

[First Reprint]
SENATE, No. 2221

STATE OF NEW JERSEY

INTRODUCED JUNE 19, 1997

By Senators CARDINALE and SINAGRA

1 AN ACT concerning automobile insurance and revising various parts
2 of the statutory law.

3

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

6

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

8 a. There continues to be a need to improve and expand the
9 availability of automobile insurance in certain urban geographic areas
10 of the State. To better serve consumers' needs and stimulate
11 competition in these areas, it is necessary to create business
12 opportunities aimed at increasing and promoting economic activity by
13 establishing automobile insurance urban enterprise zones (UEZs),
14 which will provide incentives for insurers to increase their writings in
15 these urban centers through, among other things, the appointment of
16 urban enterprise zone agents. To achieve that goal, the Legislature
17 further finds:

18 (1) That the creation of business incentives aimed at increasing and
19 promoting economic activity in specially designated Urban Enterprise
20 Zones has been effectively utilized by the State in the past;

21 (2) That consumers located in a limited number of the State's urban
22 centers would benefit from an increase in the number of locations at
23 which they could secure automobile insurance;

24 (3) That to better serve the needs of automobile insurance
25 consumers and stimulate competition and economic activity, access to
26 automobile insurance needs to be expanded in certain defined urban
27 areas of the State; and

28 (4) That the development of increased access to automobile
29 insurance needs to be encouraged by establishing incentives for
30 insurers to increase their writings in these urban centers through,
31 among other things, the appointment of urban enterprise zone agents

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SCM committee amendments adopted June 23, 1997.

1 and the use of unused capacity in the assigned risk plan to provide
2 additional accessible coverage.

3 b. Certain aspects of the current automobile insurance system are
4 unfair and need to be reformed. To this end, it is in the public interest
5 to:

6 (1) eliminate the current system of flex-rating, which guarantees
7 insurers an increase in their rates each year regardless of need;

8 (2) eliminate the current surcharge system based on automobile
9 insurance eligibility points that unfairly penalizes good drivers because
10 of recent minor traffic infractions, and provide for a system of rating
11 tiers to provide greater flexibility in evaluating and rating risks based
12 on factors that more accurately reflect the driver's characteristics; and

13 (3) revise current provisions of the law that permit insurers to
14 arbitrarily and unfairly nonrenew insureds without reason.

15 c. It is also in the public's interest to increase efforts to fight fraud
16 that occurs in the automobile insurance system, including:

17 (1) toughening sanctions on insurance companies that fail to
18 implement fraud prevention programs, and on licensed professionals
19 and drivers who make fraudulent claims; and

20 (2) improving efforts to educate law enforcement and the public on
21 how to identify fraud.

22

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

25 3. As used in this act:

26 "Attorney General" means the Attorney General of New Jersey or
27 his designated representatives.

28 "Commissioner" means the Commissioner of Banking and
29 Insurance.

30 "Director" means the Director of the Division of Insurance Fraud
31 Prevention in the Department of Banking and Insurance.

32 "Division" means the Division of Insurance Fraud Prevention
33 established by this act.

34 "Hospital" means any general hospital, mental hospital,
35 convalescent home, nursing home or any other institution, whether
36 operated for profit or not, which maintains or operates facilities for
37 health care.

38 "Insurance company" means:

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

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

46 c. Any hospital service corporation operating pursuant to

- 1 P.L.1938, c.366 (C.17:48-1 et seq.);
- 2 d. Any health service corporation operating pursuant to P.L.1985,
3 c.236 (C.17:48E-1 et seq.);
- 4 e. Any dental service corporation operating pursuant to P.L.1968,
5 c.305 (C.17:48C-1 et seq.);
- 6 f. Any dental plan organization operating pursuant to P.L.1979,
7 c.478 (C.17:48D-1 et seq.);
- 8 g. Any insurance plan operating pursuant to P.L.1970, c.215
9 (C.17:29D-1);
- 10 h. The New Jersey Insurance Underwriting Association operating
11 pursuant to P.L.1968, c.129 (C.17:37A-1 et seq.);
- 12 i. The New Jersey Automobile Full Insurance Underwriting
13 Association operating pursuant to P.L.1983, c.65 (C.17:30E-1 et seq.)
14 and the Market Transition Facility operating pursuant to section 88 of
15 P.L.1990, c.8 (C.17:33B-11); and
- 16 j. Any risk retention group or purchasing group operating pursuant
17 to the "Liability Risk Retention Act of 1986," 15 U.S.C. §3901 et seq.
18 "Pattern" means five or more related violations of P.L.1983, c.320
19 (C.17:33A-1 et seq.). Violations are related if they involve either the
20 same victim, or same or similar actions on the part of the person or
21 practitioner charged with violating P.L.1983, c.320 (C.17:33A-1 et
22 seq.).
- 23 "Person" means a person as defined in R.S.1:1-2, and shall include,
24 unless the context otherwise requires, a practitioner.
- 25 "Principal residence" means that residence at which a person spends
26 the majority of his time. Principal residence may be an abode separate
27 and distinct from a person's domicile. Mere seasonal or weekend
28 residence within this State does not constitute principal residence
29 within this State.
- 30 "Practitioner" means a licensee of this State authorized to practice
31 medicine and surgery, psychology, chiropractic, or law or any other
32 licensee of this State whose services are compensated, directly or
33 indirectly, by insurance proceeds, or a licensee similarly licensed in
34 other states and nations or the practitioner of any nonmedical
35 treatment rendered in accordance with a recognized religious method
36 of healing.
- 37 "Producer" means an insurance producer as defined in section 2 of
38 P.L.1987, c.293 (C.17:22A-2), licensed to transact the business of
39 insurance in this State pursuant to the provisions of the "New Jersey
40 Insurance Producer Licensing Act," P.L.1987, c.293 (C.17:22A-1 et
41 seq.).
- 42 "Statement" includes, but is not limited to, any application, writing,
43 notice, expression, statement, proof of loss, bill of lading, receipt,
44 invoice, account, estimate of property damage, bill for services,
45 diagnosis, prescription, hospital or physician record, X-ray, test result

1 or other evidence of loss, injury or expense.

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

3

4 3. Section 4 of P.L.1983, c.320 (C.17:33A-4) is amended to read
5 as follows:

6 4. a. A person or a practitioner violates this act if he:

7 (1) Presents or causes to be presented any written or oral
8 statement as part of, or in support of or opposition to, a claim for
9 payment or other benefit pursuant to an insurance policy or the
10 "Unsatisfied Claim and Judgment Fund Law," P.L.1952, c.174
11 (C.39:6-61 et seq.), knowing that the statement contains any false or
12 misleading information concerning any fact or thing material to the
13 claim; or

14 (2) Prepares or makes any written or oral statement that is
15 intended to be presented to any insurance company, the Unsatisfied
16 Claim and Judgment Fund or any claimant thereof in connection with,
17 or in support of or opposition to any claim for payment or other
18 benefit pursuant to an insurance policy or the "Unsatisfied Claim and
19 Judgment Fund Law," P.L.1952, c.174 (C.39:6-61 et seq.), knowing
20 that the statement contains any false or misleading information
21 concerning any fact or thing material to the claim; or

22 (3) Conceals or knowingly fails to disclose the occurrence of an
23 event which affects any person's initial or continued right or
24 entitlement to (a) any insurance benefit or payment or (b) the amount
25 of any benefit or payment to which the person is entitled;

26 (4) Prepares or makes any written or oral statement, intended to be
27 presented to any insurance company or producer for the purpose of
28 obtaining:

29 (a) a motor vehicle insurance policy, that the person to be insured
30 [resides or is domiciled] maintains a principal residence in this State
31 when, in fact, that [person resides or is domiciled] person's principal
32 residence is in a state other than this State; or

33 (b) an insurance policy, knowing that the statement contains any
34 false or misleading information concerning any fact or thing material
35 to an insurance application or contract; or

36 (5) Conceals or knowingly fails to disclose any evidence, written
37 or oral, which may be relevant to a finding that a violation of the
38 provisions of paragraph (4) of this subsection a. has or has not
39 occurred.

40 b. A person or practitioner violates this act if he knowingly assists,
41 conspires with, or urges any person or practitioner to violate any of
42 the provisions of this act.

43 c. A person or practitioner violates this act if, due to the
44 assistance, conspiracy or urging of any person or practitioner, he
45 knowingly benefits, directly or indirectly, from the proceeds derived
46 from a violation of this act.

1 d. A person or practitioner who is the owner, administrator or
2 employee of any hospital violates this act if he knowingly allows the
3 use of the facilities of the hospital by any person in furtherance of a
4 scheme or conspiracy to violate any of the provisions of this act.

5 e. A person or practitioner violates this act if, for pecuniary gain,
6 for himself or another, he directly or indirectly solicits any person or
7 practitioner to engage, employ or retain either himself or any other
8 person to manage, adjust or prosecute any claim or cause of action,
9 against any person, for damages for negligence, or, for pecuniary gain,
10 for himself or another, directly or indirectly solicits other persons to
11 bring causes of action to recover damages for personal injuries or
12 death, or for pecuniary gain, for himself or another, directly or
13 indirectly solicits other persons to make a claim for personal injury
14 protection benefits pursuant to P.L.1972, c.70 (C.39:6A-1 et seq.);
15 provided, however, that this subsection shall not apply to any conduct
16 otherwise permitted by law or by rule of the Supreme Court.

17 (cf: P.L.1995, c.132, s.1)

18
19 4. Section 5 of P.L.1983, c.320 (C.17:33A-5) is amended to read
20 as follows:

21 5. a. [If a person or practitioner is found by a court of competent
22 jurisdiction, pursuant to a claim initiated by the commissioner, to have
23 violated any provision of this act, the person or practitioner shall be
24 subject to a civil penalty not to exceed \$5,000.00 for the first
25 violation, \$10,000.00 for the second violation and \$15,000.00 for each
26 subsequent violation.] Whenever the commissioner determines that a
27 person has violated any provision of P.L.1983, c.320 (C.17:33A-1 et
28 seq.), the commissioner may either:

29 (1) bring a civil action in accordance with subsection b. of this
30 section; or

31 (2) levy a civil administrative penalty and order restitution in
32 accordance with subsection c. of this section.

33 In addition to or as an alternative to the remedies provided in this
34 section, the commissioner may request the Attorney General to bring
35 a criminal action under applicable criminal statutes. Additionally,
36 nothing in this section shall be construed to preclude the commissioner
37 from referring the matter to appropriate state licensing authorities,
38 including the insurance producer licensing section in the Department
39 of Banking and Insurance, for consideration of licensing actions,
40 including license suspension or revocation.

41 b. Any person who violates any provision of P.L.1983, c.320
42 (C.17:33A-1 et seq.) shall be liable, in a civil action brought by the
43 commissioner in a court of competent jurisdiction, for a penalty of not
44 more than \$5,000 for the first violation, \$10,000 for the second
45 violation and \$15,000 for each subsequent violation. The penalty shall
46 be paid to the commissioner to be used in accordance with subsection

1 [b.] e. of this section. The court [may] shall also award court costs
2 and reasonable attorneys' fees to the commissioner.

3 c. The commissioner is authorized to assess a civil and
4 administrative penalty of not more than \$5,000 for the first violation,
5 \$10,000 for the second violation and \$15,000 for each subsequent
6 violation of any provision of P.L.1983, c.320 (C.17:33A-1 et seq.) and
7 to order restitution to any insurance company or other person who has
8 suffered a loss as a result of a violation of P.L.1983, c.320 (C.17:33A-
9 1 et seq.). No assessment shall be levied pursuant to this subsection
10 until the violator has been notified by certified mail or personal
11 service. The notice shall contain a concise statement of facts
12 providing the basis for the determination of a violation of P.L.1983,
13 c.320 (C.17:33A-1 et seq.), the provisions of that act violated, a
14 statement of the amount of civil penalties assessed and a statement of
15 the party's right to a hearing in accordance with the "Administrative
16 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The noticed
17 party shall have 20 calendar days from receipt of the notice within
18 which to deliver to the commissioner a written request for a hearing
19 containing an answer to the statement of facts contained in the notice.
20 After the hearing and upon a finding that a violation has occurred, the
21 commissioner may issue a final order assessing up to the amount of the
22 penalty in the notice, restitution, and costs of prosecution, including
23 attorneys' fees. If no hearing is requested, the notice shall become a
24 final order after the expiration of the 20-day period. Payment of the
25 assessment is due when a final order is issued or the notice becomes
26 a final order.

27 Any penalty imposed pursuant to this subsection may be collected
28 with costs in a summary proceeding pursuant to "the penalty
29 enforcement law," N.J.S.2A:58-1 et seq. The Superior Court shall
30 have jurisdiction to enforce the provisions of the "the penalty
31 enforcement law" in connection with P.L.1983, c.320 (C.17:33A-1 et
32 seq.). Any penalty collected pursuant to this subsection shall be used
33 in accordance with subsection e. of this section.

34 d. Nothing in this [subsection] section shall be construed to
35 prohibit the commissioner and the person or practitioner alleged to be
36 guilty of a violation of this act from entering into a written agreement
37 in which the person or practitioner does not admit or deny the charges
38 but consents to payment of the civil penalty. A consent agreement
39 may contain a provision that it shall not be used in a subsequent civil
40 or criminal proceeding relating to any violation of this act, but
41 notification thereof shall be made to a licensing authority in the same
42 manner as required pursuant to subsection c. of section 10 of
43 P.L.1983, c.320 (C.17:33A-10). The existence of a consent
44 agreement under this subsection shall not preclude any licensing
45 authority from taking appropriate administrative action against a
46 licensee over which it has regulatory authority, nor shall such a

1 consent agreement preclude referral to law enforcement for
2 consideration of criminal prosecution.

3 [b.] e. The New Jersey Automobile Full Insurance Underwriting
4 Association and Market Transition Facility Auxiliary Fund (hereinafter
5 referred to as the "fund") is established as a nonlapsing, revolving fund
6 into which shall be deposited all revenues from the civil penalties
7 imposed pursuant to this section. Interest received on moneys in the
8 fund shall be credited to the fund. The fund shall be administered by
9 the Commissioner of Banking and Insurance and shall be used to help
10 defray the operating expenses of the New Jersey Automobile Full
11 Insurance Underwriting Association created pursuant to P.L.1983,
12 c.65 (C.17:30E-1 et seq.) or shall be used to help defray the operating
13 expenses of the Market Transition Facility created pursuant to section
14 88 of P.L.1990, c.8 (C.17:33B-11).
15 (cf: P.L.1994, c.57, s.19)

16

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

19 7. a. Any insurance company damaged as the result of a violation
20 of any provision of this act may sue therefor in any court of competent
21 jurisdiction to recover compensatory damages, which [may] shall
22 include reasonable investigation expenses, costs of suit and attorneys
23 fees.

24 b. A successful claimant under subsection a. shall recover treble
25 damages if the court determines that the defendant has engaged in a
26 pattern of violating this act.

27 c. A claimant under this section shall mail a copy of the initial
28 claim, amended claim, counterclaims, briefs and legal memoranda to
29 the commissioner at the time of filing of such documents with the
30 court wherein the matter is pending. A successful claimant shall report
31 to the commissioner, on a form prescribed by the commissioner, the
32 amount recovered and such other information as is required by the
33 commissioner.

34 d. Upon receipt of notification of the filing of a claim by an insurer,
35 the commissioner may join in the action for the purpose of seeking
36 judgment for the payment of a civil penalty authorized under section
37 5 of this act. If the commissioner prevails, the court may also award
38 court costs and reasonable attorney fees actually incurred by the
39 commissioner.

40 e. No action shall be brought by an insurance company under this
41 section more than six years after the cause of action has accrued.

42 (cf: P.L.1983, c.320, s.7)

43

44 6. Section 10 of P.L.1983, c.320 (C.17:33A-10) is amended to
45 read as follows:

46 10. a. If the division has reason to believe that a person has

1 engaged in, or is engaging in, an act or practice which violates this act,
2 or any other relevant statute or regulation, the commissioner or his
3 designee may administer oaths and affirmations, request or compel the
4 attendance of witnesses or the production of documents. The
5 commissioner may issue, or designate another to issue, subpoenas to
6 compel the attendance of witnesses and the production of books,
7 records, accounts, papers and documents. Witnesses who are not
8 licensees of the Department of Banking and Insurance shall be entitled
9 to receive the same fees and mileage as persons summoned to testify
10 in the courts of the State.

11 If a person subpoenaed pursuant to this section shall neglect or
12 refuse to obey the command of the subpoena, a judge of the Superior
13 Court may, on proof by affidavit of service of the subpoena, of payment
14 or tender of the fees required and of refusal or neglect by the person
15 to obey the command of the subpoena, issue a warrant for the arrest of
16 said person to bring him before the judge, who is authorized to
17 proceed against the person as for a contempt of court.

18 b. If matter that the division seeks to obtain by request is located
19 outside the State, the person so required may make it available to the
20 division or its representative to examine the matter at the place where
21 it is located. The division may designate representatives, including
22 officials of the state in which the matter is located, to inspect the
23 matter on its behalf, and it may respond to similar requests from
24 officials of other states.

25 c. If (1) a practitioner, (2) an owner, administrator or employee of
26 any hospital, (3) an insurance company, agent, broker, solicitor or
27 adjuster, or (4) any other person licensed by a licensing authority of
28 this State, or an agent, representative or employee of any of them is
29 found to have violated any provision of this act, the commissioner or
30 the Attorney General shall notify the appropriate licensing authority of
31 the violation so that the licensing authority may take appropriate
32 administrative action. The licensing authority shall report quarterly to
33 the commissioner through the Division of Insurance Fraud Prevention
34 about the status of all pending referrals.

35 (cf: P.L.1983, c.320, s.10)

36

37 7. Section 11 of P.L.1983, c.320 (C.17:33A-11) is amended to
38 read as follows:

39 11. Papers, documents, reports, or evidence relative to the subject
40 of an investigation under this act shall not be subject to public
41 inspection except as specifically provided in this act. The
42 commissioner shall not detain subpoenaed records after an investigation
43 is closed or, if a claim for a civil penalty is filed by the commissioner
44 pursuant to section 5 or subsection d. of section 7, upon final
45 disposition of the claim by a court of competent jurisdiction,
46 whichever shall be the later date. Subpoenaed records shall be returned

1 to the persons from whom they were obtained. The commissioner
2 may, in his discretion, make relevant papers, documents, reports, or
3 evidence available to the Attorney General, an appropriate licensing
4 authority, law enforcement agencies, an insurance company or
5 insurance claimant injured by a violation of this act, consistent with the
6 purposes of this act and under such conditions as he deems
7 appropriate. Such papers, documents, reports, or evidence shall not
8 be subject to subpoena, unless the commissioner consents, or until,
9 after notice to the commissioner and a hearing, a court of competent
10 jurisdiction determines that the commissioner would not be
11 unnecessarily hindered by such subpoena. Division investigators and
12 insurance company fraud investigators shall not be subject to subpoena
13 in civil actions by any court of this State to testify concerning any
14 matter of which they have knowledge pursuant to a pending insurance
15 fraud investigation by the division, or a pending claim for civil
16 penalties initiated by the commissioner.

17 (cf: P.L.1983, c.320, s.11)

18

19 8. Section 1 of P.L.1993, c.362 (C.17:33A-15) is amended to read
20 as follows:

21 1. a. Every insurer writing health insurance or private passenger
22 automobile insurance in this State shall [, within 120 days of the
23 adoption of regulations by the commissioner pursuant to this act,] file
24 with the commissioner a plan for the prevention and detection of
25 fraudulent [health] insurance applications and claims. The plan shall
26 be deemed approved by the commissioner if not affirmatively approved
27 or disapproved by the commissioner within 90 days of the date of
28 filing. The commissioner may call upon the expertise of the director
29 in his review of plans filed pursuant to this subsection. [During the
30 90-day approval period the] The commissioner may request such
31 amendments to the plan as he deems necessary. Any subsequent
32 amendments to a plan filed with and approved by the commissioner
33 shall be submitted for filing and deemed approved if not affirmatively
34 approved or disapproved within 90 days from the filing date.

35 b. The implementation of plans filed and approved pursuant to
36 subsection a. of this section shall be monitored by the division. The
37 division shall promptly notify the Attorney General of any evidence of
38 criminal activity encountered in the course of monitoring the
39 implementation and execution of the plans. Each insurer writing
40 health insurance or private passenger automobile insurance in this
41 State shall report to the director on an annual basis, [beginning
42 January 1, 1994] on January 1st of each year, on the experience in
43 implementing its fraud prevention plan.

44 c. In addition to any other penalties provided pursuant to
45 P.L.1983, c.320 (C.17:33A-1 et seq.), the commissioner may impose
46 a penalty of up to [\$5,000 per day] \$25,000 per violation on any

1 insurer for: failure to submit a plan; failure to submit any amendments
2 to an approved plan; failure to properly implement an approved plan
3 in a reasonable manner and within a reasonable time period; failure to
4 provide a report pursuant to subsection b. of this section; or for any
5 other violation of the provisions of this section. [Any penalty imposed
6 and collected pursuant to this subsection shall be deposited in the
7 unemployment compensation fund created pursuant to R.S.43:21-9
8 and shall be dedicated exclusively to the purposes stated therein.]

9 d. For the purposes of this section, "insurer" means an insurance
10 company as defined in subsections a., b., c., d., e., and f. of section 3
11 of P.L.1983, c.320 (C.17:33A-3).
12 (cf: P.L.1993, c.362, s.1)

13
14 9. Section 15 of P.L.1972, c.70 (C.39:6A-15) is amended to read
15 as follows:

16 15. In any claim or action arising under section 4 of this act
17 wherein any person, obtains or attempts to obtain from any other
18 person, insurance company or Unsatisfied Claim and Judgment Fund
19 any money or other thing of value by (1) falsely or fraudulently
20 representing that such person is entitled to benefits under section 4 or,
21 (2) falsely and fraudulently making statements or presenting
22 documentation in order to obtain or attempt to obtain benefits under
23 section 4 or, (3) cooperates, conspires or otherwise acts in concert
24 with any person seeking to falsely or fraudulently obtain, or attempt
25 to obtain, benefits under section 4 may upon conviction be fined not
26 more than \$5,000.00, or imprisoned for not more than 3 years or both,
27 or in the event the sum so obtained or attempted to be obtained is not
28 more than \$500.00, may upon conviction, be fined not more than
29 \$500.00, or imprisoned for not more than 6 months or both, as a
30 disorderly person.

31 In addition to any penalties imposed by law, any person who is
32 either found by a court of competent jurisdiction to have violated any
33 provision of P.L.1983 c.320 (C.17:33A-1 et seq.) pertaining to
34 automobile insurance or been convicted of any violation of Title 2C of
35 the New Jersey Statutes arising out of automobile insurance fraud shall
36 not operate a motor vehicle over the highways of this State for a
37 period of one year from the date of judgment or conviction.

38 (cf: P.L.1973, c.298, s.1)

39
40 10. Section 8 of P.L.1978, c.73 (C.45:1-21) is amended to read as
41 follows:

42 8. A board may refuse to admit a person to an examination or may
43 refuse to issue or may suspend or revoke any certificate, registration
44 or license issued by the board upon proof that the applicant or holder
45 of such certificate, registration or license

46 a. Has obtained a certificate, registration, license or authorization

- 1 to sit for an examination, as the case may be, through fraud, deception,
2 or misrepresentation;
- 3 b. Has engaged in the use or employment of dishonesty, fraud,
4 deception, misrepresentation, false promise or false pretense;
- 5 c. Has engaged in gross negligence, gross malpractice or gross
6 incompetence;
- 7 d. Has engaged in repeated acts of negligence, malpractice or
8 incompetence;
- 9 e. Has engaged in professional or occupational misconduct as may
10 be determined by the board;
- 11 f. Has been convicted of any crime involving moral turpitude or
12 any crime relating adversely to the activity regulated by the board. For
13 the purpose of this subsection a plea of guilty, non vult, nolo
14 contendere or any other such disposition of alleged criminal activity
15 shall be deemed a conviction;
- 16 g. Has had his authority to engage in the activity regulated by the
17 board revoked or suspended by any other state, agency or authority
18 for reasons consistent with this section;
- 19 h. Has violated or failed to comply with the provisions of any act
20 or regulation administered by the board;
- 21 i. Is incapable, for medical or any other good cause, of discharging
22 the functions of a licensee in a manner consistent with the public's
23 health, safety and welfare;
- 24 j. Has repeatedly failed to submit completed applications, or parts
25 of, or documentation submitted in conjunction with, such applications,
26 required to be filed with the Department of Environmental Protection;
- 27 k. Has violated any provision of P.L.1983, c.320 (C.17:33A-1 et
28 seq.) or any insurance fraud prevention law or act of another
29 jurisdiction.

30 For purposes of this act:

31 "Completed application" means the submission of all of the
32 information designated on the checklist, adopted pursuant to section
33 1 of P.L.1991, c.421 (C.13:1D-101), for the class or category of
34 permit for which application is made.

35 "Permit" has the same meaning as defined in section 1 of
36 P.L.1991,c.421 (C.13:1D-101).

37 (cf: P.L.1991, c.420, s.1)

38

39 11. Section 3 of P.L.1983, c.248 (C.45:9-19.3) is amended to read
40 as follows:

41 3. Any information concerning the conduct of a physician or
42 surgeon provided to the State Board of Medical Examiners pursuant
43 to section 1 of P.L.1983, c.248 (C.45:9-19.1), section 5 of P.L.1978,
44 c.73 (C.45:1-18) or any other provision of law, is confidential pending
45 final disposition of the inquiry or investigation by the board, except for
46 that information required to be shared with the Division of Insurance

1 Fraud Prevention in the Department of Banking and Insurance to
2 comply with the provisions of section 9 of P.L.1983, c.320
3 (C.17:33A-9) or with any other law enforcement agency. If the result
4 of the inquiry or investigation is a finding of no basis for disciplinary
5 action by the board, the information shall remain confidential, except
6 that the board may release the information to a government agency,
7 for good cause shown, upon an order of the Superior Court after
8 notice to the physician or surgeon who is the subject of the
9 information and an opportunity to be heard. The application for the
10 court order shall be placed under seal.

11 (cf: P.L.1989, c.300, s.21)

12

13 12. Section 2 of P.L.1972, c.197 (C.39:6B-2) is amended to read
14 as follows:

15 2. Any owner or registrant of a motor vehicle registered or
16 principally garaged in this State who operates or causes to be operated
17 a motor vehicle upon any public road or highway in this State without
18 motor vehicle liability insurance coverage required by this act, and any
19 operator who operates or causes a motor vehicle to be operated and
20 who knows or should know from the attendant circumstances that the
21 motor vehicle is without motor vehicle liability insurance coverage
22 required by this act shall be subject, for the first offense, to a fine of
23 [\$300.00] not less than \$300 nor more than \$1,000 and a period of
24 community service to be determined by the court, and shall forthwith
25 forfeit his right to operate a motor vehicle over the highways of this
26 State for a period of one year from the date of conviction. Upon
27 subsequent conviction, he shall be subject to a fine of [\$500.00] up to
28 \$5,000 and shall be subject to imprisonment for a term of 14 days and
29 shall be ordered by the court to perform community service for a
30 period of 30 days, which shall be of such form and on such terms as
31 the court shall deem appropriate under the circumstances, and shall
32 forfeit his right to operate a motor vehicle for a period of two years
33 from the date of his conviction, and, after the expiration of said period,
34 he may make application to the Director of the Division of Motor
35 Vehicles for a license to operate a motor vehicle, which application
36 may be granted at the discretion of the director. The director's
37 discretion shall be based upon an assessment of the likelihood that the
38 individual will operate or cause a motor vehicle to be operated in the
39 future without the insurance coverage required by this act. A
40 complaint for violation of this act may be made to a municipal court
41 at any time within six months after the date of the alleged offense.

42 Failure to produce at the time of trial an insurance identification
43 card or an insurance policy which was in force for the time of
44 operation for which the offense is charged[,] creates a rebuttable
45 presumption that the person was uninsured when charged with a
46 violation of this section.

1 [Notwithstanding any provision of P.L.1972, c.197 (C.39:6B-1 et
2 seq.), any person who violates the provisions of that act, from October
3 1, 1990 through January 31, 1991, shall not be subject to any of the
4 penalties or sanctions provided for a first violation of that act if that
5 person produces at the time of trial an insurance identification card or
6 a motor vehicle liability insurance policy which is in force at the time
7 of the trial and the conviction for that person's offense would be the
8 person's first conviction for an offense under that act. The
9 Commissioner of Insurance shall appropriately promote and advertise
10 this limited time amnesty program for first-time offenses under that act
11 throughout the State.]

12 (cf: P.L.1990, c.8, s.49)

13

14 13. Section 14 of P.L.1985, c.520 (C.39:6A-4.5) is amended to
15 read as follows:

16 14. a. Any person who, at the time of an automobile accident
17 resulting in injuries to that person, is required but fails to maintain
18 medical expense benefits coverage mandated by section 4 of P.L.1972,
19 c.70 (C.39:6A-4) shall [: a. For the purpose of filing an action for
20 recovery of noneconomic loss, as defined in section 2 of P.L.1972,
21 c.70 (C.39:6A-2), be subject to the tort option specified in subsection
22 a. of section 8 of P.L.1972, c.70 (C.39:6A-8)] have no cause of action
23 for recovery of economic or noneconomic loss sustained as a result of
24 an accident while operating an automobile.

25 b. [(Deleted by amendment, P.L.1988, c.119.)] Any person who is
26 convicted of, or pleads guilty to, operating a motor vehicle in violation
27 of R.S.39:4-50, section 2 of P.L.1981, c.512 (C.39:4-50.4a), or a
28 similar statute from any other jurisdiction, in connection with an
29 accident, shall have no cause of action for recovery of economic or
30 noneconomic loss sustained as a result of the accident.

31 c. Any person acting with specific intent of causing injury to
32 himself or others in the operation or use of an automobile shall have
33 no cause of action for recovery of economic or noneconomic loss
34 sustained as a result of an accident arising from such conduct.

35 (cf: P.L.1988, c.119, s.4)

36

37 14. (New section) a. Every insurer transacting or proposing to
38 transact private passenger automobile insurance may file one or more
39 rating plans in the voluntary market. Every insurer writing private
40 passenger automobile insurance in this State which intends to write
41 coverage in the voluntary market using more than one rate level shall
42 file with the commissioner the rates and underwriting rules which are
43 applicable to each rate level.

44 b. An insurer which intends to use more than one rating plan may
45 make an initial filing for additional rating plans which are based on a
46 percentage increase or decrease of the existing rate level in its current

1 rating plan.

2 c. Notwithstanding any other law to the contrary, any initial rates
3 filed pursuant to subsection b. of this section shall be deemed to be
4 approved if not disapproved by the commissioner within 120 days of
5 receipt of the filing by the department. Any subsequent modification
6 of any rate level, or any initial rate level which is not based on a
7 percentage increase or decrease of an existing rate level as provided
8 for in this section, shall be subject to the provisions of P.L.1944, c.27
9 (C.17:29A-1 et seq.).

10 d. Any limitation on rates established by the provisions of section
11 7 of P.L.1983, c.65 (C.17:29A-36) shall apply separately to each rate
12 level established pursuant to subsection a. of this section.

13

14 15. (New section) a. Insurers shall put in writing all underwriting
15 rules applicable to each rate level utilized pursuant to section 14 of
16 this amendatory and supplementary act. An insurer may take into
17 account factors, including, but not limited to, driving record
18 characteristics appropriate for underwriting and classification in
19 formulating its underwriting rules; provided that no underwriting rule
20 based on motor vehicle violations shall be formulated in such a manner
21 as to assign any named insured to a rating tier other than the standard
22 rating tier applicable to the insured's territory solely on the basis of
23 accumulating six motor vehicle points or less. No underwriting rule
24 shall operate in such a manner as to assign a risk to a rating plan on
25 the basis of the territory in which the insured resides or any other
26 factor which the commissioner finds is a surrogate for territory. An
27 insurer which knowingly fails to transact automobile insurance
28 consistently with its underwriting rules shall be subject to a fine of not
29 less than \$1,000 for each violation.

30 b. All underwriting rules applicable to each rate level as provided
31 for in section 14 of this amendatory and supplementary act shall be
32 filed with the commissioner and shall be subject to his prior approval.
33 All underwriting rules shall be subject to public inspection. Insurers
34 shall apply their underwriting rules uniformly and without exception
35 throughout the State, so that every applicant or insured conforming
36 with the underwriting rules will be insured or renewed, and so that
37 every applicant not conforming with the underwriting rules will be
38 refused insurance.

39 c. An insurer with more than one rating plan for private passenger
40 automobile insurance policies providing identical coverages shall not
41 adopt underwriting rules which would permit a person to be insured
42 for private passenger automobile insurance under more than one of the
43 rating plans.

44

45 16. (New section) Except for a plan established pursuant to
46 section 1 of P.L.1970, c.215 (C.17:29D-1), and except as otherwise

1 provided in section 17 of this amendatory and supplementary act, no
2 insurer shall charge or collect surcharges based on motor vehicle
3 violation penalty points promulgated by the Director of the Division
4 of Motor Vehicles pursuant to section 1 of P.L.1982, c.43
5 (C.39:5-30.5) or the schedule of automobile insurance eligibility points
6 promulgated by the Commissioner of Banking and Insurance pursuant
7 to section 26 of P.L.1990, c.8 (C.17:33B-14).

8
9 17. (New section) Any initial rate filing made on or after the
10 effective date of this section pursuant to the provisions of section 14
11 of this amendatory and supplementary act shall be revenue neutral by
12 coverage based upon the insurer's current coverages and book of
13 business for the insurer with respect to eligible persons, as defined in
14 section 25 of P.L.1990, c.8 (C.17:33B-13), insured by the insurer. In
15 addition to the filing of revenue neutral multiple rating plans, the initial
16 filing shall include consideration for the cost containment measures
17 implemented pursuant to this amendatory and supplementary act. The
18 effective rate filing of an insurer as of the effective date of this section
19 shall continue in effect until the initial rate filing as required by this
20 section made by that insurer has been approved by the commissioner,
21 or is deemed approved pursuant to subsection c. of section 14 of this
22 amendatory and supplementary act.

23
24 18. (New section) To provide for an orderly transition with
25 minimum disruption to the private passenger automobile insurance
26 market, the Commissioner of Banking and Insurance shall establish
27 rules and regulations and administrative processes that are reasonable,
28 necessary, appropriate and consistent with the provisions of sections
29 14 through 17 of this amendatory and supplementary act.

30
31 19. (New section) As used in sections 19 through 23 of this
32 amendatory and supplementary act:

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

35 "Automobile insurance urban enterprise zone" means a geographic
36 area identified and designated by the commissioner pursuant to section
37 20 of this amendatory and supplementary act.

38 "Automobile insurance urban enterprise zone program" or
39 "program" means an automobile insurance urban enterprise zone
40 program established pursuant to section 20 of this amendatory and
41 supplementary act.

42 "Automobile insurer" means an insurer or group of affiliated
43 insurers admitted or authorized to transact the business of automobile
44 insurance in this State.

45 "Commissioner" means the Commissioner of Banking and
46 Insurance.

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

3 "Qualified insurer" means an automobile insurer that is a qualified
4 insurer pursuant to section 21 of this amendatory and supplementary
5 act.

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

12
13 20. (New section) a. The commissioner shall establish in a fair
14 and equitable manner an automobile insurance urban enterprise zone
15 program designed to encourage greater availability of automobile
16 insurance in certain urban areas of this State as designated pursuant to
17 subsection b. of this section. The program shall provide for incentives
18 that the commissioner deems necessary to encourage qualified insurers
19 to write automobile insurance business in those areas and that
20 adequately safeguard the interests of policyholders and the public.

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

39
40 21. (New section) a. The commissioner shall establish by
41 regulation standards for a qualified insurer. These standards may
42 include, but not be limited to, demonstration by the automobile insurer
43 that it has a plan to increase access to automobile insurance for
44 consumers residing in an automobile insurance urban enterprise zone;
45 demonstration by the automobile insurer that it has a plan to assist
46 newly appointed UEZ agents in developing the skills necessary to

1 manage a successful business; procedures to monitor and evaluate the
2 impact of efforts to expand services to urban areas; and materials
3 designed to assist urban consumers in understanding automobile
4 insurance coverages. For an automobile insurer doing business on a
5 direct writing basis, the standards may include, but not be limited to,
6 the insurer's marketing plans and goals for increasing its writing of
7 risks in automobile insurance urban enterprise zones. Additionally,
8 the commissioner shall consider the insurer's past performance in
9 providing automobile insurance to persons residing in automobile
10 insurance urban enterprise zones.

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

14 c. An automobile insurer that certifies to the commissioner that it
15 meets the standards established pursuant to subsection a. of this
16 section shall be considered a qualified insurer for the purposes of this
17 amendatory and supplementary act. If at any time the commissioner
18 determines that a qualified insurer fails to meet the standards
19 established pursuant to subsection a. of this section, or if the
20 commissioner determines it necessary for the protection of the public,
21 he may suspend or revoke the insurer's certification as a qualified
22 insurer. If the commissioner determines that a qualified insurer has
23 failed to meet its marketing plan and goals pursuant to this section, the
24 commissioner may suspend or revoke the insurer's certification as a
25 qualified insurer. In making this determination, the commissioner shall
26 consider the past performance of the insurer in providing automobile
27 insurance in urban areas. If an automobile insurer certifies that it
28 meets the standards for becoming a qualified insurer and it does not
29 meet those standards, that insurer shall not be a qualified insurer for
30 purposes of this amendatory and supplementary act and may, at the
31 discretion of the commissioner, be subject of a fine of not more than
32 \$25,000.

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

35
36 22. (New section) a. A qualified insurer may appoint a UEZ agent
37 or agents. Any appointment of a UEZ agent shall comply with the
38 provisions of section 15 of P.L.1987, c.293 (C.17:22A-15), except
39 when there is a conflict with a provision of this amendatory and
40 supplementary act or any regulation promulgated hereunder, this
41 amendatory and supplementary act is controlling. An agency contract
42 between a qualified insurer and a UEZ agent shall be in writing, set
43 forth specific duties and responsibilities of the parties regarding the
44 obligations imposed pursuant to this section and section 21 of this
45 amendatory and supplementary act, and detail the provisions of any
46 limit on the number of exposures provided for in subsection b. of this

1 section.

2 b. A qualified insurer may limit the number of exposures written
3 through a UEZ agent or in the case of a qualified insurer doing
4 business on a direct writing basis, the qualified insurer may limit the
5 number of exposures written in an automobile insurance urban
6 enterprise zone consistent with its marketing plans and goals as
7 provided in subsection a. of section 21 of this amendatory and
8 supplementary act. An eligible person applying for automobile
9 insurance coverage after the limit is reached shall be advised by the
10 UEZ agent that coverage may be available from another agent of the
11 qualified insurer or directly from the qualified insurer if the insurer is
12 a direct writer. Any such limit shall be imposed on an equitable and
13 nondiscriminatory basis consistent with the provisions of subsections
14 a. and b. of section 27 of P.L.1990, c.8 (C.17:33B-15) until the
15 specified limit is reached.

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

21

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

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

32 c. The commissioner shall report his findings and recommendations
33 within 12 months of the effective date of this amendatory and
34 supplementary act to the Governor and the Legislature.

35

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

38 27. a. On or after April 1, 1992, every insurer, either by one or
39 more separate rating plans filed in accordance with the provisions of
40 section [6 of P.L.1988, c.156 (C.17:29A-45)] ¹6 of P.L.1988, c.156
41 (C.17:29A-45) prior to March 1, 1998 or section¹ 14 of P.L. , c. ,
42 (C.) (now before the Legislature as this bill) ¹on or after March
43 1, 1998¹ or through one or more affiliated insurers, shall provide
44 automobile insurance coverage for eligible persons.

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

1 meets its underwriting rules as filed with and approved by the
2 commissioner in accordance with the provisions of section [7 of
3 P.L.1988, c.156 (C.17:29A-46)] ¹⁷ of P.L.1988, c.156 (C.17:29A-46)
4 prior to March 1, 1998 or section¹ 15 of P.L. , c. (C.) (now
5 before the Legislature as this bill) ¹on or after March 1, 1998¹.

6 c. Notwithstanding the provisions of subsections a. and b. of this
7 section to the contrary, any qualified insurer engaged in writing
8 automobile insurance in an automobile insurance urban enterprise zone
9 pursuant to section 22 of P.L. , c. (C.) (now before the
10 Legislature as this bill) may limit the number of exposures written
11 through its UEZ agent or agents, or in the case of a qualified insurer
12 doing business on a direct writing basis, the qualified insurer may limit
13 the number of exposures written in an automobile insurance urban
14 enterprise zone consistent with its marketing plans and goals as
15 provided in subsection a. of section 21 of P.L. , c. (C.) (now
16 before the Legislature as this bill). Nothing in this subsection shall be
17 construed to relieve a qualified insurer from its obligation under
18 subsections a. and b. of this section to write all eligible persons
19 residing within an automobile insurance urban enterprise zone through
20 its non-UEZ agent points of access.

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

25

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

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

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

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

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

39 If a UEZ agent has a contract with a qualified insurer pursuant to
40 the provisions of section 22 of P.L. , c. (C.)(now before
41 the Legislature as this bill) and the UEZ agent is unable to place an
42 otherwise eligible person with that qualified insurer because of the
43 limitation on the number of exposures imposed by that qualified
44 insurer on the UEZ agent, the UEZ agent shall be deemed to have met
45 the requirements of this subsection, provided that the limitation on the
46 number of exposures has been reached and the UEZ agent fulfills all

1 applicable regulatory requirements.

2 b. With respect to automobile insurance, an insurer shall not
3 penalize an agent by paying less than normal commissions or normal
4 compensation or salary because of the expected or actual experience
5 produced by the agent's automobile insurance business or because of
6 the geographic location of automobile insurance business written by
7 the agent.

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

9

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

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

20 The governing board of any plan established pursuant to the
21 commissioner's rules and regulations shall continue to exercise such
22 administrative authority, subject to the commissioner's oversight and
23 as provided in any rules and regulations promulgated pursuant to this
24 section, as is necessary to ensure the plan's efficient operation,
25 including, but not limited to, the authority to investigate complaints
26 and hear appeals from applicants, insureds, producers, servicing
27 carriers or participants about any matter pertaining to the plan's proper
28 administration, as well as the authority to appoint subcommittees to
29 hear such appeals. Any determination of an appeal by a plan's
30 governing board shall be subject to review by the commissioner on the
31 record below, and shall not be considered a contested case under the
32 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
33 seq.). The commissioner's determination shall be a final order and
34 shall be subject to review by the Superior Court.

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

38 a. For a rating system which shall produce rates for each coverage
39 which are adequate for the safeness and soundness of the plan, and are
40 not excessive nor unfairly discriminatory with regard to risks in the
41 plan involving essentially the same hazards and expense elements,
42 which rates may be changed from time to time by a filing with the
43 commissioner in a manner and form approved by the commissioner;

44 b. For rates charged to plan insureds which shall be sufficient to
45 meet the plan's expenses and the plan's losses on an incurred basis,
46 including the establishment and maintenance of actuarially sound loss

- 1 reserves to cover all future costs associated with the exposure;
- 2 c. For a limited assignment distribution system permitting insurers
3 to enter into agreements with other mutually agreeable insurers or
4 other qualified entities to transfer their applicants and insureds under
5 such plan to such insurers or other entities;
- 6 d. That it shall not provide insurance coverage for more than 10
7 percent of the aggregate number of private passenger automobile
8 non-fleet exposures being written in the total private passenger
9 automobile insurance market in this State. The plan shall provide for
10 the cessation of the acceptance of applications or the issuance of new
11 policies at any time it reaches 10 percent of marketshare, as certified
12 by the commissioner, until such time that the commissioner certifies
13 that the plan is insuring less than 10 percent of the aggregate number
14 of private passenger automobile non-fleet exposures being written in
15 the total private passenger automobile insurance market in this State;
- 16 e. [That] Except for risks written in automobile insurance urban
17 enterprise zones pursuant to subsection i. of this section, that it shall
18 not provide coverage to an eligible person as defined pursuant to
19 section 25 of P.L.1990, c.8 (C.17:33B-13);
- 20 f. [That insurers who write automobile risks in those urban
21 territories designated by the commissioner shall receive one assigned
22 risk credit for every two voluntary risks written in those designated
23 territories; and] (Deleted by amendment, P.L. , c. .)
- 24 g. That the plan shall not be subsidized by any source external to
25 the plan;
- 26 h. That a qualified insurer who writes automobile insurance risks
27 in those automobile insurance urban enterprise zones designated by the
28 commissioner pursuant to section 20 of P.L. , c. (C.) (now
29 before the Legislature as this bill) shall receive assigned risk credits for
30 voluntary risks written in those designated automobile insurance urban
31 enterprise zones as a direct writer or through a UEZ agent or agents
32 or through any agent with whom the insurer has an in-force contract
33 as of the effective date of P.L. , c. (now before the Legislature
34 as this bill). The commissioner shall establish by regulation the manner
35 in which any qualified automobile insurer may utilize the provisions of
36 this subsection. In no event shall that credit apply to reduce an
37 insurer's obligations under subsection i. of this section; and
- 38 i. (1) For a voluntary rating tier to accommodate eligible persons,
39 as defined in section 25 of P.L.1990, c.8 (C.17:33B-13), residing in
40 automobile insurance urban enterprise zones, designated by the
41 commissioner pursuant to section 20 of P.L. , c. (C.)(now
42 before the Legislature as this bill), to provide increased availability and
43 encourage the voluntary writing of eligible persons residing in those
44 zones;
- 45 (2) The rates utilized in this voluntary rating tier shall be the
46 voluntary market rates in use by the insurer to whom the risk is

1 assigned in that territory;

2 (3) The voluntary rating tier shall not provide insurance coverage
3 for more than five percent of the aggregate number of private
4 passenger automobile non-fleet exposures being written in the total
5 private passenger automobile insurance market in this State, and the
6 number of exposures written in the voluntary rating tier shall be
7 included for computing the maximum number of exposures permitted
8 to be written in the plan;

9 (4) The plan shall distribute risks submitted by qualified producers
10 to insurers authorized to write automobile insurance in this State
11 pursuant to a fair and nondiscriminatory formula established by the
12 commissioner. The formula shall provide that insurers which have,
13 and maintain, an aggregate voluntary automobile insurance
14 marketshare in automobile insurance urban enterprise zones, which is
15 reasonably equal to the insurer's voluntary Statewide marketshare
16 excluding risks written in automobile insurance urban enterprise zones,
17 shall be exempt from these distributions.

18 (5) Qualified producers may submit eligible person risks from
19 automobile insurance urban enterprise zones to the plan for coverage
20 in the voluntary rating tier. As used in this subsection i.: a "qualified
21 producer" means a UEZ agent, as defined in section 19 of P.L. _____,
22 c. (C. _____) (now before the Legislature as this bill), who has met any
23 limit on exposures that may be written in accordance with the UEZ
24 agent's agreement with the appointing insurer pursuant to section 22
25 of P.L. _____, c. (C. _____) (now before the Legislature as this bill); and
26 a producer who: is duly licensed with property/casualty authority for
27 the three years immediately preceding the effective date of P.L. _____,
28 c. (C. _____) (now before the Legislature as this bill); has no affiliation
29 with a voluntary market insurer for the placement of automobile
30 insurance; had an affiliation with a voluntary market insurer for the
31 placement of automobile insurance that was terminated by the insurer
32 in the last three years; demonstrates to the plan his competency,
33 efficiency and effectiveness in the solicitation, negotiation and
34 effectuation of automobile insurance as evidenced by any history of
35 disciplinary actions or complaints against the producer, and other
36 relevant factors; and conducts his business in an office in an
37 automobile insurance urban enterprise zone. For purposes of this
38 subsection i., "insurer" means an insurer or group of affiliated insurers
39 admitted or authorized to transact the business of automobile
40 insurance in this State.

41 (6) This subsection shall expire on December 31, 2000.

42 Prior to the adoption or amendment of such rules and regulations,
43 the commissioner shall consult with such members of the insurance
44 industry as he deems appropriate. Such consultation shall be in
45 addition to any otherwise required public hearing or notice with regard
46 to the adoption or amendment of rules and regulations.

1 The governing body administering the plan shall report annually to
2 the Legislature and the Governor on the activities of the plan. The
3 report shall contain an actuarial analysis regarding the adequacy of the
4 rates for each coverage for the safeness and soundness of the plan.

5 (cf: P.L.1995, c.151, s.1)

6
7 27. Section 26 of P.L.1988, c.119 (C.17:29C-7.1) is amended to
8 read as follows:

9 26. a. Notwithstanding the provisions of section 3 of P.L.1972,
10 c.70 (C.39:6A-3), a licensed insurer may, in accordance with
11 subsections b. and c. of this section, refuse to renew a policy of private
12 passenger automobile insurance that provides coverage required to be
13 maintained pursuant to P.L.1972, c.70 (C.39:6A-1 et seq.), except that
14 no insurer shall refuse to renew a policy pursuant to subsections b. and
15 c. of this section:

16 (1) in an amount in excess of 20% of the entire private passenger
17 automobile insurance book of business of any one producer in force
18 with the insurer at the end of the previous calendar year. For purposes
19 of this paragraph, "producer" means a person licensed pursuant to
20 P.L.1987, c.293 (C.17:22A-1 et seq.), who earned \$10,000 or more
21 from the insurer in the prior calendar year; and

22 (2) unless the insured or operator insured under the policy in the
23 five years immediately preceding renewal has had ¹[at least two of the
24 following or any combination thereof]¹ : (1) an at-fault accident; or (2)
25 ¹[a] two¹ moving ¹[violation which was assessed] violations resulting
26 in an aggregate assessment of¹ at least four automobile insurance
27 eligibility points ¹or one moving violation which was assessed at least
28 five automobile insurance eligibility points¹ ; or (3) had been required,
29 but failed, to maintain coverage mandated by section 4 of P.L.1972,
30 c.70 (C.39:6A-4) without lapse.

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

38 c. For every two newly insured automobiles which an insurer
39 voluntarily writes in each territory during each calendar year period,
40 the insurer shall be permitted to refuse to renew insurance on one
41 additional [policy of] automobile [insurance] in that territory in excess
42 of the 2% limitation established by subsection b. of this section,
43 subject to a fair and nondiscriminatory formula developed by rule or
44 regulation of the commissioner. [For the purposes of this section,
45 "voluntarily writes" shall not include any exposure voluntarily written
46 by or assigned to an insurer to meet any quota established pursuant to

1 section 26 of P.L.1983, c.65 (C.17:30E-14).] The provisions of this
2 subsection shall only apply to an insurer whose aggregate voluntary
3 market share in an automobile insurance urban enterprise zone is
4 reasonably proportionate to the insurer's voluntary Statewide market
5 share as determined by the commissioner by regulation or in a rating
6 territory in which the insurer demonstrates growth in the aggregate
7 number of in-force exposures.

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

11 e. [The commissioner shall monitor the implementation and
12 operation of this section and shall report his findings, including any
13 legislative proposals, to the Senate Labor, Industry and Professions
14 Committee and the Assembly Insurance Committee, or their
15 successors, within three years of the effective date of this act.]
16 (Deleted by amendment, P.L. _____, c. _____.)

17 f. Nothing in this section shall prohibit an insurer from refusing to
18 renew, in addition to nonrenewals permitted in subsections b. and c.
19 of this section, the policy of any insured who has: (1) provided false
20 or misleading information in connection with any application for
21 insurance, renewal of insurance or claim for benefits under an
22 insurance policy; or (2) who has failed to provide, after written request
23 by an insurer, the minimum information necessary to accurately rate
24 the policy under terms and conditions set forth by the commissioner in
25 regulations.

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

27
28 28. Section 1 of P.L.1970, c.217 (C.17:22-6.14a) is amended to
29 read as follows:

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

34 b. In the event that a policy of insurance, issued by the automobile
35 insurance plan established pursuant to P.L.1970, c.215 (C.17:29D-1)
36 or any successor thereto, is canceled by reason of nonpayment of
37 premium to the insurer issuing the policy or nonpayment of an
38 installment payment due pursuant to an insurance premium finance
39 agreement, the broker of record for that policy may retain the full
40 annual commission due thereon and, if a premium finance agreement
41 is not involved, the effective date of cancellation of the policy shall be
42 no earlier than 10 days prior to the last full day for which the premium
43 paid by the insured, net of the broker's full annual commission, would
44 pay for coverage on a pro rata basis in accordance with rules
45 established by the commissioner.

46 c. Contracts between insurance companies and agents for the

1 appointment of the agent as the representative of the company shall set
2 forth the rate of commission to be paid to the agent for each class of
3 insurance within the scope of such appointment written on all risks or
4 operations in this State, except:

- 5 (1) Reinsurance.
- 6 (2) Life insurance.
- 7 (3) Annuities.
- 8 (4) Accident and health insurance.
- 9 (5) Title insurance.
- 10 (6) Mortgage guaranty insurance.
- 11 (7) Hospital service, medical service, health service, or dental
12 service corporations, investment companies, mutual benefit
13 associations, or fraternal beneficiary associations.

14 Said rates of commission shall continue in force and effect unless
15 changed by mutual written consent or until termination of said contract
16 as hereinafter provided. Failure to achieve such mutual consent shall
17 require that the agent's contract be terminated as hereinbelow
18 provided. The rate of commission being paid on each class of
19 insurance on the date of enactment hereof shall be deemed to be
20 pursuant to the existing contract between agent and company.

21 d. Termination of any such contract for any reason other than one
22 excluded herein shall become effective after not less than 90 days'
23 notice in writing given by the company to the agent and the
24 Commissioner of Banking and Insurance. No new business or changes
25 in liability on renewal or in force business, except as provided in
26 subsection l. of this section, shall be written by the agent for the
27 company after notice of termination without prior written approval of
28 the company. However, during the term of the agency contract,
29 including the said 90-day period, the company shall not refuse to
30 renew such business from the agent as would be in accordance with
31 said company's current underwriting standards. The company shall,
32 during a period of 12 months from the effective date of such
33 termination, provided the former agent has not been replaced as the
34 broker of record by the insured, and upon request in writing of the
35 terminated agent, renew all contracts of insurance for such agent for
36 said company as may be in accordance with said company's then
37 current underwriting standards and pay to the terminated agent a
38 commission in accordance with the agency contract in effect at the
39 time notice of termination was issued. Said commission can be paid
40 only to the holder of a valid New Jersey insurance producer's license.
41 In the event any risk shall not meet the then current underwriting
42 standards of said company, that company may decline its renewal,
43 provided that the company shall give the terminated agent and the
44 insured not less than 60 days' notice of its intention not to renew said
45 contract of insurance.

46 e. The agency termination provisions of this act shall not apply to

1 those contracts:

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

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

17 f. The Commissioner of Banking and Insurance, on the written
18 complaint of any person stating that there has been a violation of this
19 act, or when he deems it necessary without a complaint, may inquire
20 and otherwise investigate to determine whether there has been any
21 violation of this act.

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

25 h. The Commissioner of Banking and Insurance may, if he
26 determines that a company is in unsatisfactory financial condition,
27 exclude such company from the provisions of this act.

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

32 j. The provisions of subsection b. of this section shall not apply to
33 policies written by the New Jersey Automobile Full Insurance
34 Underwriting Association established pursuant to sections 13 through
35 34 of P.L.1983, c.65 (C.17:30E-1 et seq.).

36 k. The New Jersey Automobile Full Insurance Underwriting
37 Association established pursuant to sections 13 through 34 of
38 P.L.1983, c.65 (C.17:30E-1 et seq.), shall not be liable to pay any
39 commission required by subsection b. of this section on any policies
40 written by the association prior to January 1, 1986.

41 l. A company which terminates its contractual relationship with an
42 agent subject to the provisions of subsection d. of this section shall, at
43 the time of the agent's termination, with respect to insurance covering
44 an automobile as defined in subsection a. of section 2 of P.L.1972,
45 c.70 (C.39:6A-2), notify each named insured whose policy is serviced
46 by the terminated agent in writing of the following: (1) that the

1 agent's contractual relationship with the company is being terminated
2 and the effective date of that termination; and (2) that the named
3 insured may (a) continue to renew and obtain service through the
4 terminated agent; or (b) renew the policy and obtain service through
5 another agent of the company.

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

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

36 If a terminated agent who is continuing to service policies pursuant
37 to the provisions of this subsection violates the written underwriting
38 guidelines of the company in such a manner or with such frequency as
39 to substantially affect the company's ability to underwrite or provide
40 coverage, the company may discontinue accepting renewal and service
41 requests from, and paying commissions to, the terminated agent;
42 provided, however, that the company provides the terminated agent
43 with at least 45 days' written notice which shall include a detailed
44 explanation of the reasons for discontinuance. A copy of this notice,
45 along with supporting documentation providing evidence that the
46 terminated agent received proper notice of discontinuance pursuant to

1 this subsection and evidence in support of the company's action, shall
2 be sent by the company to the Division of Enforcement and Consumer
3 Protection in the Department of Banking and Insurance.

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

8 m. A qualified insurer which terminates its contractual relationship
9 with its UEZ agent pursuant to section 22 of P.L. , c. (C.)
10 (now before the Legislature as this bill) shall terminate its relationship
11 in accordance with the following provisions:

12 (1) The qualified insurer shall give the UEZ agent at least 60 days'
13 written notice of termination. Notice of termination shall be on a form
14 prescribed by the commissioner and shall indicate the date of
15 termination and the reason for the termination. A copy of the notice
16 of termination shall be sent to the commissioner.

17 (2) Notwithstanding the provisions of this section and section 26
18 of P.L.1988, c.119 (C.17:29C-7.1), a qualified insurer may refuse to
19 renew the business written through a UEZ agent in an orderly and
20 non-discriminatory manner over the course of at least a three-year
21 period provided that such refusals to renew in each year shall not
22 exceed one-third of a terminated UEZ agent's book of business on the
23 effective date of termination of its relationship with its UEZ agent. A
24 qualified insurer intending to refuse renewal business written by a
25 terminated UEZ agent shall notify the commissioner prior to the date
26 of the UEZ agent's termination.

27 (3) The terminated UEZ agent who continues to service
28 automobile insurance policies shall continue to receive commissions
29 for any renewal business pursuant to the terms of the contract in force
30 with the qualified insurer at the time of termination, provided that the
31 UEZ agent maintains a valid New Jersey insurance producer's license
32 and has not been replaced as the broker of record by the insured. A
33 terminated UEZ agent who continues to service automobile insurance
34 policies shall be deemed to be an insurance broker and not the agent
35 of the qualified insurer.

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

37
38 29. Section 4 of P.L.1947, c.379 (C.17:29B-4) is amended to read
39 as follows:

40 4. The following are hereby defined as unfair methods of
41 competition and unfair and deceptive acts or practices in the business
42 of insurance:

43 (1) Misrepresentations and false advertising of policy contracts.
44 Making, issuing, circulating, or causing to be made, issued or
45 circulated, any estimate, illustration, circular or statement
46 misrepresenting the terms of any policy issued or to be issued or the

1 benefits or advantages promised thereby or the dividends or share of
2 the surplus to be received thereon, or making any false or misleading
3 statement as to the dividends or share of surplus previously paid on
4 similar policies, or making any misleading representation or any
5 misrepresentation as to the financial condition of any insurer, or as to
6 the legal reserve system upon which any life insurer operates, or using
7 any name or title of any policy or class of policies misrepresenting the
8 true nature thereof, or making any misrepresentation to any
9 policyholder insured in any company for the purpose of inducing or
10 tending to induce such policyholder to lapse, forfeit, or surrender his
11 insurance.

12 (2) False information and advertising generally. Making,
13 publishing, disseminating, circulating, or placing before the public, or
14 causing, directly or indirectly, to be made, published, disseminated,
15 circulated, or placed before the public, in a newspaper, magazine or
16 other publication, or in the form of a notice, circular, pamphlet, letter
17 or poster, or over any radio station, or in any other way, an
18 advertisement, announcement or statement containing any assertion,
19 representation or statement with respect to the business of insurance
20 or with respect to any person in the conduct of his insurance business,
21 which is untrue, deceptive or misleading.

22 (3) Defamation. Making, publishing, disseminating, or circulating,
23 directly or indirectly, or aiding, abetting or encouraging the making,
24 publishing, disseminating or circulating of any oral or written
25 statement or any pamphlet, circular, article or literature which is false,
26 or maliciously critical of or derogatory to the financial condition of an
27 insurer, and which is calculated to injure any person engaged in the
28 business of insurance.

29 (4) Boycott, coercion and intimidation. Entering into any
30 agreement to commit, or by any concerted action committing, any act
31 of boycott, coercion or intimidation resulting in or tending to result in
32 unreasonable restraint of, or monopoly in, the business of insurance,
33 or resulting in or tending to result in unreasonable influence being
34 exerted upon any producer that has an in-force contract as of the
35 effective date of P.L. , c. (C.)(now before the Legislature as
36 this bill) for the purpose of replacing the in-force contract with a UEZ
37 agent contract pursuant to section 22 of P.L. , c. (C.)(now
38 before the Legislature as this bill).

39 (5) False financial statements. Filing with any supervisory or other
40 public official, or making, publishing, disseminating, circulating or
41 delivering to any person, or placing before the public, or causing
42 directly or indirectly, to be made, published, disseminated, circulated,
43 delivered to any person, or placed before the public, any false
44 statement of financial condition of an insurer with intent to deceive.

45 Making any false entry in any book, report or statement of any
46 insurer with intent to deceive any agent or examiner lawfully appointed

1 to examine into its condition or into any of its affairs, or any public
2 official to whom such insurer is required by law to report, or who was
3 authorized by law to examine into its condition or into any of its
4 affairs, or, with like intent, willfully omitting to make a true entry of
5 any material fact pertaining to the business of such insurer in any
6 book, report or statement of such insurer.

7 (6) Stock operations and advisory board contracts. Issuing or
8 delivering or permitting agents, officers, or employees to issue or
9 deliver, agency company stock or other capital stock, or benefit
10 certificates or shares in any common-law corporation, or securities or
11 any special or advisory board contracts or other contracts of any kind
12 promising returns and profits as an inducement to insurance.

13 (7) Unfair discrimination. (a) Making or permitting any unfair
14 discrimination between individuals of the same class and equal
15 expectation of life in the rates charged for any contract of life
16 insurance or of life annuity or in the dividends or other benefits
17 payable thereon, or in any other of the terms and conditions of such
18 contract.

19 (b) Making or permitting any unfair discrimination between
20 individuals of the same class and of essentially the same hazard in the
21 amount of premium, policy fees, or rates charged for any policy or
22 contract of accident or health insurance or in the benefits payable
23 thereunder, or in any of the terms or conditions of such contract, or in
24 any other manner whatever.

25 (c) Making or permitting any discrimination against any person or
26 group of persons because of race, creed, color, national origin or
27 ancestry of such person or group of persons in the issuance,
28 withholding, extension or renewal of any policy of insurance, or in the
29 fixing of the rates, terms or conditions therefor, or in the issuance or
30 acceptance of any application therefor.

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

35 (e) Making or permitting any unfair discrimination solely because
36 of age in the issuance, withholding, extension or renewal of any policy
37 or contract of automobile liability insurance or in the fixing of the
38 rates, terms or conditions therefor, or in the issuance or acceptance of
39 any application therefor, provided, that nothing herein shall be
40 construed to interfere with the application of any applicable rate
41 classification filed with and approved by the commissioner pursuant to
42 P.L.1944, c. 27 (C.17:29A-1 to 17:29A-28), or any amendment or
43 supplement thereof, which is in effect with respect to such policy or
44 contract of insurance.

45 (8) Rebates. (a) Except as otherwise expressly provided by law,
46 knowingly permitting or offering to make or making any contract of

1 life insurance, life annuity or accident and health insurance, or
2 agreement as to such contract other than as plainly expressed in the
3 contract issued thereon, or paying or allowing, or giving or offering to
4 pay, allow, or give, directly or indirectly, as inducement to such
5 insurance, or annuity, any rebate of premiums payable on the contract,
6 or any special favor or advantage in the dividends or other benefits
7 thereon, or any valuable consideration or inducement whatever not
8 specified in the contract; or giving, or selling, or purchasing or
9 offering to give, sell, or purchase as inducement to such insurance or
10 annuity or in connection therewith, any stocks, bonds, or other
11 securities of any insurance company or other corporation, association,
12 or partnership, or any dividends or profits accrued thereon, or
13 anything of value whatsoever not specified in the contract.

14 (b) Nothing in clause 7 or paragraph (a) of this clause 8 shall be
15 construed as including within the definition of discrimination or
16 rebates any of the following practices (i) in the case of any contract of
17 life insurance or life annuity, paying bonuses to policyholders or
18 otherwise abating their premiums in whole or in part out of surplus
19 accumulated from nonparticipating insurance; provided, that any such
20 bonuses or abatement of premiums shall be fair and equitable to
21 policyholders and for the best interests of the company and its
22 policyholders; (ii) in the case of life insurance policies issued on the
23 industrial debit plan, making allowance to policyholders who have
24 continuously for a specified period made premium payments directly
25 to an office of the insurer in an amount which fairly represents the
26 saving in collection expense; (iii) readjustment of the rate of premium
27 for a group policy based on the loss or expense experience thereunder,
28 at the end of the first or any subsequent policy year of insurance
29 thereunder, which may be made retroactive only for such policy year.

30 (9) Unfair claim settlement practices. Committing or performing
31 with such frequency as to indicate a general business practice any of
32 the following:

33 (a) Misrepresenting pertinent facts or insurance policy provisions
34 relating to coverages at issue;

35 (b) Failing to acknowledge and act reasonably promptly upon
36 communications with respect to claims arising under insurance
37 policies;

38 (c) Failing to adopt and implement reasonable standards for the
39 prompt investigation of claims arising under insurance policies;

40 (d) Refusing to pay claims without conducting a reasonable
41 investigation based upon all available information;

42 (e) Failing to affirm or deny coverage of claims within a reasonable
43 time after proof of loss statements have been completed;

44 (f) Not attempting in good faith to effectuate prompt, fair and
45 equitable settlements of claims in which liability has become
46 reasonably clear;

- 1 (g) Compelling insureds to institute litigation to recover amounts
2 due under an insurance policy by offering substantially less than the
3 amounts ultimately recovered in actions brought by such insureds;
- 4 (h) Attempting to settle a claim for less than the amount to which
5 a reasonable man would have believed he was entitled by reference to
6 written or printed advertising material accompanying or made part of
7 an application;
- 8 (i) Attempting to settle claims on the basis of an application which
9 was altered without notice to, or knowledge or consent of the insured;
- 10 (j) Making claims payments to insureds or beneficiaries not
11 accompanied by statement setting forth the coverage under which the
12 payments are being made;
- 13 (k) Making known to insureds or claimants a policy of appealing
14 from arbitration awards in favor of insureds or claimants for the
15 purpose of compelling them to accept settlements or compromises less
16 than the amount awarded in arbitration;
- 17 (l) Delaying the investigation or payment of claims by requiring an
18 insured, claimant or the physician of either to submit a preliminary
19 claim report and then requiring the subsequent submission of formal
20 proof of loss forms, both of which submissions contain substantially
21 the same information.
- 22 (m) Failing to promptly settle claims, where liability has become
23 reasonably clear, under one portion of the insurance policy coverage
24 in order to influence settlements under other portions of the insurance
25 policy coverage;
- 26 (n) Failing to promptly provide a reasonable explanation of the
27 basis in the insurance policy in relation to the facts or applicable law
28 for denial of a claim or for the offer of a compromise settlement.
- 29 (10) Failure to maintain complaint handling procedures. Failure of
30 any person to maintain a complete record of all the complaints which
31 it has received since the date of its last examination. This record shall
32 indicate the total number of complaints, their classification by line of
33 insurance, the nature of each complaint, the disposition of these
34 complaints, and the time it took to process each complaint. For
35 purposes of this subsection, "complaint" shall mean any written
36 communication primarily expressing a grievance.
- 37 (11) The enumeration of this act of specific unfair methods of
38 competition and unfair or deceptive acts and practices in the business
39 of insurance is not exclusive or restrictive or intended to limit the
40 powers of the commissioner or any court of review under the
41 provisions of section 9 of this act.
- 42 (cf: P.L.1975, c.100, s.1)
- 43
- 44 30. Section 6 of P.L.1983, c.65 (C.17:29A-35) is amended to read
45 as follows:
- 46 6. a. [A merit rating accident surcharge system for private

1 passenger automobiles may be used in the voluntary market, by the
2 New Jersey Automobile Full Insurance Underwriting Association
3 created pursuant to section 16 of P.L.1983, c.65 (C.17:30E-4), by the
4 Market Transition Facility created pursuant to section 88 of P.L.1990,
5 c.8 (C.17:33B-11), and by any insurance plan established to provide
6 private passenger automobile insurance pursuant to section 1 of
7 P.L.1970, c.215 (C.17:29D-1). No surcharges shall be imposed on or
8 after the operative date of this act, unless there is an at-fault accident
9 within a three-year period immediately preceding the effective date of
10 coverage which results in payment by the insurer of at least a \$300.00
11 claim. All moneys collected under this subsection shall be retained by
12 the insurer assessing the surcharge. Accident surcharges shall be
13 imposed for a three-year period and shall, for each filer, be uniform on
14 a Statewide basis without regard to classification or territory.]
15 (Deleted by amendment, P.L. . . . , c. . . .)

16 b. There is created a New Jersey Merit Rating Plan which shall
17 apply to all drivers and shall include, but not be limited to, the
18 following provisions:

19 (1) (a) Plan surcharges shall be levied, beginning on or after
20 January 1, 1984, by the Division of Motor Vehicles on any driver who
21 has accumulated, within the immediately preceding three-year period,
22 beginning on or after February 10, 1983, six or more motor vehicle
23 points, as provided in Title 39 of the Revised Statutes, exclusive of
24 any points for convictions for which surcharges are levied under
25 paragraph (2) of this subsection; except that the allowance for a
26 reduction of points in Title 39 of the Revised Statutes shall not apply
27 for the purpose of determining surcharges under this paragraph.
28 Surcharges shall be levied for each year in which the driver possesses
29 six or more points. Surcharges assessed pursuant to this paragraph
30 shall be \$100.00 for six points, and \$25.00 for each additional point.

31 (b) (Deleted by amendment, P.L.1984, c.1.)

32 (2) Plan surcharges shall be levied for convictions (a) under
33 R.S.39:4-50 for violations occurring on or after February 10, 1983,
34 and (b) under section 2 of P.L.1981, c.512 (C.39:4-50.4a), or for
35 offenses committed in other jurisdictions of a substantially similar
36 nature to those under R.S.39:4-50 or section 2 of P.L.1981, c.512
37 (C.39:4-50.4a), for violations occurring on or after January 26, 1984.
38 Except as hereinafter provided, surcharges under this paragraph shall
39 be levied annually for a three-year period, and shall be \$1,000.00 per
40 year for each of the first two convictions, for a total surcharge of
41 \$3,000 for each conviction, and \$1,500.00 per year for the third
42 conviction occurring within a three-year period, for a total surcharge
43 of \$4,500 for the third conviction. If a driver is convicted under both
44 R.S.39:4-50 and section 2 of P.L.1981, c.512 (C.39:4-50.4a) for
45 offenses arising out of the same incident, the driver shall be assessed
46 only one surcharge for the two offenses.

1 If, upon written notification from the Division of Motor Vehicles,
2 mailed to the last address of record with the division, a driver fails to
3 pay a surcharge levied under this subsection, the license of the driver
4 shall be suspended forthwith until the surcharge is paid to the Division
5 of Motor Vehicles; except that the Division of Motor Vehicles may
6 authorize payment of the surcharge on an installment basis over a
7 period not to exceed 12 months. If a driver fails to pay the surcharge
8 or any installments on the surcharge, the total surcharge shall become
9 due immediately.

10 The director may authorize any person to pay the surcharge levied
11 under this section by use of a credit card, and the director is
12 authorized to require the person to pay all costs incurred by the
13 division in connection with the acceptance of the credit card.

14 In addition to any other remedy provided by law, the director is
15 authorized to utilize the provisions of the SOIL (Setoff of Individual
16 Liability) program established pursuant to P.L.1981, c.239
17 (C.54A:9-8.1 et seq.) to collect any surcharge levied under this section
18 that is unpaid on or after the effective date of this act. As an
19 additional remedy, the director may issue a certificate to the Clerk of
20 the Superior Court stating that the person identified in the certificate
21 is indebted under this surcharge law in such amount as shall be stated
22 in the certificate. The certificate shall reference the statute under
23 which the indebtedness arises. Thereupon the clerk to whom such
24 certificate shall have been issued shall immediately enter upon the
25 record of docketed judgments the name of such person as debtor; the
26 State as creditor; the address of such person, if shown in the
27 certificate; the amount of the debt so certified; a reference to the
28 statute under which the surcharge is assessed, and the date of making
29 such entries. The docketing of the entries shall have the same force
30 and effect as a civil judgment docketed in the Superior Court, and the
31 director shall have all the remedies and may take all of the proceedings
32 for the collection thereof which may be had or taken upon the
33 recovery of a judgment in an action, but without prejudice to any right
34 of appeal. Upon entry by the clerk of the certificate in the record of
35 docketed judgments in accordance with this provision, interest in the
36 amount specified by the court rules for post-judgment interest shall
37 accrue from the date of the docketing of the certificate, however
38 payment of the interest may be waived by the director. In the event
39 that the surcharge remains unpaid following the issuance of the
40 certificate of debt and the director takes any further collection action
41 including referral of the matter to the Attorney General or his
42 designee, the fee imposed, in lieu of the actual cost of collection, may
43 be 20 percent of the surcharge or \$200, whichever is greater. The
44 director shall provide written notification to a driver of the proposed
45 filing of the certificate of debt 10 days prior to the proposed filing;
46 such notice shall be mailed to the driver's last address of record with

1 the division.

2 All moneys collectible under this subsection b. shall be billed and
3 collected by the Division of Motor Vehicles. Of the moneys collected:
4 10%, or the actual cost of administering the collection of the
5 surcharge, whichever is less, shall be retained by the Division of Motor
6 Vehicles until August 31, 1996; five percent, or the actual cost of
7 administering the cancellation notification system established pursuant
8 to section 50 of P.L.1990, c.8 (C.17:33B-41), whichever is less, shall
9 be retained by the Division of Motor Vehicles until August 31, 1996;
10 and prior to October 1, 1991, the remainder shall be remitted to the
11 New Jersey Automobile Full Insurance Underwriting Association and
12 on or after October 1, 1991 until August 31, 1996, the remainder shall
13 be remitted to the New Jersey Automobile Insurance Guaranty Fund
14 created pursuant to section 23 of P.L.1990, c.8 (C.17:33B-5).
15 Commencing on September 1, 1996, or such earlier time as the
16 Commissioner of Banking and Insurance shall certify to the State
17 Treasurer that amounts on deposit in the New Jersey Automobile
18 Insurance Guaranty Fund are sufficient to satisfy the current and
19 anticipated financial obligations of the New Jersey Automobile Full
20 Insurance Underwriting Association, all plan surcharges collected by
21 the Division of Motor Vehicles under this subsection b. shall be
22 remitted to the Division of Motor Vehicles Surcharge Fund for
23 transfer to the Market Transition Facility Revenue Fund, as provided
24 in section 12 of P.L.1994, c.57 (C.34:1B-21.12), for the purposes of
25 section 4 of P.L.1994, c.57 (C.34:1B-21.4) until such a time as all the
26 Market Transition Facility bonds, notes and obligations issued
27 pursuant to that section 4 of that act and the costs thereof are
28 discharged and no longer outstanding. From the date of certification
29 by the Commissioner of Banking and Insurance that the moneys
30 collectible under this subsection are no longer needed to fund the
31 association or at such a time as all Market Transition Facility bonds,
32 notes and obligations issued pursuant to section 4 of P.L.1994, c.57
33 (C.34:1B-21.4) and the costs thereof are discharged and no longer
34 outstanding moneys collectible under this subsection shall, subject to
35 appropriation, be remitted to the New Jersey Property-Liability
36 Insurance Guaranty Association created pursuant to section 6 of
37 P.L.1974, c.17 (C.17:30A-6) to be used for payment of any loans
38 made by that association to the New Jersey Automobile Insurance
39 Guaranty Fund pursuant to paragraph (10) of subsection a. of section
40 8 of P.L.1974, c.17 (C.17:30A-8); provided that all such payments
41 shall be subject to and dependent upon appropriation by the State
42 Legislature.

43 (3) In addition to any other authority provided in P.L.1983, c.65
44 (C.17:29A-33 et al.), the commissioner, after consultation with the
45 Director of the Division of Motor Vehicles, is specifically authorized
46 (a) (Deleted by amendment, P.L.1994, c.64), (b) to impose, in

1 accordance with paragraph (1)(a) of this subsection, surcharges for
2 motor vehicle violations or convictions for which motor vehicle points
3 are not assessed under Title 39 of the Revised Statutes, or (c) to
4 reduce the number of points for which surcharges may be assessed
5 below the level provided in paragraph (1)(a) of this subsection, except
6 that the dollar amount of all surcharges levied under the New Jersey
7 Merit Rating Plan shall be uniform on a Statewide basis for each filer,
8 without regard to classification or territory. Surcharges adopted by the
9 commissioner on or after January 1, 1984 for motor vehicle violations
10 or convictions for which motor vehicle points are not assessable under
11 Title 39 of the Revised Statutes shall not be retroactively applied but
12 shall take effect on the date of the New Jersey Register in which notice
13 of adoption appears or the effective date set forth in that notice,
14 whichever is later.

15 c. No motor vehicle violation surcharges shall be levied on an
16 automobile insurance policy issued or renewed on or after January 1,
17 1984, except in accordance with the New Jersey Merit Rating Plan,
18 and all surcharges levied thereunder shall be assessed, collected and
19 distributed in accordance with subsection b. of this section.

20 d. (Deleted by amendment, P.L.1990, c.8.)

21 e. The Commissioner of Banking and Insurance and the Director
22 of the Division of Motor Vehicles as may be appropriate, shall adopt
23 any rules and regulations necessary or appropriate to effectuate the
24 purposes of this section.

25 (cf: P.L.1994, c.64, s.1)

26

27 31. Section 4 of P.L.1972, c.70 (C.39:6A-4) is amended to read as
28 follows:

29 4. Personal injury protection coverage, regardless of fault.

30 Every automobile liability insurance policy, issued or renewed on
31 or after January 1, 1991 and prior to the effective date of P.L. ____,
32 c. ____ (now before the Legislature as this bill), insuring an automobile
33 as defined in section 2 of P.L.1972, c.70 (C.39:6A-2) against loss
34 resulting from liability imposed by law for bodily injury, death and
35 property damage sustained by any person arising out of ownership,
36 operation, maintenance or use of an automobile shall provide personal
37 injury protection coverage, as defined hereinbelow, under provisions
38 approved by the Commissioner of Banking and Insurance, for the
39 payment of benefits without regard to negligence, liability or fault of
40 any kind, to the named insured and members of his family residing in
41 his household who sustained bodily injury as a result of an accident
42 while occupying, entering into, alighting from or using an automobile,
43 or as a pedestrian, caused by an automobile or by an object propelled
44 by or from an automobile, to other persons sustaining bodily injury
45 while occupying, entering into, alighting from or using the automobile
46 of the named insured, with the permission of the named insured, and

1 to pedestrians, sustaining bodily injury caused by the named insured's
2 automobile or struck by an object propelled by or from such
3 automobile.

4 Every automobile liability insurance policy, issued or renewed on
5 or after the effective date of P.L. _____, c. _____ (now before the
6 Legislature as this bill), insuring an automobile as defined in section 2
7 of P.L.1972, c.70 (C.39:6A-2) against loss resulting from liability
8 arising out of ownership, operation, maintenance or use of an
9 automobile shall provide personal injury protection coverage, as
10 defined hereinbelow, under provisions approved by the Commissioner
11 of Banking and Insurance, for the payment of benefits without regard
12 to negligence, liability or fault of any kind, to the named insured and
13 members of his family residing in his household who sustained bodily
14 injury as a result of an accident while occupying, entering into,
15 alighting from or using an automobile, or as a pedestrian, caused by an
16 automobile or by an object propelled by or from an automobile, except
17 as limited by section 14 of P.L.1985, c.520 (C.39:6A-4.5).

18 "Personal injury protection coverage" means and includes:

19 a. Medical expense benefits. Payment of reasonable medical
20 [expenses] expense benefits in an amount not to exceed \$250,000 per
21 person per accident. In the event benefits paid by an insurer pursuant
22 to this subsection are in excess of \$75,000 on account of personal
23 injury to any one person in any one accident, such excess shall be paid
24 by the insurer in consultation with the Unsatisfied Claim and Judgment
25 Fund Board and shall be reimbursable to the insurer from the
26 Unsatisfied Claim and Judgment Fund pursuant to section 2 of
27 P.L.1977, c.310 (C.39:6-73.1).

28 b. Income continuation benefits. The payment of the loss of
29 income of an income producer as a result of bodily injury disability,
30 subject to a maximum weekly payment of \$100.00. Such sum shall be
31 payable during the life of the injured person and shall be subject to an
32 amount or limit of \$5,200.00, on account of injury to any one person
33 in any one accident, except that in no case shall income continuation
34 benefits exceed the net income normally earned during the period in
35 which the benefits are payable.

36 c. Essential services benefits. Payment of essential services
37 benefits to an injured person shall be made in reimbursement of
38 necessary and reasonable expenses incurred for such substitute
39 essential services ordinarily performed by the injured person for
40 himself, his family and members of the family residing in the
41 household, subject to an amount or limit of \$12.00 per day. Such
42 benefits shall be payable during the life of the injured person and shall
43 be subject to an amount or limit of \$4,380.00, on account of injury to
44 any one person in any one accident.

45 d. Death benefits. In the event of the death of an income producer
46 as a result of injuries sustained in an accident entitling such person to

1 benefits under this section, the maximum amount of benefits which
2 could have been paid to the income producer, but for his death, under
3 subsection b. of this section shall be paid to the surviving spouse, or
4 in the event there is no surviving spouse, then to the surviving
5 children, and in the event there are no surviving spouse or surviving
6 children, then to the estate of the income producer.

7 In the event of the death of one performing essential services as a
8 result of injuries sustained in an accident entitling such person to
9 benefits under subsection c. of this section, the maximum amount of
10 benefits which could have been paid such person, under subsection c.,
11 shall be paid to the person incurring the expense of providing such
12 essential services.

13 e. Funeral expenses benefits. All reasonable funeral, burial and
14 cremation expenses, subject to a maximum benefit of \$1,000.00, on
15 account of the death of any one person in any one accident shall be
16 payable to decedent's estate.

17 Benefits payable under this section shall:

18 (1) Be subject to any option elected by the policyholder pursuant
19 to section 13 of P.L.1983, c.362 (C.39:6A-4.3);

20 (2) Not be assignable, except to a provider of service benefits
21 under this section in accordance with policy terms approved by the
22 commissioner, nor subject to levy, execution, attachment or other
23 process for satisfaction of debts.

24 Medical expense benefit payments shall be subject to a deductible
25 of \$250.00 on account of injury in any one accident and a copayment
26 of 20% of any benefits payable between \$250.00 and \$5,000.00.

27 No insurer or health provider providing benefits to an insured shall
28 have a right of subrogation for the amount of benefits paid pursuant
29 to any deductible or copayment under this section.

30 (cf: P.L.1990, c.8, s.4)

31

32 32. Section 13 of P.L.1983, c.362 (C.39:6A-4.3) is amended to
33 read as follows:

34 13. Personal injury protection coverage options. With respect to
35 personal injury protection coverage provided on an automobile in
36 accordance with section 4 of P.L.1972, c.70 (C.39:6A-4), the
37 automobile insurer shall provide the following coverage options:

38 a. Medical expense benefit deductibles in amounts of \$500.00,
39 \$1,000.00 and \$2,500.00 for any one accident;

40 b. The option to exclude all benefits offered under subsections b.,
41 c., d., and e. of section 4;

42 c. (Deleted by amendment, P.L.1988, c.119.)

43 d. For policies issued or renewed on or after January 1, 1991, the
44 option that other health insurance coverage or benefits of the insured,
45 including health care services provided by a health maintenance
46 organization and any coverage or benefits provided under any federal

1 or State program, are the primary coverage in regard to medical
2 expense benefits pursuant to section 4 of P.L.1972, c.70 (C.39:6A-4).
3 If health insurance coverage or benefits are primary, an automobile
4 insurer providing medical expense benefits under personal injury
5 protection coverage shall be liable for reasonable medical expenses not
6 covered by the health insurance coverage or benefits up to the limit of
7 the medical expense benefit coverage. The principles of coordination
8 of benefits shall apply to personal injury protection medical expense
9 benefits coverage pursuant to this subsection.

10 Insurers shall offer the options provided by subsections a. and b. of
11 this section at appropriately reduced premiums. For policies issued or
12 renewed prior to January 1, 1992, insurers shall offer the option
13 provided by subsection d. of this section at a discount of not less than
14 25% from the base rate applicable to the first \$250,000 of medical
15 expense [benefit coverage] benefits, and for policies issued or renewed
16 on or after January 1, 1992, insurers shall offer the option at an
17 appropriate discount from the base rate for the amount of medical
18 expense [benefit] benefits coverage taken.

19 Any named insured who chooses the option provided by subsection
20 d. of this section shall provide proof that he and members of his family
21 residing in his household are covered by health insurance coverage or
22 benefits in a manner and to an extent approved by the commissioner.
23 Nothing in this section shall be construed to require a health insurer,
24 health maintenance organization or governmental agency to cover
25 individuals or treatment which is not normally covered under the
26 applicable benefit contract or plan. If it is determined that an insured
27 who selected or is otherwise covered by the option provided in
28 subsection d. of this section did not have such health coverage in
29 effect at the time of an accident, medical expense benefits shall be
30 payable by the person's automobile insurer and shall be subject to any
31 deductible required by law or otherwise selected as an option pursuant
32 to subsection a. of this section, any copayment required by law and an
33 additional deductible in the amount of \$750.

34 An option elected by the named insured in accordance with this
35 section shall apply only to the named insured and any resident relative
36 in the named insured's household who is not a named insured under
37 another automobile insurance policy [, and not to any other person
38 eligible for personal injury protection benefits required to be provided
39 in accordance with section 4 of P.L.1972, c.70 (C.39:6A-4)].

40 In the case of a medical expense benefit deductible, the deductible
41 elected by the named insured shall be satisfied for any one accident,
42 whether the medical expense benefits are paid or provided, in the
43 amount of the deductible, to the named insured or to one or more
44 resident relatives in the named insured's household who are not named
45 insureds under another insurance policy, or to any combination
46 thereof.

1 Medical expense benefits payable in any amount between the
2 deductible selected pursuant to subsection a. of this section and
3 \$5,000.00 shall be subject to a copayment of 20%.

4 No insurer or health provider providing benefits to an insured who
5 has elected a deductible pursuant to subsection a. of this section shall
6 have a right of subrogation for the amount of benefits paid pursuant
7 to a deductible elected thereunder or any applicable copayment.

8 The Commissioner of Banking and Insurance shall adopt rules and
9 regulations to effectuate the purposes of this section and may
10 promulgate standards applicable to the coordination of personal injury
11 protection medical expense benefits coverage.

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

13
14 33. (New Section) The provisions of section 7 of P.L.1972, c.198
15 (C.39:6-86.1) shall not apply to any person qualified to receive
16 payment under the "Unsatisfied Claim and Judgment Fund Law,"
17 P.L.1952, c.174 (C.39:6-61 et seq.), for a claim arising out of an
18 accident occurring on or after the effective date of P.L. , c. (now
19 before the Legislature as this bill).

20
21 34. Section 10 of P.L.1988, c.119 (C.39:6A-4.6) is amended to
22 read as follows:

23 10. a. The Commissioner of Banking and Insurance shall, within
24 [90] 120 days after the effective date of [P.L.1990, c.8 (C.17:33B-1
25 et al.), promulgate medical fee schedules on a regional basis for the
26 reimbursement of health care providers providing services or
27 equipment for medical expense benefits for which payment is to be
28 made by an automobile insurer under personal injury protection
29 coverage pursuant to P.L.1972, c.70 (C.39:6A-1 et seq.), or by an
30 insurer under medical expense benefits coverage pursuant to section
31 2 of P.L.1991, c.154 (C.17:28-1.6). These fee schedules shall be
32 promulgated on the basis of the type of service provided, and shall
33 incorporate the reasonable and prevailing fees of 75% of the
34 practitioners within the region. If, in the case of a specialist provider,
35 there are fewer than 50 specialists within a region, the fee schedule
36 shall incorporate the reasonable and prevailing fees of the specialist
37 providers on a Statewide basis. These schedules shall be reviewed
38 biannually by the commissioner] section 34 of P.L. , c. (now
39 before the Legislature as this bill), which amends this section of law
40 (C. 39:6A-4.6), promulgate a fee schedule for the reimbursement of
41 medical expense benefits as provided for in the personal injury
42 protection policy form which shall be filed with the commissioner by
43 insurers writing private passenger automobile insurance in this State.
44 The commissioner shall assign standard diagnosis and procedure codes
45 for each benefit provided under the policy form, as those codes are
46 assigned to similar health benefits plans issued by health insurers and

1 health maintenance organizations pursuant to Title 17 of the Revised
2 Statutes, Title 17B of the New Jersey Statutes and Title 26 of the
3 Revised Statutes. The commissioner shall establish a reimbursement
4 rate for each standard diagnosis and procedure code, and may contract
5 with a proprietary purveyor of fee schedules for the formulation of the
6 reimbursement rates and the maintenance of the fee schedule, which
7 shall be adjusted from time to time for inflation and for the addition of
8 new medical procedures.

9 b. The fee schedule may establish reimbursement rates for benefits
10 provided under the policy form which are based on the usual,
11 customary and reasonable fees commonly in use by health insurers or
12 third party administrators of health benefits plans at a percentile of
13 those fees which the commissioner determines will establish fees
14 which: (1) are in keeping with generally accepted practices for
15 reimbursement, (2) are fair and equitable for the providers of the
16 services, (3) are not excessive for the services provided, and (4) will
17 result in a reasonable degree of cost containment with respect to the
18 medical expense benefits provided under the policy form.

19 c. The fee schedule may provide for reimbursement for appropriate
20 services on the basis of a diagnostic-related (DRG) payment by
21 diagnostic code where appropriate, and may establish the use of a
22 single fee, rather than an unbundled fee, for a group of services if
23 those services are commonly provided together. In the case of
24 multiple procedures performed simultaneously, the fee schedule and
25 regulations promulgated pursuant thereto may also provide for a
26 standard fee for a primary procedure, and proportional reductions in
27 the cost of the additional procedures.

28 d. No health care provider may demand or request any payment
29 from any person in excess of those permitted by the medical fee
30 schedules established pursuant to this section, nor shall any person be
31 liable to any health care provider for any amount of money which
32 results from the charging of fees in excess of those permitted by the
33 medical fee schedules established pursuant to this section.

34 (cf: P.L.1991, c.154, s.6)

35
36 35. (New section) a. Notwithstanding section 14 of P.L.1944,
37 c.27 (C.17:29A-14), an insurer or rating organization may elect to file
38 a proposed alteration to its rating system pursuant to the expedited
39 process set forth in this section when the filer requests either an
40 increase of no more than 3% or any decrease in its Statewide average
41 base rate for private passenger automobile insurance.

42 b. A filer electing to use this expedited process shall file with
43 commissioner that reasonable information necessary to support the
44 rate change which the commissioner prescribes by regulation. The
45 prescribed filing requirements shall recognize the intent of this section
46 to provide an expedited process.

1 c. If the commissioner determines that the filing will not produce
2 rates that are excessive, inadequate for the safety and soundness of the
3 insurer, or unfairly discriminatory between risks in this State involving
4 substantially the same hazards and expense elements, the commissioner
5 shall approve the filing.

6 d. A decision on the filing shall be rendered not later than 45 days
7 after receipt of the filing, unless the commissioner grants an extension,
8 in which case a decision shall be rendered not later than 60 days after
9 receipt of the filing. A filing shall be complete and received when the
10 filing is accompanied by a certification by a qualified actuary which
11 states that the material, data and documentation, which is part of the
12 filing, includes the documents set forth in regulations, supports the
13 requested rate change and is consistent with generally accepted
14 ratemaking principles of the actuarial profession. A filing shall be
15 deemed to be approved unless rejected or modified by the
16 commissioner within the time provided.

17 e. The commissioner shall not approve any rate change pursuant to
18 this expedited process that results in an overall increase of more than
19 3% or an increase in any single coverage of more than 5%.

20 f. An insurer shall not file more than one request for an increase in
21 rates pursuant to this section in any twelve-month period.

22
23 36. Section 19 of P.L.1983, c.362 (C.17:28-1.3) ¹[and sections 6
24 and 7 of P.L.1988, c.156 (C.17:29A-45 and 17:29A-46) are] is¹
25 repealed.

26
27 37. Section 56 of P.L.1990, c.8 (C.17:33B-46) and section 5 of
28 P.L.1988, c.156 (C.17:29A-44) are repealed

29
30 ¹38. Sections 6 and 7 of P.L.1988, c.156 (C.17:29A-45 and
31 17:29A-46) are repealed.¹

32
33 ¹[38.] 39.¹ (New section) The Commissioner of Banking and
34 Insurance may promulgate regulations and other administrative
35 processes necessary to effectuate the purposes of this amendatory and
36 supplementary act, including, but not limited to, procedures governing
37 rating system filings to implement this amendatory and supplementary
38 act.

39
40 ¹[39.] 40.¹ This act shall take effect on January 1, 1998, except
41 that sections 14 through 16 ¹and section 38¹ shall take effect on ¹[July]
42 March¹ 1, 1998 and sections 1 through 13 and sections 17, 18, 27, 34,
43 35, 37 and ¹[38] 39¹ shall take effect immediately.

1

2

3 Provides for tier rating and urban enterprise zones, reduces fraud and

4 nonrenewals and eliminates surcharges and flex rating in automobile

5 insurance.