

ANALYSIS OF THE NEW JERSEY
FISCAL YEAR 1998 - 1999 BUDGET



DEPARTMENT OF BANKING
AND INSURANCE

PREPARED BY

OFFICE OF LEGISLATIVE SERVICES

NEW JERSEY LEGISLATURE

MAY 1998

NEW JERSEY STATE LEGISLATURE

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DEPARTMENT OF BANKING AND INSURANCE

Budget Pages..... C-8, C-14, C-16, D-23 to D-28,
I-27, K-15, K-36, K-38

Fiscal Summary (\$000)

	Expended FY 1997	Adjusted. Appropriation FY 1998	Recommended FY 1999	Percent Change 1998-99
State Budgeted	\$37,630	\$40,633	\$40,625	0.0%
Federal Funds	0	0	0	—
<u>Other</u>	<u>51,737</u>	<u>53,185</u>	<u>53,267</u>	<u>0.2%</u>
Grand Total	\$89,367	\$93,818	\$93,892	0.1%

Personnel Summary - Positions By Funding Source

	Actual FY 1997	Revised FY 1998	Funded FY 1999	Percent Change 1998-99
State	566	551	665	20.7%
Federal	0	0	0	—
<u>Other</u>	<u>4</u>	<u>4</u>	<u>5</u>	<u>25.0%</u>
Total Positions	570	555	670	20.7%

FY 1997 and revised FY 1998 personnel data reflect actual payroll counts. FY 1999 data reflect the number of positions funded.

Introduction

The Department of Banking and Insurance is primarily responsible for regulating and monitoring the banking and insurance industries. The Division of Banking is statutorily charged with chartering, licensing, regulating, and supervising a wide range of financial institutions in this State. The Division of Insurance monitors and examines the policies, practices and financial condition of insurance companies and oversees the business activities of real estate brokers and agents. The division also investigates insurance fraud allegations and develops programs to prevent insurance fraud and abuse. The department is fully funded by the industries it regulates.

Key Points

- ! The department's recommended FY 1999 State appropriation is recommended to remain unchanged from its current adjusted appropriation of \$40.6 million.

Key Points

- ! A special purpose appropriation of \$2.25 million was provided in the current fiscal year for the hiring of 50 additional insurance fraud investigators. This amount is continued in the FY 1999 Budget proposal. The department and the Office of Management and Budget indicate that, since the beginning of the fiscal year, an additional 47 insurance fraud investigators have been hired, bringing the total number of investigators to 132. However, these positions are not reflected in evaluation data for the department in the proposed Budget.

- ! The Governor's proposed budget recommends flat continuation funding of \$28.6 million for salaries and wages, plus \$2.25 million for the additional insurance fraud investigators. This total of \$30.85 million is sufficient to support 665 State positions in FY 1999, according to the budget display. However, the number of filled positions in the department is apparently not expected to exceed 600 through FY 1999.

- ! Current payroll information for the department reflects 574 positions, in contrast to 616 filled positions that existed prior to the consolidation of the Department of Banking and the Department of Insurance in FY 1997.

- ! The proposed budget anticipates revenues of \$61.9 million, an increase of \$941,000 (1.5 percent) over the current year's estimate of \$61.0 million. The increase largely reflects additional revenue from the Insurance Fraud Prevention program, and the Special Purpose assessment charged to insurers to provide for the department's direct and indirect costs.

- ! The proposed budget continues language that recommends for transfer to the General Fund as State revenue any unexpended balance remaining in the New Jersey Medical Malpractice Reinsurance Recovery Fund after all financial obligations of the New Jersey Medical Malpractice Reinsurance Association are satisfied. Although the \$14.5 million in revenues from the New Jersey Medical Malpractice Reinsurance Recovery Fund anticipated in FY 1998 have already been transferred to the General Fund, continuation of the language is recommended, since some additional minor revenues (from surcharges imposed on physicians, podiatrists, health maintenance organizations and hospitals) may continue to be received through FY 1999.

- ! The recommended appropriation from "all other funds" is \$53.0 million, virtually the same level as FY 1998. Of that total, \$50 million represents assessments imposed to cover shared program losses related to the New Jersey Individual Health Coverage Program, P.L. 1992, c.161 (C.17B:27A-2 et seq.). Budget language authorizes this program to operate from receipts.

Background Papers:

WindMAP - The Windstorm Market Assistance Program.....	p. 15
Update - Insurance Fraud Investigators.....	p. 18

Program Description and Overview

Pursuant to P.L. 1996, c. 45 (C. 17:1-13 et seq.), the Department of Banking and the Department of Insurance were consolidated, beginning in FY 1997. The Department of Banking and Insurance is primarily responsible for regulating and monitoring the banking and insurance industries. The Division of Banking is statutorily charged with chartering, licensing, regulating, and supervising a wide range of financial institutions in this State. The Division of Insurance monitors and examines the policies, practices and financial condition of insurance companies and oversees the business activities of real estate brokers and agents. The division also investigates insurance fraud allegations and develops programs to prevent insurance fraud and abuse. The department is fully funded by the industries it regulates.

Division of Banking

The Division of Banking is charged with the responsibility of: chartering, or permitting the conversion of certain charters of, commercial banks, savings banks, savings and loan associations, credit unions and limited purpose trust companies; supervising and examining the entities it charters to ensure safety, soundness and compliance with State and federal law and regulations; promulgating and enforcing pertinent regulations; and charging and collecting examination and licensing fees and assessing fines and penalties. Among the approximately 7,200 entities and occupations the division is responsible for licensing and supervising are: mortgage bankers; mortgage brokers; mortgage solicitors; consumer loan companies; secondary mortgage loan companies; insurance premium finance companies; retail installment sales companies; debt adjusters; check cashing and check selling companies; pawn brokers; and foreign money remitters.

In fulfilling its supervisory responsibilities, the division conducts field audits, operational examinations, and in-house monitoring and surveillance activities to ensure that financial institutions are operating in compliance with State and federal laws and regulations. The division also provides the public with investigative and educational resources in response to complaints and inquiries concerning institutions under its jurisdiction. The division is currently planning the development of a consumer's guide to banking in the State, which may include information about different types of financial institutions, where to file complaints, a directory of the State's financial institutions, and updated information on various banking fees.

While the primary functions of the Division of Banking have not changed significantly in recent years, its responsibilities have increased as a consequence of the economic climate of the State and nation, additional categories of licensure, and changes in State and federal laws and regulations. For example, the passage of the following federal laws has significantly increased the division's workload, as well as its staff training requirements: the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA); the Truth in Savings Act; the Federal Deposit Insurance Corporation Improvement Act of 1991; amendments to the Bank Secrecy Act (dealing with money laundering); the Real Estate Settlement Procedures Act (RESPA); the Community Reinvestment Act; and, most recently, passage of both federal (the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994) and State interstate banking and branching statutes. In addition, other changes in State law, requiring depository institutions to offer basic low-cost checking accounts; allowing State-chartered mutual savings and loan associations to convert their charters to State-chartered mutual savings banks; and permitting State-chartered capital stock savings and loan associations to convert their charters to State-chartered capital stock savings banks, have also added to the department's oversight responsibilities.

Program Description and Overview

The division also houses the Pinelands Development Credit Bank, which is empowered to purchase and sell development rights in the Pinelands region. The intent of the program is to facilitate both the preservation of the resources of the Pinelands area and the accommodation of regional growth influences in an orderly fashion.

Division of Insurance

The Division of Insurance is responsible for regulating and monitoring the policies, practices and financial condition of the State's insurance industry to ensure fair markets and rates for all authorized lines of insurance, in addition to overseeing the activities of the real estate industry to ensure that professional standards are observed and maintained. The division also enforces insurance fraud laws, administers the Unsatisfied Claim and Judgment Fund, regulates the training and licensing of insurance and real estate agents and brokers and investigates consumer inquiries or complaints regarding these industries. According to the department, the insurance division regulates approximately 1,200 companies with more than \$21.1 billion in premiums written by some 78,000 insurance licensees.

Over the last several years, the division's responsibilities have been expanded and revised as a result of major events and changes within the insurance industry. The problems associated with the New Jersey Automobile Full Insurance Underwriting Association ("JUA") and the Market Transition Facility ("MTF"), affordable health insurance, accessibility of insurance products, increased competition, advances in data processing, diversification, mergers and acquisitions, insurer insolvencies, the aging of the population, confidentiality/privacy issues, and other factors have required the division to expand and modernize its resources in order to keep pace with these events and changes. In addition, various amendments to the "New Jersey Insurance Fraud Prevention Act," P.L. 1983, c. 320 (C.17:33A-1 et seq.) have expanded the scope of the investigations conducted by the Division of Insurance Fraud Prevention to include not only single instances of automobile insurance fraud reported by property and casualty companies, but also cases reported by life and health insurance companies, investigations of fraud within insurance companies and rate evaders.

Recently, pursuant to P.L. 1997, c. 151 (C.17:33B-64 et al.) the department adopted regulations eliminating surcharges on automobile insurance premiums and regulating tier rating systems. The department is currently reviewing plans filed by each company choosing to provide coverage in the State under the new regulations. Pursuant to P.L. 1997, c.151, these filings must be reviewed by the department within 120 days, or they are automatically approved.

The Recommended FY 1999 Budget

The recommended FY 1999 budget for the department, consisting of \$40.6 million in Direct State Services funding and \$53.2 million in "all other" funds, represents a continuation level of funding for the department. The \$53.2 million in other funds represents industry assessments imposed to cover shared program losses related to the New Jersey Individual Health Coverage Program, P.L. 1992, c. 161.

The proposed Budget continues a Special Purpose appropriation of \$2.25 million for the hiring of 50 additional insurance fraud investigators within the Division of Insurance Fraud Prevention. The hiring of these additional investigators is related to the Governor's automobile insurance reform plan enacted in FY 1998. The department and the Office of Management and Budget (OMB) indicate that 47 additional insurance fraud investigators have been hired since the

Program Description and Overview

beginning of the fiscal year. However, the number of fraud positions shown in the proposed Budget does not reflect the addition of these 47 positions because budget figures were developed prior to the hiring of the investigators.

Prior to the hiring of these investigators, the fraud prevention program had, according to the department, experienced "an unprecedented decline in staffing" through attrition. Specifically, between 1994 and 1997, the division lost 31 experienced investigators while hiring few replacements, despite the annual funding of vacancies. As a result, before the Governor's initiative to hire the 50 additional fraud investigators was enacted, the number of filled investigator positions declined from a peak of 127 in FY 1994 to the FY 1996 level of 96.

The department is fully funded by the industries it regulates. The proposed budget anticipates revenues for the department of \$61.9 million, an increase of \$941,000 (1.5 percent) over the current year's estimate of \$61.0 million. This increase largely reflects additional revenue from the Insurance Fraud Prevention program, and the Special Purpose assessment charged to insurers to provide for the department's direct and indirect costs. As per P.L. 1995, c. 156 (C.17:1C-19 et seq.), this Special Purpose funding assessment was established to consolidate certain insurance industry fees and charges, to streamline the department's billing and collection process, and to permit the department to charge insurers for all direct and indirect costs to the department. Under section 13 of P.L. 1995, c. 156 (C.17:1-31), the total amount assessable to all companies in any one fiscal year may not increase, as a percentage, more than the percentage increase in the combined net written premiums received by all companies for the previous year. In recent years, these total premiums have increased approximately 2 percent annually.

The proposed Budget for the department recommends flat funding of \$28.6 million for salaries and wages, plus \$2.25 million for the additional insurance fraud investigators. This total of \$30.85 million provides enough funding to support 665 State positions in FY 1999, according to evaluation data in the proposed Budget. However, according to the department's payroll data and "employee impact" data, the number of *filled* positions within the department is not expected to exceed 600 in FY 1999. According to this data, the department will receive salary and wage funding in FY 1999 for some 65 positions that are not likely to be filled.

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Fiscal and Personnel Summary

AGENCY FUNDING BY SOURCE OF FUNDS (\$000)

	Expended FY 1997	Adj. Approp. FY 1998	Recom. FY 1999	Percent Change	
				1997-99	1998-99
<u>General Fund</u>					
Direct State Services	\$37,630	\$40,633	\$40,625	8.0%	0.0%
Grants - In - Aid	0	0	0	0.0%	0.0%
State Aid	0	0	0	0.0%	0.0%
Capital Construction	0	0	0	0.0%	0.0%
Debt Service	0	0	0	0.0%	0.0%
Sub-Total	\$37,630	\$40,633	\$40,625	8.0%	0.0%
<u>Property Tax Relief Fund</u>					
Direct State Services	\$0	\$0	\$0	0.0%	0.0%
Grants-In-Aid	0	0	0	0.0%	0.0%
State Aid	0	0	0	0.0%	0.0%
Sub-Total	\$0	\$0	\$0	0.0%	0.0%
Casino Revenue Fund	\$0	\$0	\$0	0.0%	0.0%
Casino Control Fund	\$0	\$0	\$0	0.0%	0.0%
State Total	\$37,630	\$40,633	\$40,625	8.0%	0.0%
Federal Funds	\$0	\$0	\$0	0.0%	0.0%
Other Funds	\$51,737	\$53,185	\$53,267	3.0%	0.2%
Grand Total	\$89,367	\$93,818	\$93,892	5.1%	0.1%

PERSONNEL SUMMARY - POSITIONS BY FUNDING SOURCE

	Actual FY 1997	Revised FY 1998	Funded FY 1999	Percent Change	
				1997-99	1998-99
State	566	551	665	17.5%	20.7%
Federal	0	0	0	0.0%	0.0%
All Other	4	4	5	25.0%	25.0%
Total Positions	570	555	670	17.5%	20.7%

FY 1997 and revised FY 1998 personnel data reflect actual payroll counts. FY 1999 data reflect the number of positions funded.

AFFIRMATIVE ACTION DATA

Total Minority Percent	22.7%	22.7%	22.7%	----	----
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Significant Changes/New Programs (\$000)

<u>Budget Item</u>	<u>Adj. Approp.</u> <u>FY 1998</u>	<u>Recom.</u> <u>FY 1999</u>	<u>Dollar</u> <u>Change</u>	<u>Percent</u> <u>Change</u>	<u>Budget</u> <u>Page</u>
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The proposed FY 1999 Budget for the Department of Banking and Insurance does not contain any significant changes over the FY 1998 Budget.

Language Provisions

1998 Appropriations Handbook

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Receipts in excess of anticipated revenues from examination and licensing fees, bank assessments, fines and penalties, not to exceed \$200,000, are appropriated to the Division of Banking, subject to the approval of the Director of the Division of Budget and Accounting.

1999 Budget Recommendations

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Receipts in excess of anticipated revenues from examination and licensing fees, bank assessments, fines and penalties and the unexpended balances as of June 30, 1998, not to exceed \$200,000, are appropriated to the Division of Banking, subject to the approval of the Director of the Division of Budget and Accounting.

Explanation

The Division of Banking anticipates \$8.8 million in revenues from bank assessments, examination fees, and licenses and other fees in FY 1999, the same amount of revenue realized to date from these sources in the current fiscal year. The proposed FY 1999 language would allow the Division to carryover any unexpended balances from the current fiscal year to FY 1999 as well as to utilize excess receipts in FY 1999, up to a combined total of \$200,000. The Office of Management and Budget anticipates \$40,000 in unexpended balances in the Division at the end of the current fiscal year, due to the fact that certain revenues do not come in until late June, which is past purchasing deadlines.

Discussion Points

1a. The FY 1998 Budget included a Special Purpose appropriation of \$2.25 million for the hiring of 50 additional insurance fraud investigators within the Division of Insurance Fraud Prevention. Of the recommended appropriation, \$1.62 million was allocated for salaries and wages, and \$633,000 was allocated for support services, including legal services provided by the Attorney General's office. The FY 1999 Governor's Budget continues funding for this initiative. The hiring of these additional investigators is related to the Governor's automobile insurance reform plan enacted in FY 1998. Last year the department indicated that thirty-five investigators would be assigned to auto-related investigations; five would be assigned to health and injury investigations; five would be assigned to conduct audits of insurance carriers, and five would be assigned to the Property Bureau.

In addition, the department indicated that some of the investigators would "replace investigators lost to attrition in other insurance areas which require fraud investigations, such as health and worker's comp insurance."

While position data within the proposed Budget suggests that only five additional positions have been added to the Insurance Fraud Prevention Division in the current fiscal year, the department and the Office of Management and Budget (OMB) confirm that 47 additional insurance fraud investigators have been hired since the beginning of the fiscal year. The OMB indicates that the number of fraud positions shown in the proposed Budget does not reflect the addition of these 47 positions because budget figures were developed prior to the hiring of the investigators.

! *Questions:* Please describe how the additional investigators hired as part of the Governor's FY 1998 initiative have been assigned. Have any hirings or expected hirings filled vacant, but funded positions? Of all current insurance fraud investigators, how many are assigned to long-term, and to undercover, investigations? How many additional investigators does the department anticipate hiring in the current fiscal year? in FY 1999?

With respect to the division's insurance fraud prevention efforts, please provide data on the number of new insurance fraud cases opened and the amount of civil penalties imposed during FY 1997. Does insurance fraud prevention revenue data on page C-8 of the Budget reflect the hiring of the additional investigators?

1b. With respect to the question of how the additional insurance fraud investigators will contribute to the reduction of auto insurance rates, the department stated last year in response to OLS Discussion Points that, "additional investigators primarily assigned to auto related investigations will produce additional savings to the insurers and therefore to the public."

! *Questions:* Please quantify this statement by indicating how much the department anticipates the fifty additional investigators will save insurers, and how much of this savings will be passed on to the consumer. Please estimate what impact, if any, the department's fraud prevention efforts have had historically on auto insurance rates. Have amounts provided in restitution to insurance companies in previous years been passed along as savings to the consumer?

2a. In FY 1997, the Governor's Budget projected a \$2 million reduction in the department's operating expenditures as a result of the consolidation of the Department of Banking and the Department of Insurance. Initial savings were expected to be realized through the elimination of a commissioner's office and other overlapping administrative functions, and through the integration

Discussion Points

of the departments' licensing and enforcement functions. In addition, the Administration suggested that other areas of consolidation were possible. According to a memorandum released by the office of the then Commissioner of Insurance, it was stated that the merger "will realistically require three to five years to achieve its intended results" during which time further, unspecified efficiencies would be investigated. Since that time, the department has identified certain potential cost savings from the consolidation of space, building and rental costs, and from certain of its business processes, particularly in the area of Consumer Complaints.

! Please indicate what additional savings have been achieved through the consolidation of space, building and rental costs, and what efficiencies have been discovered through the department's studies of its business processes, particularly in the area of Consumer Complaints. Has the department studied whether the "one stop shopping" concept for consumer complaints would produce efficiencies?

2b. The Governor's proposed Budget for the department recommends flat continuation funding of \$28.6 million for salaries and wages, plus \$2.25 million for the additional insurance fraud investigators. This total of \$30.85 million is sufficient to support 665 State positions in FY 1999, according to evaluation data in the proposed Budget. There are currently approximately 574 full-time employees. According to "employee impact" data, there will be a net change of 25 employees in the department from January 1998 to June 1999. Therefore, the number of *filled* positions within the department should not exceed 600 in FY 1999. Thus, according to this data, the department will receive salary and wage funding in FY 1999 for some 65 positions that are not likely to be filled.

! *Question:* Please provide a detailed summary of how the department intends to utilize salary and wage funding received in FY 1999 for positions that are funded, but will apparently not be filled.

3. P.L. 1997, c. 151 (C.17:33B-64 et al.), automobile insurance reform legislation which eliminated surcharges on most drivers and established a tier rating system for automobile insurance premiums, was signed into law on June 30, 1997. Although it was the shared understanding of the Legislature that surcharges were to be eliminated effective March 1, 1998, regulations to implement the provisions of the act did not become effective until March 2, 1998. Accordingly, it would be unreasonable to assume that insurers would have been able to make revised rate filings eliminating surcharges by March 1, 1998 given the delay in the adoption of regulations. Pursuant to P.L. 1997, c.151, rate filings received by the department must be reviewed within 120 days, or they are automatically approved.

! *Question:* Does the department believe that it has sufficient actuarial and technical staff, and other necessary resources to complete these reviews within the 120 day time frame, ensuring actuarial validity, revenue neutrality as required by law, and that premium rates are not unreasonably discriminatory?

How many actuaries does the department currently have on staff? Does the department intend to hire additional actuaries in FY 1999?

4. Pursuant to P.L. 1995, c. 156 (C.17:1C-19), a special purpose funding mechanism was established for the Department (now Division) of Insurance. The purpose of the assessment was to consolidate certain insurance industry fees and charges to streamline the department's billing and

Discussion Points

collection process, and to permit the department to charge insurers for all direct and indirect costs to the department. The Special Purpose assessment, as it is called, is apportioned among companies in the proportion that the net written premiums received by each company during the prior calendar year bears to the sum total of all such net written premiums received by all companies during that calendar year. Under section 13 of P.L. 1995, c. 156 (C.17:1-31), the total amount assessable to all companies in any one fiscal year may not increase, as a percentage, more than the percentage increase in the combined net written premiums received by all companies for the previous year. In recent years, these total premiums have increased approximately 2 percent annually.

The department had previously indicated that the current cap might not be sufficient to cover the department's actual FY 1998 costs, particularly with respect to salary increments required by contract and fringe benefit costs, and had suggested that adjustments would be needed to stay within the statutory cap. At the same time, P.L. 1997, c. 154 (C. 17:1C-31), excluded the cost of the 50 additional fraud investigators from the cap, thus enabling the department to recover from insurers the additional cost of hiring the investigators in FY 1998 and subsequent fiscal years.

! *Questions:* Does the department believe that the current statutory cap is adequate to support the department's direct and indirect costs? Why or why not? By category (property/casualty, life/health, HMO), what is the amount of net written premium dollars for 1996 (actual) and 1997 (estimated, if actual is not available)?

5. In January 1996, the department announced the creation of the Windstorm Market Assistance Program (WindMAP) to assist shore area homeowners in obtaining property insurance coverage. Through the program, consumers located in 92 coastal zip codes within certain areas of Ocean, Cape May, Atlantic, Monmouth, Hudson, and Passaic Counties can apply for coverage through either a formal or informal referral program, whereby homeowners can either shop for coverage on their own using a list of companies supplied by the department, or they can apply for possible assignment to participating insurers. Under the latter of these options, at least three participating companies review each eligible application. If none agrees to provide coverage, the consumer is then referred to the FAIR plan, a statutorily-created residual market insurer, to obtain coverage. However, the goal of the WindMAP program is to reduce the number of homeowners covered by the FAIR plan, since the FAIR plan offers homeowners only basic coverage for property damage, and does not offer replacement costs, theft or liability coverage.

When WindMAP was initially implemented, the department indicated that if this cooperative industry effort failed to achieve the desired results, the department was prepared to pursue regulatory and legislative measures to ensure that shore area residents have access to property insurance. Last year, the department announced that 22 insurance companies, which collectively insure 70 percent of the State's homeowners, were voluntarily participating in the program and that initial results of the program appeared "to be promising." However, in remarks before the Assembly Banking and Insurance Committee in March 1998, the commissioner stated that the results of WindMAP "have been only mildly encouraging."

! *Questions:* Please provide an updated assessment of WindMAP in view of the Commissioner's recent remarks. What is the current number of insurers voluntarily participating in the program? In the past year, what has the response been, in terms of willingness to provide coverage to homeowners, by those companies voluntarily participating in WindMAP? What impact has there been on the flow of coastal business into the FAIR plan in the past year?

Discussion Points

Has the department developed evaluation criteria to determine the success or failure of WindMAP? At what point will the department decide whether other regulatory or legislative options are necessary to ensure that shore area residents have access to property insurance?

6a. P.L. 1996, c. 157 (C.17:11C-1 et seq.), the "New Jersey Licensed Lenders Act," repealed three laws and replaced them by providing for the licensing and regulation of the businesses of mortgage bankers and brokers, secondary mortgage lenders, consumer lenders and sales finance companies under one act. In particular, it created a single license for the four businesses in which lenders may be licensed and established a revised license fee schedule based on the number of authorities sought under the license. In FY 1998, the department assumed the following fee schedule: one authority - \$1,200; two authorities - \$2,400; three authorities - \$3,600; four authorities - \$4,800. According to the FY 1999 Budget Recommendation, the department anticipates a total of \$3.1 million in revenues from all banking-related licensing fees.

! **Questions:** Of the \$3.1 million in revenue from all banking-related licensing fees estimated for receipt in FY 1999, what amount of revenue is anticipated from the businesses regulated pursuant to the "New Jersey Licensed Lenders Act"? Please provide the total amount of revenue anticipated to be received from the businesses covered under this act for FY 1998, as well as the amount anticipated to be received for each level of license authority sought.

Under the new structure, has the department seen any marked change in the number of complaints filed against businesses licensed pursuant to P.L. 1996, c. 157 (C.17:11C-1 et seq.)? Does the department believe that the revenue generated through this act is sufficient for enforcement purposes?

6b. Pursuant to P.L. 1996, c. 157 (C.17:11C-1 et seq.), the department issued regulations allowing a person licensed in good standing to engage in mortgage banking, correspondent mortgage banking, mortgage brokering or secondary lending, to apply to place that license in "inactive status" by paying a \$200 biennial fee.

! **Questions:** What is the current number of inactive licenses and the anticipated number in FY 1999? What amount of revenue does the department anticipate generating from inactive licenses in FY 1998 and FY 1999? How many of the persons in inactive status are supervising branch offices under the "New Jersey Licensed Lenders Act"?

7. In response to the provisions of the federal Riegle-Neal Interstate Banking and Branching Act of 1994, which required states to decide by June 1, 1997, the level at which they wish to participate in interstate bank branching, P.L. 1996, c.17 (C.17:9-41 et seq.) was enacted, which among other provisions repealed the State's 1948 prohibition against foreign (country) banks entering into the State, but rejected entry into this State through de novo branching (branching into the State without having to purchase an existing bank or branch). The department had strongly urged the passage of this legislation and had indicated, prior to its enactment, that the department had had to turn away a number of foreign banks, including the Bank of Korea, Deutsche Bank, two French banks, and the parent company of National Westminster Bank, which had inquired about operating in the State.

Last year, in response to OLS FY 1998 Discussion Points, the department indicated that

Discussion Points

while a New York City domestic bank subsidiary of a Korean Bank had been approved for entry into the State, the department had not received or approved any applications by a foreign bank to enter the State.

- ! *Questions:* Since last year, have any additional foreign banks entered the state? If so, in what manner (i.e. purchase of a bank or branch or through a new charter)? How many applications from such banks are currently pending? What manner of entry is contemplated by those applications?

Background Paper: WindMAP - The Windstorm Market Assistance Program

Overview

New Jersey's Windstorm Market Assistance Program, or WindMAP, was established in 1996 to encourage insurers to voluntarily write homeowner's policies in coastal areas. The program was created to address the decline in the number of new homeowner policies being written in coastal areas of the State following the devastation of hurricanes Andrew and Iniki, as well as the more stringent guidelines applied by insurers to the type and condition of homes they would insure. At the time, the Commissioner of Insurance pledged that "if this cooperative industry effort [WindMAP] fails to achieve the desired results, [the department is] prepared to move forward with a regulatory approach." A study of the WindMAP program recently released by the department shows that the number of coastal policies written by insurers participating in WindMAP has increased only minimally. In response, the department has proposed regulations prohibiting insurers from arbitrarily denying coverage to homeowners because their property is located close to the shore.

History

In 1993, and following the devastating effects of hurricanes Andrew in Florida and Iniki in Hawaii, insurance companies began to decline to write new policies in coastal areas of New Jersey and to apply stricter standards to the type and condition of homes they would insure. Homeowners in coastal areas unable to obtain coverage in the voluntary market had no other recourse but to obtain coverage through the Fair Access to Insurance Requirements (FAIR) Plan. The FAIR Plan was established as an insurer of last resort after the 1967 Newark riots prompted companies to write fewer policies in urban areas. The FAIR Plan, provided through the New Jersey Insurance Underwriting Association, offers policies only for basic property damage, rather than the typically more comprehensive voluntary market policy, which often includes replacement costs, as well as theft and liability coverage. When the plans for WindMAP were announced, about 2.6 percent, or 57,000, of the homes insured in New Jersey were insured through the FAIR Plan. An estimated 20,000 of these homes were located in coastal areas.

In response to the lack of coverage for shore area homeowners, the Department of Insurance announced the establishment of the Windstorm Market Assistance Program (WindMAP) in January 1996. Through the program, homeowners in 92 coastal zip codes, primarily located in Ocean, Cape May, Atlantic, and Monmouth Counties, can apply for coverage through one of two referral processes. Homeowners can either shop for coverage on their own using a list of companies supplied by the department, or they can apply for possible assignment to participating companies. Under the latter of these options, at least three participating companies review each eligible application. If none agrees to provide coverage, the consumer is then referred to the FAIR Plan. However, the goal of the WindMAP program is to reduce the number of shore area homeowners reliant on the less comprehensive FAIR Plan coverage.

In November 1996, the department announced that 22 insurance companies, covering roughly 70 percent of the State's homeowners, were voluntarily participating in the WindMAP program. However, the Commissioner stated that the department "will monitor the progress of the WindMAP and ... will not hesitate to recommend alternatives if we find that insurers are not doing their fair share."

WindMAP Evaluation Report

The Department of Banking and Insurance recently announced the results of its study of the WindMAP program. The April 7 report stated that "with a full year of operation behind it, the

Background Paper: WindMAP - The Windstorm Market Assistance Program

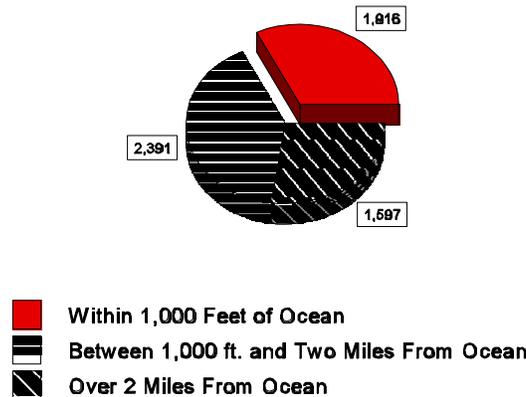
Department believes that, at the current level of participation, the coastal insurance availability problem will not be adequately addressed by this voluntary program [WindMAP]...it is necessary to consider other methods...". The department thus announced proposed regulations prohibiting insurers from denying coverage for a home based solely on where it is located, whether it is for rent, or whether it is a secondary residence.

The department reached its conclusion based on three major findings:

- ! While insurers participating in WindMAP reported writing 5,904 policies in exception to their normal underwriting rules in 1997, most of these policies were written on properties located more than 1,000 feet from the ocean. Thus, the report expresses concern that WindMAP is having only a limited impact in areas where the homeowner's insurance availability problem is most acute (within 1,000 feet of the ocean).

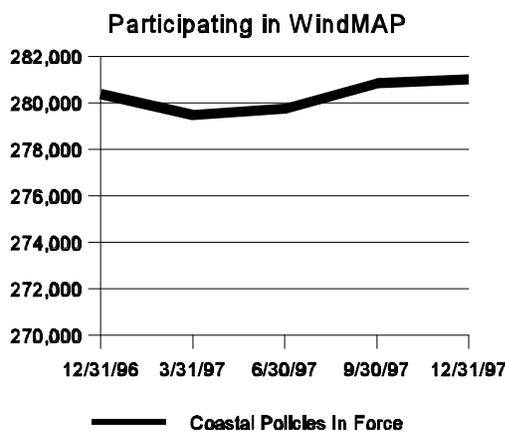
WindMAP Policies Issued

Where are homes covered through WindMAP located?

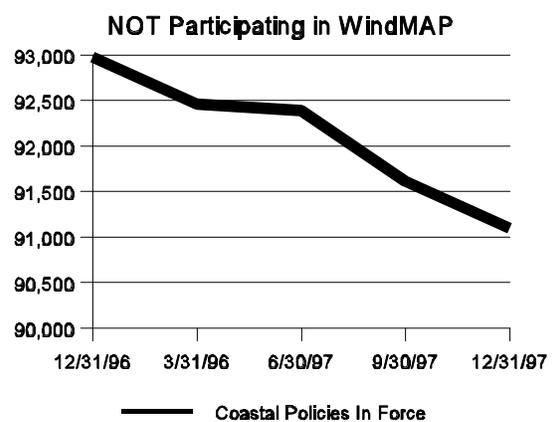


- ! During the operation of the program, the number of "inforce" policies provided by insurers participating in WindMAP increased by only 719 policies, a relatively "minimal" change given the share of the market (75 percent) covered by participating insurers. In addition, for insurers not participating in WindMAP, the inforce policy count in the coastal zip codes targeted by WindMAP has dropped by 1,881, more than offsetting the gains made through the new inforce policies provided through WindMAP (see tables following).

Coastal Policies in Force by Insurers



Coastal Policies In Force by Insurers



Background Paper: WindMAP - The Windstorm Market Assistance Program

- ! While data on the FAIR Plan for 1997 showed a reduction in the flow of new policies into the Plan as compared to 1996, the retention level for the FAIR Plan's existing policies has increased significantly. At this point, however, the department indicates that it is unable to ascertain whether "FAIR Plan changes reflect truly positive developments or are suggestive of a market that is reaching its 'saturation point'." Note that one of the goals of WindMAP is to reduce the number of shore area homeowners reliant on the FAIR Plan.

The insurance industry, meanwhile, has defended WindMAP. In contrast to the inforce policy figures presented above, the New Jersey Insurance News Service noted that, while there has not been a large increase in policies provided through WindMAP, the total number of insurance policies in coastal areas has seen a "tremendous increase." In addition, the industry notes that fewer than 2 percent of coastal homeowners responded to their mailed offers to provide coverage through WindMAP ("Insurance plan in tempest," *Asbury Park Press*, 3/22/98).

The department has nevertheless responded with proposed regulations, due to be published in the May 4 New Jersey Register, that prohibit insurance companies from looking solely at certain broad factors, such as distance from the ocean or age of the building, in deciding whether to write a homeowners policy or drop a current policyholder. If an insurance company does decline coverage, they will be mandated to inform applicants of the specific reasons for their decision.

Background Paper: Update - Insurance Fraud Investigators

Budget
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Overview

The FY 1998 State Budget contains a \$2.25 million funding initiative to hire 50 new insurance fraud investigators within the Department of Banking and Insurance's Division of Insurance Fraud Prevention. Prior to this initiative, according to annual reports of the division, the fraud prevention program had experienced an "unprecedented decline" in staffing through attrition. In addition, penalties imposed through the fraud prevention program declined sharply between 1993 and 1996, as did the number of overall fraud investigations. According to the department, 47 of the 50 insurance fraud investigators funded through the \$2.25 million initiative have been hired thus far. While the number of fraud cases opened in 1997 increased by 27.3 percent over the previous year to 16,555, the amount imposed in civil penalties increased by only 6.4 percent, to \$2.68 million, over the same period. However, because the new fraud investigators were hired in the Fall of 1997, the full impact of the new investigators may not be evident until calendar year 1998 figures are reported.

The Insurance Fraud Division

The "New Jersey Insurance Fraud Prevention Act", P.L. 1983, c.320 (C.17:33A-1 et seq.), created the Division of Insurance Fraud Prevention within the Department of Banking and Insurance. The division's mission is to facilitate the detection of insurance fraud and utilize existing statutory remedies, such as the imposition of monetary fines and penalties and civil and criminal prosecutions, to eliminate such fraud. The division's responsibilities include the investigation of allegations of insurance fraud and the development and implementation of programs to prevent insurance fraud and abuse. The division is fully funded by annual assessments imposed upon property/casualty and life/health insurance companies which do business in the State.

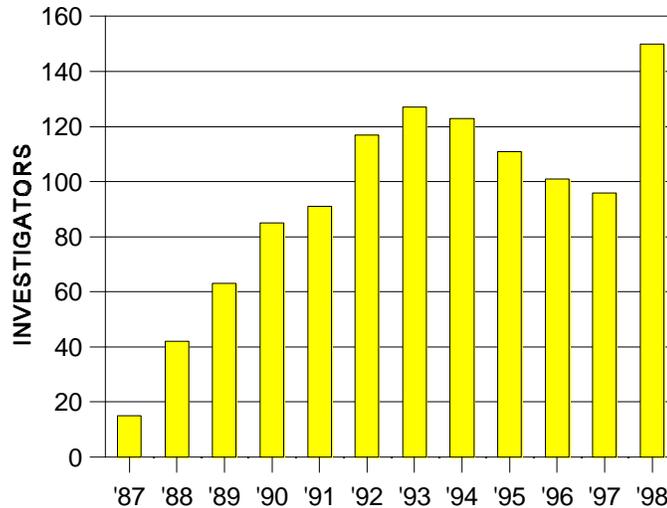
Various amendments to the fraud prevention act have expanded the scope of the division's investigations to include not only single instances of automobile insurance fraud reported by property/casualty insurance companies, but also cases reported by life/health insurance companies, investigations of fraud within insurance companies and rate evaders. (Rate evaders are out-of-state residents, usually city-dwellers, who falsify their place of residence in order to take advantage of lower, suburban New Jersey, automobile insurance rates.) The amendments apply the provisions of the Fraud Prevention Act to applications for insurance as well as to claims, and require automobile and health insurance companies to file fraud prevention plans. The division is responsible for auditing insurance companies to verify compliance with certain statutory requirements concerning the establishment and implementation of these anti-fraud plans.

Insurance Fraud Investigator Initiative

The current budget contains a \$2.25 million initiative, which will continue in the proposed FY 1999 Budget, to hire 50 additional insurance fraud investigators. To date, 47 of these investigators have been hired; when all 50 have been hired, the total number of investigators will reach 150.

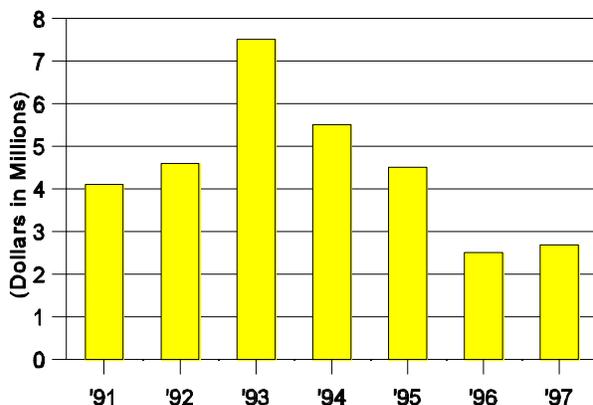
Background Paper: Update - Insurance Fraud Investigators

Insurance Fraud Investigators

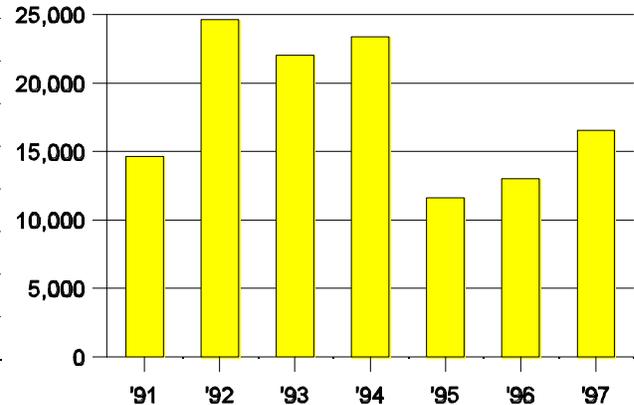


Prior to this initiative, as indicated in the chart above, the number of insurance fraud investigative staff dropped from a level of 127 in 1993 to 96 in 1997. During this period, the division lost 31 experienced investigators while hiring few replacements. Correspondingly, the number of investigations opened per year, as well as the total amount of monetary penalties imposed, declined over this same period. For example, in 1993, when the investigative staff was at its highest, the division reported 22,000 new cases opened and the imposition of \$7.5 million in civil penalties. Thereafter, in 1996, when the investigative staff had decreased by 20 percent to 101, the division reported only 13,000 new cases, and imposed just \$2.5 million in civil penalties, a reduction of 41 percent and 67 percent, respectively, over the same period.

Penalties Imposed



Fraud Cases Opened



Penalties

Cases

Background Paper: Update - Insurance Fraud Investigators

The department indicates that 47 new fraud investigators funded by the FY 1998 Budget initiative were actually hired in Fall 1997; thus, it is not yet fully evident whether the hiring of these investigators has had a discernable impact on the number of cases opened and amount of civil penalties imposed. As shown in the charts above, however, the number of new cases opened did increase by 27.3 percent to 16,555 in 1997; and the amount of penalties imposed increased by 6.4 percent to \$2.68 million. The department notes that of the 16,555 cases opened in 1997, approximately 30 percent did not warrant an investigation. The department did not provide an estimate of the percentage of cases opened in past years which did not warrant investigation.

While these figures seem to indicate that the hiring of additional investigators has had a positive impact on the number of cases opened and penalties imposed, the full impact of the new investigators may not be evident until calendar year 1998 figures are reported.

Note that Senate Bill No. 3 (1R) and Assembly Bill No. 1970, automobile insurance reform legislation currently under consideration, propose shifting fraud investigative staff from the Department of Banking and Insurance to an Office of the Insurance Fraud Prosecutor proposed to be established in the Department of Law and Public Safety. Transferred investigative staff will be allowed to maintain all tenure rights and protections as well as union representation. It is not yet clear what, if any, insurance fraud investigative capacity will remain within the Department of Banking and Insurance, for the proposed transfer of staff must be accomplished through a reorganization plan, which is not yet available.

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The Legislative Budget and Finance Officer is the chief fiscal officer for the Legislature. The Legislative Budget and Finance Officer collects and presents fiscal information for the Legislature; serves as Secretary to the Joint Budget Oversight Committee; attends upon the Appropriations Committees during review of the Governor's Budget recommendations; reports on such matters as the committees or Legislature may direct; administers the fiscal note process and has statutory responsibilities for the review of appropriations transfers and other State fiscal transactions.

The Office of Legislative Services Central Staff provides a variety of legal, fiscal, research and administrative services to individual legislators, legislative officers, legislative committees and commissions, and partisan staff. The central staff is organized under the Central Staff Management Unit into ten subject area sections. Each section, under a section chief, includes legal, fiscal, and research staff for the standing reference committees of the Legislature and, upon request, to special commissions created by the Legislature. The central staff assists the Legislative Budget and Finance Officer in providing services to the Appropriations Committees during the budget review process.

Individuals wishing information and committee schedules on the FY 1999 budget are encouraged to contact:

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