentals for space occupied in State owned or State leased buildings and  
38 all other direct and indirect costs of the administration thereof.

39 g. The commissioner shall, on or before October 15 in each year,  
40 apportion the amount so certified to him among all of the companies  
41 writing the class or classes of insurance described in Subtitle 3 of Title  
42 17 of the Revised Statutes (C.17:17-1 et seq.), and Subtitle 3 of Title  
43 17B of the New Jersey Statutes (C.17B:17-1 et seq.), within this State  
44 in the proportion that the net premiums received by each of them for  
45 such insurance written or renewed on risks within this State during the  
46 calendar year immediately preceding, as reported to him, bears to the

1 sum total of all such net premiums received by all companies writing  
2 that insurance within the State during the year, as reported, except that  
3 no one company shall be assessed for more than 5% of the amount  
4 apportioned. The commissioner shall certify the sum apportioned to  
5 each company on or before November 15 next ensuing, and to the  
6 Division of Taxation in the Department of the Treasury. Each  
7 company shall pay the amount so certified as apportioned to it to the  
8 said Division of Taxation on or before December 31 next ensuing, and  
9 the sum paid shall be paid into the State Treasury in reimbursement to  
10 the State for the expenses paid.

11 "Net premiums received" means gross premiums written, less return  
12 premiums thereon and dividends credited or paid to policyholders and  
13 also means and includes contributions made to funds and joint  
14 self-insurance funds which are included in the definition of an  
15 insurance company pursuant to section 3 of P.L.1983, c.320  
16 (C.17:33A-3) and the New Jersey State Health Benefits Program, less  
17 return contributions.

18 h. The total appropriations recoverable under this section for the  
19 operation of the division shall not exceed \$500,000.00 during its first  
20 full fiscal year of operation.  
21 (cf: P.L.1991, c.331, s.5)

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23 3. This act shall take effect immediately.

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#### STATEMENT

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28 This bill provides that the "New Jersey Insurance Fraud Prevention  
29 Act" will apply to the self-insurance funds and joint self-insurance  
30 funds of municipalities, counties and school boards and the New Jersey  
31 State Health Benefits Program. Currently, the Division of Insurance  
32 Fraud Prevention cannot act on complaints of fraud concerning these  
33 self-insurance funds.

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39 Includes self-insurance funds of public entities under the "New Jersey  
Insurance Fraud Prevention Act."