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VOLUME I

PUBLIC HEARING

before

ASSEMBLY BANKING & INSURANCE COMMITTEE

on

ASSEMBLY NO. 2001

(Regulates additional first year premium life insurance policies)

Held:
November 12, 1980
Assembly Chamber
State House
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Assemblyman James w. Bornheimer (Chairman)
Assemblyman Michael F. Adubato

ALSO:

Laurine Purola, Research Associate
Office of Legislative Services
Aide, Assembly Banking & Insurance Committee

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ASSEMBLY, No. 2001

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 22, 1980

By Assemblymen BORNHEIMER, T. GALLO, KOSCO, ALBOHN,
D. GALLO, HURLEY, VAN WAGNER, FLYNN and BURSTEIN

Referred to Committee on Banking and Insurance

AN ACT concerning certain policies of life insurance other than
group or blanket and supplementing chapter 25 of Title 17B of
the New Jersey Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. As used in this act:

2 a. "Collateral term policy" means a policy of life insurance,
3 other than group or blanket, which requires an insured to provide
4 collateral as security instead of paying an initial additional pre-
5 mium, and which may provide that if the policy lapses or is sur-
6 rendered during its term, the collateral may be used to pay what
7 is, in effect, an additional premium because of the lapse or sur-
8 render.

9 b. "Additional first year premium policy" means a term, modi-
10 fied term, modified life or other policy of life insurance which is a
11 combination of an endowment and term policy and which provides
12 that an additional first year premium shall be paid so that certain
13 values and options will be available at the end of the initial term
14 period, which premium is forfeited in whole or in part if the policy
15 terminates for any reason, other than death.

1 2. N. J. S. 17B:25-19 shall apply to the following policies in the
2 following manner:

3 a. With respect to additional first year premium policies which
4 do not convert to or become whole life policies:

5 (1) Values required during the initial and any renewal term
6 period shall be determined by treating the policy as a level benefit
7 and level premium endowment for the cash value or cash payment
8 provided at the end of the term period plus a term insurance bene-
9 fit provided by a supplementary policy provision to which, if issued
10 as a separate policy, this section would not apply.

11 (2) If the policy contains an option or provision by which pre-
12 miums continue for decreasing term coverage, the usual tests of
13 values for the policy apply.

14 b. With respect to additional first year premium policies which
15 convert to or become whole life policies:

16 (1) Values required during the initial and any renewal term
17 period shall be determined by treating the policy as a level benefit
18 and level premium endowment for the cash value or cash payment
19 provided at the end of the term period plus a term insurance benefit
20 provided by a supplementary policy provision to which, if issued
21 as a separate policy, this section would not apply.

22 (2) Values required after the initial term period shall be de-
23 termined by treating the entire policy as modified whole life.

1 3. The form of an additional first year premium policy that
2 provides term insurance for an initial term period and then auto-
3 matically converts to a whole life policy shall include a statement
4 in the title of the policy that the coverage automatically converts
5 to whole life at the end of the term period, and shall include a table
6 showing the annual cash values during the initial term of the
7 policy and the additional first year premium.

1 4. In connection with advertising and sales of additional first
2 year premium policies, the following shall be an unfair trade prac-
3 tice and subject to the provisions of chapter 30 of Title 17B of
4 the New Jersey Statutes:

5 a. The use of advertisements, sales materials, and sales presen-
6 tations which fail to fully and fairly inform an applicant or pros-
7 pective insured as to future premium changes, benefits, and related
8 opinions.

9 b. The use of any term in the name given the policy that implies
10 a deposit or any similar term associated with fund accumulations
11 and investment contracts.

12 c. The use of the term "deposit" to describe the additional first
13 year premium and its use in reference to the cash value.

14 d. The use of any statement or illustration in any advertisement,
15 sales material, or sales presentation which makes reference to such
16 terms as "deposit," "accumulation," "interest at a certain per-
17 centage," and similar terms associated with fund accumulations and
18 investment contracts where life contingencies are involved.

19 e. The making of any statement or use of an illustration show-
20 ing a comparison between the endowment value or any specific
21 cash value and the excess of the first year's premium over the
22 renewal premium which implies that the endowment or cash value
23 arises solely from that excess.

- 24 f. The use of percentages figures or words such as "earn 8% per
 25 year interest on your additional premium" to represent the rela-
 26 tionship of the cash values to the additional first year premium.
- 27 g. The use of such terms as "investment," "profit," "tax free,"
 28 "return," "double your money," and terms of similar import to
 29 describe the insurance policy, additional first year premium, or any
 30 portion of the insurance purchase.
- 31 h. The failure to include information that explains what happens
 32 to the additional first year premium if the policy is terminated
 33 prior to the end of the term period.
- 34 i. The failure to show separately and identify properly the pre-
 35 mium for the insurance and the additional first year premium.
- 36 j. The failure to show information about related or companion
 37 sales of annuity contracts or mutual funds separately from ad-
 38 ditional first year premium policy information in marketing ma-
 39 terials where the contracts, funds, and insurance are not part of
 40 the same contract.
- 1 5. This act shall take effect 30 days after enactment.

STATEMENT

This bill regulates additional first year premium life insurance policies. These policies, often referred to as "deposit term" policies, require the payment of a premium in the first contract year higher than a level series of premiums in the renewal contract years. The excess of the first year premium over the renewal year premiums is sometimes described as a "deposit."

Because consumers are often confused as to the purpose of the "deposit," the supposed savings on premiums and other items related to the marketing of these policies, the Life and Health Insurance Code should contain provisions which insure an informed decision on the part of an insurance buyer when considering the purchase of additional first year premium policies.

ASSEMBLYMAN JAMES W. BORNHEIMER (CHAIRMAN): We will call this public hearing to order. There is no need for a quorum of the Committee as long as the Chairman of the Committee or a member of the Committee is present.

Let me make an opening statement by explaining that the hearing today is on Assembly Bill 2001, dealing with deposit term insurance. I want to clear the air for all those present. This is not to strike a death blow to deposit term insurance or anything else. The purpose of this hearing is to make members of this Committee aware and make the public aware of this type of insurance and make everybody aware of what deposit term is. There have been a lot of misnomers about deposit term, pro and con. So, today, we may have a clearing of the air from both sides of the question, and an understanding of the subject.

To update things, there have been meetings by the Insurance Department dealing with deposit term, where they have been talking about some sort of regulations, but the Commissioner would have to speak to those and give you information about that. Your industry was represented and also the counterpart of the industry was represented. I was not privy to the meeting and I am not aware of what happened at the meeting.

So, for all those present, I want you to understand that everything you testify to today will be taken and recorded and will become a permanent document so that the Committee will have an understanding of what deposit term is, what it does, how it is administered, what its purposes are, how the general public is treated, what the delivery system is, and so forth.

Therefore, we will start the public hearing with the first speaker. The first person to testify today will be Joseph McMichael. Let me add something here. Anyone who testifies will come up to the microphone at Mr. Doyle's desk. Another thing, if there is anyone who wishes to testify and who hasn't been recorded on the list, would you come up and speak to Laurine Puroia, the Aide to the Committee, and give her your name. You will then be added to the list. Mr. McMichael?

J O S E P H W . M C M I C H A E L : Good morning, Mr. Chairman. My name is Joseph W. McMichael, Jr., CLU. I am President of the New Jersey State Association of Life Underwriters. Our Association is comprised of 16 local associations throughout the state, with a combined membership of more than 3,400 life insurance agents. I am accompanied by the Chairman of our Law and Legislation Committee, Russell Benke. Every officer in our State Association is here today and another 75 members throughout the state have accompanied us.

My purpose for being here today is to express our Association's strong support for Assembly Bill A-2001.

At the outset, we would like to make it clear that we are not opposed to the sale of term life insurance. According to the "1980 Life Insurance Fact Book", \$10.7 billion of life insurance was sold in New Jersey in 1979. Of that amount, roughly 61% or \$6.6 billion was term insurance. The National Association of Life Underwriters, headquartered in Washington D.C., estimates that our membership wrote 94% of that \$6.6 billion.

Deposit term, however, is another matter. In the Fall of 1977, our Association began to receive numerous complaints from our members about what appeared to be a concerted and massive effort to replace existing permanent life insurance policies. That practice has not abated in its intensity. Since the pricing of life

insurance products is, in part, impacted by replacements, the consumer is adversely affected when replacements occur. Further, all of the protective provisions, such as incontestability clauses, are forfeited when a replacement results. We received notice recently that of 35,000 claims made on life insurance policies issued within the first 12 months, all of which would be contestible, if the policy is replaced, the contestibility feature that was in the former contract was already forfeited. Therefore, those 35,000 claims, if they were all replacements, would be contested.

It may be important to define for you what the product called deposit term is. Actually, the name was created by insurance companies to enhance its marketing. The typical deposit term contract has two features: term life insurance and a pure endowment. The contract usually makes two promises: (1) to pay a stipulated sum of money if the insured dies during the policy period--this is the term insurance feature; and (2) to pay a stipulated smaller sum if the insured survives the period. This is the pure endowment feature.

The marketing concept of deposit term life insurance suggests to the public that the large difference between the first and subsequent annual premiums represents a "deposit", which is returned at the end of the initial policy period at some multiple of the original "deposit", if the insured persists--which means he keeps on paying the premiums--and survives--which means that he doesn't die. Actually, all that can be said accurately is that a deposit term policy's first year premium is higher than its subsequent premiums.

In February of 1979, our Association filed with the New Jersey Department of Insurance a written and extensive complaint regarding the abuses which are taking place in the marketing of deposit term insurance. In my hand is a copy of that complaint. Since then, we've supplied the Department with considerable, additional documentation. Much of the material supplied to the Department is being provided to you today in this forum. We are grateful there are a number of legislators who have taken the initiative by introducing this legislation. Last Wednesday, as you noted, the Insurance Department did conduct a meeting with some of the parties concerned with this legislation. The Department proposed to correct one of the abuses to which this legislation addresses itself. We believe regulation, especially if it takes the form of what was made available to us at that meeting, will only cover over the abuses. On the other hand, we believe regulation, if applied effectively to this legislation, will put to rest the abuses which concern us.

We support this legislation because of three concerns: (1) The use by some insurance companies of marketing techniques which are designed to confuse the public; (2) An inordinately high front end commission schedule, which attracts the individual who is motivated by greed; and (3) The use by some agents of outrageous, malicious and often inflammatory literature, which misleads and deceives the public.

Samples of marketing literature of two insurance companies are attached to our statement. You will find them in Exhibits 1A and 1B. They are representative of what is now in use.

We would like to focus your attention on two pronouncements in this literature:

1. Each insurance company contends that deposit term is an excellent buy because the lapse factor has been almost or entirely eliminated from the cost of the product. To lapse means to discontinue the payment of premiums before the expiration date of the policy.

To guarantee that the lapse factor is eliminated, insurance companies require the purchaser to pay a large additional first year premium. If the policy lapses during the ten year period for which the contract is drawn, the policy forfeits some or all of his large additional premium. The insurance companies do not emphasize this forfeiture contingency in their literature.

2. Each insurance company contends it will return the large additional premium at the end of ten years with interest, which is tax-free, and that is false.

Herbert S. Denenberg, former Insurance Commissioner of Pennsylvania and a former Professor of Insurance, Wharton School, University of Pennsylvania, stated on the subject of the tax-free interpretation, "It gives off the impression of a rich and guaranteed return when no such return may even be promised, much less delivered. First, the return is contingent. It is aleatory, a mere gamble. It depends on the policyholder continuing the policy for a specified period, a contingency often beyond his control or ability to predict. So, he buys, subject to an inherent contingent event not fully stressed in the typical sales plan or pitch.

"Second, the return of the deposit may be deceptive in another sense. The policy can be structured so the return looks extraordinary, when, in fact, it may be principal as well as interest that is being returned.

"Deposit term is founded on forfeiture, is structured to lead to misrepresentation and misunderstanding, is a likely tool of fraud and deception and is a sorry example of life insurance competition by confusion."

Joseph M. Beth, Professor of Insurance, School of Business, Indiana University, a respected and well-known consumer advocate, in discussing deceptive marketing practices and particularly the amount of interest the insured will earn on the deposit stated, "In my opinion, use of this method of presentation constitutes a deceptive sales practice."

He suggested that insurance be required to provide a prospective purchaser of deposit term with a disclosure statement which delineates the rate of return on the deposit on a year-by-year basis throughout the entire ten years. On page 4 of his remarks, the yield in his analysis was a minus 100% for the first eight years in the contract he reviewed, and was not 7.2% until the tenth year. We support his suggestion enthusiastically.

In a letter to the editor of "The National Underwriter", dated 4-18-78, while a private citizen, William A. White, now Chief Life and Health Actuary in the New Jersey State Insurance Department, made a statement regarding the tax-free interest rate. He remarked, "The acknowledged fact is that there is not a necessary relationship between the deposit and the endowment amount. An endowment arises not from the deposit, but from the portions of the level premiums of principal. From an actuarial viewpoint, it is theoretically possible to establish any relationship between the deposit and the endowment amount and, as a practical matter, the only constraint is the gullibility of the consumer. It seems apparent that deposit term presents an opportunity for misrepresentation to the public through deliberately designing such policies to mislead."

We've attached a copy of the entire remarks of Messrs. Denenberg, Belth and White and you will find them in Exhibits 2,3, and 4.

Our Association is also concerned with the replacement tactics of some of the deposit term companies. On March 20, 1978, Jack McKewen, CLU, then President of The Million Dollar Round Table, presented The Million Dollar Round Table's position paper on replacement to the replacement panel of the Life Insurance

Marketing Research Association, which you will find in Exhibit 5. The Million Dollar Round Table is an organization for outstanding life insurance underwriters throughout the world. In 1979, the Million Dollar Round Table had 17,205 members. Mr. McKewen stated, "There are really two kinds of replacement activity: that which occurs between major companies and that which is manufactured by organized, replacement oriented insurers whose primary marketing thrust is replacement." Mr. McKewen continued by stating, "The most dangerous form of replacement is that which manufactured by companies whose principal thrust is to seek out any whole life contract and make it game for replacement."

We believe a deposit term policy is devised to make certain that the replacement-oriented company does not lose business the same way it got it in the first place, by replacement. It does so by severely punishing the buyer who lapses his contract.

Some companies merchandising this product make it clear to their agents that the replacement of existing policies is the way to sell deposit term. In fact, a number of the deposit term companies have become so sophisticated in their replacement techniques that they have built the replacement forms into a computer program. We've included a copy of one company's forms and you will find them on Exhibit 6. If you review them carefully, we'll wager you will not understand them any more than the public does.

One reason companies advocate replacement of existing insurance is that deposit term is supposed to have a lower cost. In an article written by Harold Skipper, Ph.D, Assistant Professor of Insurance, Georgia State University, he stated, "But, more importantly, results suggest that the priced advantages, which the theory behind the deposit term promises, may not have yet materialized in the marketplace. For the average deposit term product in this sample, the consumer may have been in a superior financial position if he or she purchased the same company's non-deposit term product rather than the deposit term insurance." You will find his statement in Exhibit 7. Deposit term is not the lowest cost life insurance product in the marketplace, and arguments to the contrary will not change that fact.

To add economic injury to insult, the buyer of deposit term must raise his additional first year premium from his personal resources. Unfortunately, this is usually done by either cashing out or borrowing existing insurance cash values, against which there are no forfeitures whatsoever. Thus, the buyer of deposit term is convinced to change non-forfeitable cash to a forfeitable deposit, often with the only beneficiary of that transaction being the agent who is paid an extraordinarily high front-end commission.

Moreover, at the end of each ten year period, the deposit term policyholder typically must select from one of four options: (1) He may lapse his policy and collect his deposit and thereby lose his insurance coverage; (2) He may continue the policy as deposit term, but his term rate, however, will be higher because of age and his deposit will be subjected to forfeiture for another ten years; (3) He may exchange his policy for decreasing term and collect his deposit; or (4) His policy automatically will be converted to whole life insurance.

You should understand the subtlety of what takes place under option four. As mentioned earlier, deposit term is being sold primarily as a replacement for existing whole life insurance, usually because existing cash values are pirated to pay the high first year additional premium. If, at the end of ten years, the deposit term policyholder does not elect options 1, 2, or 3, he automatically

is converted back to whole life, a policy form he was told was not a good deal ten years earlier.

The deposit term agent, however, has the best of all worlds. On the original sale, he earns first year commissions as high as 265% of the term premium. We've attached a typical commission schedule for your review and you can find that on Exhibit 8. At the beginning of the next ten year period, the agent earns another commission, the size of which depends on the option selected by the buyer.

Our Association believes these high commissions are necessary to sell an inferior, overpriced product which benefits the company and the agent at the expense of the public.

Although members of our Association can sell deposit term and are obviously are interested in making money, we strongly believe deposit term is in the consumer's best interest, or else we would be buying for ourselves and selling it to others.

I would like to pause for a moment from my notes so that you understand what we are talking about here. If I am an individual who has life insurance policies in which there is a cash value of say \$1,000, and I am convinced that the product I have is not what I should have, but I should have deposit-term, I am asked to take the \$1,000, by borrowing against my policies and cashing them out and transferring them to a deposit-term contract. The reason I am told to do that is because the policy will not lapse; in fact, I continue paying the premium, and at the end of ten years I will get my money back, compounded, tax free, with interest. Now, what I have done in that transaction is, I have taken money on which I have total rights - they are not forfeitable; I can get that money at any time - and I have transferred them to a policy in which I have no rights until the policy expiration period. If at the end of ten years I do not elect to take my deposit from the insurance company, and I choose to go the deposit road for another ten years, at the point that I make that decision the cash that is again non-forfeitable to me becomes forfeitable again for another ten years. If I do not choose that route and I go the whole life route, and they take my deposit and use it to convert me back to what I had ten years earlier, I lose my cash again. Every time that occurs, I lose access to my cash, and the only thing that is happening is that somebody is earning a commission on my transactions.

You should note that New York State has no problem with deposit term. We believe the reason is that a maximum commission scale of 55% is permitted there on term products, including deposit term. The experience in New York is a clear indication to us that a commission scale of 265% is the reason that deposit term agents find the product so attractive here in New Jersey.

If Assembly Bill 2001 is enacted, it is our belief it will require insurance companies to restructure deposit term contracts to include protective provisions - we call them non-forfeiture - for the policyholder, which, in turn, will drive down commissions. This will make replacement of whole life contracts with deposit term less attractive to the self-serving agent. By requiring the inclusion of protective provisions in the policy form, the insurance companies can be expected to structure their commission scales to include renewal commissions. Such a change will at least impose on the companies and the agents the responsibility to service the business they have sold. Presently, an agent gets most, or all, of his commission in the first year. As a result, he has neither loyalty

to the insurance company, nor interest in the policyholder until the tenth year. This is because he doesn't have to concern himself with servicing his business to collect renewal commissions or service fees, since there are usually none paid.

Lastly, we would like to turn your attention to some of the outrageous and deceptive marketing literature being used by a number of agents who sell deposit term.

Here is a copy of the "Federal Trade Commission Report on Life Insurance Marketing and Cost Disclosure." This was issued in July, 1979. Also, here is what purports to be an abridgment of that Report. I would like you to see the difference. We have given you a copy of this abridgement in exhibit 9. This looks to be very official. It even has an eagle on the front of it; but, in fact, little, if any, of the material contained in the abridged version is from the actual report. The abridged version is used to mislead the public into believing the Federal Trade Commission Report supports the contentions of the agent in his attempt to replace existing cash value policies with deposit term.

Another brochure is entitled: "Plain English About Life Insurance From Consumers Information Service." You will find that in exhibit 10. It purports to supply information which has been developed by the "Consumers Information Service," whatever that is. Listen to the derogatory statements from this brochure. I would like the insurance companies who are sitting here to listen to some of the things their agents are using: "If you bought a policy that has a savings feature, you and your family are victims of the biggest consumer fraud in history. By planned confusion, deceptive sales practices, and even brainwashing to a certain degree, the life insurance industry is swindling millions of Americans." Imagine, gentlemen, these malicious statements are being made by an individual whom we assume is licensed to sell life insurance in New Jersey.

The last piece of literature we have provided is entitled: "The Multi-Billion Dollar Life Insurance Rip-Off." You can find that in exhibit 11. This four-page piece of trash characterizes insurance companies, their agents, and insurance commissioners as dishonest, ignorant, and self-dealing. This literature includes the following closing comments: "If this article has come into your hands by way of a life insurance agent, you can say: 'there's a person who has nothing to hide.' Ask him or her to help you eliminate or replace unneeded, outmoded, or over-priced policies."

It is our contention that these and many other similar pieces of literature are misleading, deceptive, constitute an unfair trade practice, and appear to be blatant misrepresentations which border on twisting, as defined in the New Jersey State Insurance Code. They are being used by agents who base their whole careers entirely on replacing business created by others, solely for their own enrichment. And, unfortunately, there are managements of a few insurance companies who thoughtlessly have and are encouraging these agents to raid other companies' business.

Gentlemen, New Jersey is not the only state to experience the problems of deposit term. We have attached to our presentation copies of rulings, and/or comments on deposit term from the following states or organizations: Delaware, Illinois, Indiana, Michigan, Mississippi, Missouri, New

Hampshire, Oklahoma, Pennsylvania, South Dakota, Vermont, Washington, and the National Association of Insurance Commissioners Task Force on Deposit Term. You will find them in exhibits 12a through 12m. In addition, we understand there are hearings being conducted in Alabama, Tennessee, and Texas, all on the same concerns.

All of these states, either through their legislatures or insurance commissioners, have had to take, or are taking, steps to correct some of the same flagrant abuses to which New Jersey buyers of deposit term currently are being subjected.

The noted financial columnist, Sylvia Porter, often is misquoted by deposit term advocates as a spokesperson who supports the deposit term concept. We have included her most recent statement on the subject in which she unequivocally cautions potential buyers about the same concerns we have expressed today. We ask you to look at exhibit 13 for her comments.

In summary, it is our belief that the passage of A-2001 will accomplish the following things:

1. Insurance companies will be required to redesign their deposit term products to provide protective provisions for those who purchase these policies.

2. These protective provisions will drive down commissions and, thus, discourage the wholesale pirating by self-serving agents of existing permanent insurance policies.

3. Literature now in use by some insurance companies will include a disclosure to the public on a yearly basis, the actual return on the higher first year premium. Insurance companies will not be allowed to state the additional premium is compounded tax-free, which is false, and they will not be permitted to make misleading statements which cause the public to believe it is getting a superior product because it is sold to "good guys who don't lapse their policies."

4. Deceptive, malicious and flagrant statements made in literature by some agents will be outlawed.

5. Offenders will be subjected to regulation by the insurance department which will be accorded justification to remove an insurance company's products from the market, and cause an agent to turn in his license for such reprehensible acts of conduct as we have described here today.

The New Jersey State Association of Life Underwriters sincerely wishes to express its appreciation to you for the opportunity to appear here this morning to express our views on this important issue. Thank you.

ASSEMBLYMAN BORNHEIMER: Thank you. I would like to bring everybody's attention to the fact that Assemblyman Mike Adubato has arrived, and Assemblyman Lou Kosco has also arrived. They are both members of the Committee.

Are there any questions of the witness? Mike.

ASSEMBLYMAN ADUBATO: I would like to start off by identifying my other hat. I have been in the life insurance business for twenty years. I am still in the life insurance business; that's how I make my livelihood, outside of politics, which is usually an expense.

I would like to say that my first seven years in the industry I worked for a management type company, and when I left that company, I

was the youngest manager, to my knowledge, in the State of New Jersey, of any major life insurance company. I then went with another company, who I am presently with, as an independent general agent; which means, for the two or three laymen that may be in the room today, that I don't receive any salary from the company, and I am a producing general agent. I make this clarification because in the past seven years I have probably been one of the loudest and strongest critics of the insurance industry, in all phases. At the same time, some people consider that I am fair in that criticism.

I would like to ask Mr. McMichael about his experience. When the first, or the initial, ten year period arises and the automatic provision that would convert to whole life sets in, what has been your experience in dealing with the primary companies that deal with deposit term in the equity position of the cash values comparable to another contract with maybe another company that doesn't deal primarily with deposit term, as far as the cash value build-ups are concerned? Do you find that they are comparable, or are the companies automatically switching to deposit term in their bottom line -- their cost factor, say, over the next ten years or fifteen years, or whatever? Have you ever projected that?

MR. MC MICHAEL: First off, the product is new in this State. There have not been contracts that have run the ten year period.

Number two, the product that's converted to automatic if it goes to whole life is non-par contract. Many of the contracts that are being replaced are participating contracts, which would have had ten years additional experience for a build-up of cash value and/or dividends.

As a life insurance agent, I am sure you are aware that there is a material difference. Once you get past the seventh or eighth year of a contract, it is between participating and non-participating. So, the individual has lost that price advantage between getting through the seventh and eighth year, and going back to a non-par contract.

I can't speak to the point of whether or not one product is comparable with another product in terms of should he have stayed with a whole life contract or converted to the new whole life contract. As a practical matter, however, anyone who has been in the life insurance industry for any length of time knows that a contract that has been in force 10 years has much greater buildup of cash value and/or dividends than will a brand new contract which has new acquisition costs and has no first year cash value, usually, at all, and sometimes not as long as three years. So, that old contract is going to be far better as a cash value product than will be a new product.

Pricewise, an older contract should also be a lower cost product to the individual if he has a ten-year-old contract versus a brand new contract.

ASSEMBLYMAN ADUBATO: One more question. Have you made any studies? We will use the age 35 classic example of an individual purchasing, say, an annual renewable term from a company that has, let's say, its expertise in term insurance. If that individual at age 35 bought the same amount of protection - death benefit - and took the difference of his money as opposed to putting in with the deposit term side fund, the way I understand it, it causes him to lose his flexibility for ten years. That is mandated. That money must remain there, and you must continue the contract or you lose the deposit. Is that a fair statement in most cases?

MR. MC MICHAEL: You lose it, at least in most contracts for at least the first five years, at which time you begin to get access to it.

ASSEMBLYMAN ADUBATO: Right. After five years a lot of them have a roll over.

MR. MC MICHAEL: On a graded basis, you get more and more access to that deposit. For the first five years, in most of the contracts being written, you have no access to that money at all.

ASSEMBLYMAN ADUBATO: All right. What I am getting to is that if you had that flexibility, as opposed to deposit term, in the picture that is projected - which is not the same but similar to what equity funding was doing at one time, where there was no cost to the individual, and where they projected mutual funds paying the premium-- Of course, if the market went down, you had to put up more money, but let's not get into that. It is the same, as far as I am concerned, philosophy. If that individual took that same amount of money and applied it on his own, as opposed to going to the projection that is displayed there, forgetting the twisting or anything else that may take place, have you projected the amount of money that he would make, or could make, as opposed to leaving it with the brokers, or whatever they are, that sell deposit term?

MR. MC MICHAEL: You're almost like a shill in the question you just asked, and I really enjoy the question because two of the companies will be speaking here later. I am also licensed. I am an independent, much as you are. I have been to many, many presentations of one of those companies, and you are going to see it this morning. I asked that same question: "Why not sell the individual, if it is such a great deal, yearly renewable term and let him invest the difference in your annuity product? Your yearly renewable term product is cheaper, and your annuity pays..." -- at that point in time it was seven and one-half percent; I think it is a little over eight now. The comment back to me was: "Don't you like earning money"? And, my comment back was: "That is not the purpose. The purpose of what you have told me is that this is consumer oriented, and if it is consumer oriented, the best deal for the consumer is to sell yearly renewable term and put the money in an annuity, not in the product you are suggesting."

If you make a comparison between a deposit term contract and a yearly renewable term and invest the difference in an annuity-- And, you can buy no load annuities, and the company that will present this later sells that product. It is no load. Unless you cash out, there is a penalty at the end, if you cash out prematurely. The point is, their product, YRT and annuity, far outdistances their deposit term contract, but it doesn't pay 265% in commissions.

ASSEMBLYMAN ADUBATO: If you agree to the basic statement that money makes money, if you will, as well as people working for it, where is that line? If an individual, for instance, invests \$1,000-- You know, you are limited today on what you can put that in. Forget annuities for a minute. You know, if you talked about buying the kind of paper where you had a little more flexibility, or the restrictions were maybe a year, or two, or three, or four, or whatever, as opposed to an individual who takes out, say, \$10,000 in a lump sum and divests himself of the cash value and puts it into a deposit term, or \$15,000, and has that money grow, I

think the amount of money does have a bearing on the growth factor, as far as what is available to the individual, and what he can or cannot do. So, if you take an individual, for instance, who is a little bit above the cookie jar situation, and let's say he has a premium of \$500 to \$1,000 a year, or whatever, for life insurance, and he has accumulated \$1,000 or \$2,000 in equity, and he diversifies that, it is a little different. Quite frankly, some of the individuals I have seen who took that same approach with a lot more money and who were shown that if they put that lump sum money that they took out - I am talking beyond \$10,000 - and projected that over the next ten years, he would have made a hell of a lot more money on his own, and still have the same protection - except he would have the flexibility - then he would have if dealing with deposit term. Now, I don't know if that has been your experience.

MR. MC MICHAEL: Yes. We, in our office, advised a number of our clients during the significant interest crunch of the earlier part of this year, when interest rates rose on CD's to 15 1/2%--

ASSEMBLYMAN ADUBATO: Yes.

MR. MC MICHAEL: We have advised a number of our policyholders to go into their policies and borrow out the money. They could borrow it anywhere from 5% to 6%. The 8% rate is now effective in our State, but it has not been too effective in terms of the amount of cash you can actually get your hands on. We had at least one client, I can recall, from Lancaster, who borrowed \$185 thousand, and who did just that. That life insurance still exists. He is still paying the premiums. It is true that if he dies, the life insurance is down by \$185 thousand, but he has \$185 thousand sitting over here in CD's, which are growing. At that point in time, they were earning 15 1/2% interest. We think that is a more appropriate approach to people than to tell them to surrender out their existing contracts to buy a brand new product in which they have no access to their money at all once they put it in that contract. That is the reason the majority of our members do not buy the product themselves, nor do they sell it, and it is why we are opposed to it. We don't think it is a consumer oriented product.

ASSEMBLYMAN ADUBATO: Are the people who believe - and everyone has right to their philosophy, that is what we are all about in this nation, and we have a right to disagree - in the concept of deposit term, primarily people who began their career in the life insurance business, or in the money business -- let's say stock brokers, or selling funds? Or is that not a fair question?

MR. MC MICHAEL: I don't want to mask deposit term advocates with coming from a particular segment of our industry. The company that I mentioned earlier primarily is soliciting this as surplus business, or through property and casualty agents. As many of you are well aware, a property and casualty agent in our State could, at one time, answer four questions, and he was licensed to sell life insurance. All right? Most of those chaps do not sell much in the way of life insurance. And, that particular company, again, has the largest producer of its business in the Philadelphia area. It is a property and casualty agent who is out soliciting that business from property and casualty agents. He knows absolutely nothing about life insurance, and he admits it. He has his CLU, his broker's manager, and

his CLU says, "I will not sell that product." The reason is because he knows its ethical charge says you don't sell something that you won't buy yourself.

The thrust of what I am saying is, I don't want to prejudge all deposit term advocates. The group with which I am familiar are not men and women who are fully cognizant of what life insurance can do in terms of meeting needs. Deposit term products are being sold to replace existing policies, not to fulfill needs. That has been the approach, and a truly professional insurance person fills needs. He does not out go out and rip off other people's policies in order simply to replace one policy with another policy.

ASSEMBLYMAN ADUBATO: I will let you go with this one last question: Is it fair to say that in New Jersey, a little while back, the applications were made and the Insurance Commissioner at that time rejected the product in the State of New Jersey, and that now the product is available? Is that a fair statement or not?

MR. MC MICHAEL: In this State, yes, it was initially rejected. It was also rejected, for quite a long time, in Pennsylvania, and it has only recently come on the market.

ASSEMBLYMAN ADUBATO: Was there any change in the product from the time it was rejected in New Jersey, to your knowledge, in '66, as opposed to the way it is marketed in its present form?

MR. MC MICHAEL: Not that we are aware of, no. We are not aware of any changes.

ASSEMBLYMAN ADUBATO: Thank you. I have no other questions, Mr. Chairman.

ASSEMBLYMAN BORNHEIMER: Thank you very much, Mr. McMichael.

The next witness will be Frank McCormick. I will direct everybody to look to their right because we have a slide presentation, I understand.

F R A N K M C C O R M I C K: What I would like to do, Mr. Chairman, is to make a few brief remarks prior to getting into our slide presentation. I will keep that as brief as possible also.

ASSEMBLYMAN BORNHEIMER: Do you have a copy of your remarks?

MR. MC CORMICK: No, sir, they are extemporaneous, other than the slides which we will present to you.

ASSEMBLYMAN BORNHEIMER: Okay, proceed.

MR. MC CORMICK: Mr. Chairman, members of the Committee, ladies and gentlemen in attendance, my name is Frank McCormick. I am a CLU, and I am Senior Vice President of Firemen's Fund American Life Insurance Company in San Francisco, California.

The purpose of our meeting today is an issue that has been going on, quite literally, since 1964, when the product sometimes referred to as "deposit term" was first introduced in the United States.

You have an issue here that I think it tantamount to a number of issues that we have faced, both moral and economic issues, over the development of this nation, where honest people of sincere beliefs disagree.

My colleague from the industry, Mr. McMichael, represented the New Jersey Underwriters. I find no fault with his integrity, or with his direction, nor with his sincerity.

There are points that we take exception to. I will make a slide presentation that will memorialize those exceptions from what we consider to be the consumer's point of view, and the evolving economics in this country from our industry's point of view. There are things that are said that are said out of context, that need to be focused on by people who have sat and listened to testimony from literally thousands of people. I won't presuppose that you will not apply the same level of intelligence in analyzing that, as you would anything else.

One of the things was, some companies even use sophisticated replacement techniques, such as computers. We happen to be one of those companies. We don't exactly refer to it as a sophisticated replacement technique, but rather, a, a compliance with the law in terms of doing a comparative analysis, which the consumer is entitled to have, and, b, as the moral obligation of the agent whose advice the consumer acts upon, as if he is getting the best the man has to offer, and, in fact, he is entitled to such.

We hear that ART is a better product. It is cheaper, and it is better for the consumer, in perspective. We should like to be on the record as saying that we unequivocally agree with that position. Annual renewable term, across the board, day in and day out, for the average American consumer is the best form of life insurance he can buy -- period. The problem with the sale of annual renewable term is the survival of the American agency system. It behooves us not to offer a product in any industry, whether it is the automobile industry, the banking industry, or the insurance industry, where we underprice the product to the extent that the industry doesn't survive, and thus the benefits to the consuming public are very short lived indeed. It would not behoove us to try and underprice our automobiles to the point that we had no automobile industry left in this country, nor would it behoove us to sell a product, such as annual renewable term, that an agent would have to sell \$30 million a year worth of business to make a respectable living -- an impossible task. Therefore, we think that somewhere between the products that we are seeing, and that we find objection to -- but, quite frankly, not to the extent of trying to have them outlawed or disbanded or to shed them in discredit -- needs to be examined.

I think a member of the Committee, Mr. Adubato, commented that he had found, in his career in the industry, a number of faults with the industry. I think we totally agree with that, and a lot of these faults need to be focused on. They need to be focused on in their entirety. They don't need to be focused on from a self-serving agent's point of view, or a self-serving company's point of view. They need to be focused on from the point of view of the consumer.

Mr. Denenberg was quoted numerous times here today. While I have great respect for Mr. Denenberg as an individual, I think it is noteworthy that the ban that existed in the State of Pennsylvania existed for seven years, and existed because Mr. Denenberg wrote a statement that said it would be banned. Our company challenged that statement, and we asked the State of Pennsylvania to please furnish us with the public hearing that by a matter of law was required in that State, following an emergency ruling by the Commissioner. It was never forthcoming because the hearing never took place. The entire ban that existed in the State of Pennsylvania existed upon the word of one man, who is also a man who said that ordinary life

should be outlawed. That quote was not put forth this morning. It was said by Mr. Denenberg. Okay?

Upon public hearing, the State of Pennsylvania reversed its position, as has every other state in these United States that has looked at this in public hearing, as is the good State of New Jersey this morning. Not one has found the product in fault.

Marketing practices of the sales organizations of all sorts of companies need to be corrected. For example, just walk in the street and ask your everyday citizen what the word dividend means and find out if he described to you what we refer to as a dividend. See if his understanding of that subject is very clear. See if he understands that he pays an over-charge for seven years to receive it back. I doubt seriously if you are going to find common understanding of that. I recognize that these are not the issues in front of us, but they are, in a broader perspective, what this industry needs.

Mr. McMichael commented that we do not have a consumer product. The issue we will put before you will either memorialize that or not, and we will conclude with a position that I think you will find particularly interesting, and that is, at the conclusion we will give you a written statement whereby we encourage this Legislature, in concert with its Insurance Department, to undertake an investigation. You may be assured you have our company's full support, and I am sure you will have the New Jersey Life Underwriters' full support, and such companies as the Prudential's, who are obviously interested in the truth.

At the conclusion of that report, we will find out what percentage of policies sold, and durations, to what people at what point in time, in fact should be replaced by new, more modern policies, and at what point in time this should occur, if ever. There is a representation that it never should. But, until someone with legislative authority and the public's interest at heart undertakes to do this formal study, with the support of the industry but with control at the legislative level, all we are going to hear is the same thing we have been hearing here and in all of the other states. And, we will have the same conclusion. You gentlemen will reach the conclusion that the product is perfectly legitimate; it has a place in the market; the consumer should have a right to it; and, we will move on to some other state, to some other association that raises the same issue, until we finally run out of states.

So, with no further comment, I would like to show you a brief slide presentation that will focus on those issues. Thank you. (applause)

ASSEMBLYMAN BORNHEIMER: If I may comment, the same rules cover this hearing as the normal operation of the legislature. Your emotional outbursts will not be of any benefit to you, so I suggest you refrain from them -- either side.

MR. MC CORMICK: The first thing we would like to comment on is deposit term, a matter of consumer concern. We would like to focus you on what we consider to be a phony issue. We consider, and hopefully will prove to you in the next 10 or 15 minutes, that the phony issue is the product; the real issue is competition, and the direct attempt to stifle it.

Let's examine the facts. This product was first introduced by

a major company in 1964. It has been approved for sale in all states of the Union, the District of Columbia, Puerto Rico, and all U. S. Military installations throughout the world.

There are three perspectives of the product: First, is the agents. One of the things I would like to point out to you, contrary to what my colleague from the industry said this morning on the ripoff of commissions, is that, in fact, that position represents a protectionist position of protecting their own commission structure, which is purported to you to be lower. I think upon examination, especially upon critical examination that I have suggested be conducted under the auspices of this State, you will find something to the opposite of that statement. The truth will out then -- not my opinion, nor my colleagues opinion.

The company's primary interest is to protect their business enforced now because many of the products they have sold today are an economic anachronism. They are long since past their useful life. Someone quoted a very close friend this morning, a personal colleague of mine, Dr. Harold Skipper from Georgia State University. While I didn't speak to Dr. Skipper personally about this Assembly meeting, a colleague of mine did, and his comment was: "It is an abomination. I would be pleased to speak at it, if I only had time to get there." He would, I am sure, be pleased to give you input to any investigation you undertook. He also conducted an investigation, and he is going to publish it in the Risk Journal, where it will show that a tremendous number of policies in fact should be replaced in the consumer's best interest. This is the same type of study that I am encouraging the State of New Jersey and the Department to undertake on behalf of the consumers. Obviously, such an undertaking may very deleteriously affect the future profits of the companies involved. It may also focus what their great interest in knocking deposit term is.

The last one we think is the one you have the most concern in because these are the people you represent, and that is the consumers and their economic interest and needs. Let's look at the same people who find such great fault with deposit term. Many of them have billions of dollars of debit insurance in force, which has been termed by many, including many states, to be a ripoff of the consumer. A Sixty Minute, NBC report was done on it. Numerous articles have been written on it. Yet, nothing is said about it.

Our colleague said this morning that he has, in fact, advised some of his policyholders to take advantage of when the high interest rates existed, earlier in the year. Quite frankly, I am so unsophisticated, I didn't know they'd gone down. The fact of the matter is, I wonder how that was done. Was it done by the company, or was it done by just one agent for all of his policyholders, or just one agent for some of his policyholders? And, I wonder which one got the benefit of that advice and which ones didn't. And, I wonder what caused the advice to be necessary at all -- All of which would come out in a formal study.

Agents' contracts. We will find under a formal study of many of the companies, that 40% of the agent's commission is reduced if he sells annual renewable term, as opposed to whole life, or just about any other form of insurance -- partly what you would consider to be a strong inducement

to sell what we have forthwith acknowledged to be the best product the consumer can buy if the agency system could survive selling it. And, interestingly enough, under New York Section 213 - the only code that requires it - that demunition takes place on which there is no legal, moral, or ethical background for it. The other 49 states do not subscribe to it; New York law just makes it occur in your State.

The whole life contract -- delete one word. The gentleman commented that over \$4 billion of whole life had been sold to the consumers of this State this year -- an impressive number to say the minimum. If that was at \$10.00 per \$1,000, that is \$400 million of premium. Twenty percent of that premium, according to LEMRA does not renew. That means that \$80 million were lost by the consumers of this State by buying whole life they were unable to carry through its second year. Now, one of two things happened, ladies and gentleman: Either they had no need for the insurance, and were missold at the outset, which would have been a moral act -- you talk about reprehensible, that would have been the ultimate; or, in fact, what happened is something took place for them economically -- they lost their job, they went through a divorce, they were laid off, or whatever happened. But, the insurance need, if it was sold properly, did not evaporate. What evaporated was their ability to meet the premium. The deletion of one word in the whole life contract -- one word -- would have solved an incredible amount of that problem. That word is in the conversion, where it says: "This policy may be converted to any higher premium payment." Delete the word "higher", allow the whole life contract in your State -- in fact, force it -- to be converted to an ART at the end of the first year if, in fact, the consumer needs it. I suggest to you tens of millions of dollars would be saved by that act, and I am sure it would have the overwhelming support of the New Jersey Association.

Let's look at Northwestern Mutual's answer to one of the problems. It is a very outstanding company, respected by all of us in this business. They looked at the problem. They looked at the consumers. They looked at the economics of today. They increased, for over one million policyholders, coverage by \$4 billion at no increase in premium. What we are seeing today is another form of response, where companies stem the tide by using political clout of their Associations, etc., hardly the same form of answer.

Those interested in changing the non-forfeiture values for deposit term generally have two strong characteristics. First of all, the majority of all their sales in force is in whole life; second, they don't offer deposit term in any form of alternative, irrespective of what cash value is applied.

Let's look at the real issues. I apologize for the slide not being very readable; I will read it to you, if I may. Deposit term has several major consumer advantages that some agents and companies object to. First of all, the lower initial cost in whole life. The young, asset-poor family can come closer to fulfilling the real insurance need that he has at that moment in time, not as close as IRT, but closer than whole life. Where is this published? One gentleman has already introduced one of them: The Federal Trade Commission Report, to which our industry, to its great pride, went to Washington and got the FTC out of the insurance business, thus putting ourselves right there with the funeral directors.

We also found the House Subcommittee of the 85th Congress publishing a report on it that I think would be very enlightening, and should clearly be incorporated in this State's formal document if you accept our recommendation.

Third, the higher commissions and annual renewable term allows the agent to make a living, although lower than the whole life alternative, as we will show you in a moment.

Last, when coupled with a high, modern yielding annuity it offers the consumer more flexibility and protection against early lapse.

Let's look at a male, age 35, \$100,000 initial amount of insurance, a annual premium of 1964, representing a typical whole life participating contract. We use a dividend accumulated and interest and/or we will do it the other way, with paid up additions; flexible payment annuity, current yield 8.25 and a guaranteed yield of 6% for five years thereafter. Let's briefly look at the death estate comparison of what a consumer is looking at on our "sophisticated computer system." First and foremost, the guarantee under the participating whole life is \$100,000. Under the life cycle, which is the deposit term term in an annuity couple, thus creating identically the same cash flow. The guaranteed changes from \$100 to \$169. Using the dividend on paid up additions - which is the most favorable, I should add - is \$236,000 versus \$267,000. That \$31,000 difference might be significant to a consumer in your State.

But, let's look at it from the living estate accumulation. In one he has a guarantee on the participating whole life of \$48,000. Under the guarantee of life cycle he has \$69,000. With the current dividend on paid up additions, he has \$136 versus \$167. So, you will note that the consumer is \$31,000 better off in both instances, live or die.

Let's then proceed to see what happens if the consumers have 20% of them in the first year, and a diminishing number in the second year and are forced to lapse their contract. Our contention is that the majority of them lapse their contract not because they were improperly sold, but because their economic conditions change and they are unable to respond with a premium. If we sold him the whole life contract - a par whole life contract - he is committed to \$1964. His first year cash value is \$231. He has himself a very significant problem -- like \$1700 worth. If he had purchased the life cycle contract with its huge front end load, he would have had a \$1,400 cash value and could have carried his insurance for the next four years out of his existing cash value.

Let's look at the flexibility of the premium commitment and ask which the New Jersey Underwriters would rather see for themselves as a commitment to their agency system, as well as their commitment to the consumer. Ask the consumer which he would rather do, commit to \$39,000 of premium or commit to \$12,000 premium. I think you will find that the overwhelming majority of the consumers will say, "I choose to commit to the lower."

Let's look at the objections that are offered and see how valid they are, and whether or not there is a smoke screen and the subterfuge that we strongly suggest exists. We strongly suggest that a formal investigation, conducted outside of our industry but with subpoena powers used by us to us, that forces us to give you the information you need. I think you will find some very interesting facts.

First of all, let's look at the objections to this product. A client loses his deposit; therefore, he is being ripped off. Unconscionable commission schedule -- we have heard that time and time and time again today. The annual renewable term is cheaper, which we have already commented on. And, another one, which was not mentioned today and which is an estate planning type of thing, is the stepped up cost based on taxation and death, which is relatively esoteric for this purpose.

Now, in the first slide - I am going to go up and point to it, if I may - I am going to show you something very interesting because I have to read the number to you. This is a participating whole life right here. The first premium is \$1964; the cash value dividend is \$231. Therefore, if the client or policyholder drops his policy in the first year, he has suffered a \$1733 loss. We will look at life cycle in two component parts. First, we will look at it just as the modified whole life -- quote, end quote: "deposit term". You will find it as \$668. The first year cash value is zero. The first year loss is \$668. Now, three things are different about this that you should know. Let's start off with contention. First of all, this is a ripoff, and this is right there with God, the flag, and apple pie. (laughter)

The other three things that are wrong with it are, this has a cash value, God bless it, and this does not. However, from the consumer's point of view, he loses \$1100 more, and over here he had \$1,000 more insurance, and he had to come up with \$1,000 less to do it. If we take the same cash flow -- excuse me, he had \$1300 less -- now we have apple to apple. We find that his loss is \$562, not \$1733. Now, LEMRA will tell you the average policy lasts seven years in the United States -- quoting the same source as my colleague from the Association did. In the seventh year this policy is showing a \$985 loss. This policy is showing a \$2,072 gain -- almost a \$3,000 gain, not to mention that during all of these years if the economic circumstances of the customer has changed, and he would have been able to respond; where over here his response would have been considerably less, as I will show you in just a moment. The phenomenon is that the modified premium whole life is the one that we are being asked to stop. It would seem to be appropriate that if we were going to stop anything, we would stop the one on the left first. (applause)

Let's look at the objection that annual renewable term is cheaper. We have already said, but we are memorializing it here with a slide, that that is true, but let's also look at something else that I think is important to understand. The agent performs a very valuable service to the consumers of your State -- a very valuable service. Insurance cannot be purchased out of a machine, or out of a newspaper, for its many multiple uses. It cannot be done. Therefore, the need of the insurance agent is something that I cannot over-describe, nor can I over-describe his value to the consumer. Look at the difference. A good, quality, annual renewable term, ladies and gentlemen, is selling for around \$2.00 per \$1,000. A modified premium whole life is \$2.38, with the additional \$4.00 premium -- the additional first year premium of \$4.00. Thus, the combination in the first year is \$6.38. Over here, the whole life is \$16.22. Now, what you are being asked to consider is a methodology by which to kill this product, while leaving this one just fine, and that one just fine, because they know that one

can't be sold in sufficient volume for the agents in this State to survive. That's the truth. When you do the subpoenas and you put people under oath, you will find out that is the truth. However, the logic is interesting. The modified whole life is based on a cost base of \$6.38. It drops in the next year to \$2.50 -- okay? But, the whole life's cost of \$16.22 is fine. The issue is not the profit, ladies and gentlemen, the issue is competition.

Let me show you one other thing, going back to something I forgot to show you on commission. This product right here, under New York Section 213, will pay 96.4% commission -- fifty-five to the agent and the balance to a structure of a general agent, manager, supervisor, or whatever else the expense reimbursement allowance is on direct compensation. Ninety-six point four percent we own in New York Life Company. We operate under Section 213. Now, that would generate a little over sixteen hundred and something -- almost seventeen hundred dollars in commission. This product over here, the first year additional premium is not commission. Only the two thirty eight is commission. It would generate about \$441 of commission. Now, \$441 providing the insured with \$1,000 more coverage and more flexibility, is unconscionable. If \$441 is unconscionable, \$1700 must be criminal.

Let's look at the retirement objective, since many of your people in your State are concerned about it, and will become increasingly concerned about it. Let's look at the same program that we put into effect, and carry it out to their retirement years. This one we did on a non par whole life, just to show you the relative comparison of par and non par. This one, we stopped paying a \$1652 premium, which is non par. We wanted to have-- This is the client's objective; this is what you and I as agents told our client we would like to see him accomplish if we could. We will provide him an additional retirement income of \$800, above his social security, above his company benefits, etc. We would like to see him maintain a minimum death estate of \$100,000. We would like to see him have a minimum cash kitty of \$100,000 living estate. Let's see if we can do that with the product we call life cycle. The answer is, yes, we could, and here is how. First of all, the cash accumulation -- we would use a partial withdrawal of the current interest rate of 8.25, generating \$11,825, pre tax. We will convert \$25,000 of the policy to a whole life. We wouldn't recommend it at that point, we are doing it simply for explanatory purposes. We discontinued a balance of thirty-six. The twenty five whole life premium is seventeen hundred and fifty-four dollars, guaranteed rate. We would now take the seventeen hundred from the eleven thousand-eight that we got from just cash flow, not an annuitization -- just interest cash flow -- and we now generate annual withdrawal, pre tax, to the consumer of eleven thousand, eight hundred and twenty five dollars. Now, let's look at that from age 65 on, and see how the consumer is impacted by that. The simplest form of doing it is, first we will find that if he keeps his non par whole life contract what he would be doing is continuing to pay the premium of sixteen hundred and fifty-two dollars. At age 75, he would have spent sixteen thousand, five hundred and twenty net after tax dollars to keep the insurance in force. What would have happened is his living estate would have gone up to almost sixty-six thousand; his death estate would have remained constant because it was a non par contract. Now, notice the great miracle of life insurance.

Notice that right here it started off at fifty-nine and it went up to sixty-six -- well, that is almost sixteen thousand dollars, or a little over. The miracle of life insurance: it didn't cost you anything, Mr. Consumer, isn't that amazing. Sixty five to seventy five you carried it free -- like the interest didn't count.

At age 75, he spent thirty-three thousand dollars and the cash flow is now seventy-seven and the death estate is one hundred. Using life cycle, which is why we say it is a competitive issue not a product issue, he would have spent ten thousand dollars between sixty-five and seventy-five -- that's "MIF": money in fist - as opposed to having spent sixteen thousand out of his pocket. That's a twenty six thousand dollar swing in his cash flow. At the same time, his living estate would have gone from one hundred and forty three to one hundred and fifty -- notice, two point something times this -- and his death estate is one hundred and sixty eight -- absolutely, virtually no comparison. Virtually none.

Let's look at the whole life and see if our marvelous contract would have done that. First of all, what options do we have to whole life? Let's look at what we were trying to accomplish. First, we were trying to stop the annual outlay of earned income, because there is a time when a person wants to stop saving and start spending. He wanted eight hundred dollars additional. He wanted a one hundred thousand death estate. We wanted a one hundred thousand dollar living estate. The options he has on whole life is a monthly lifetime, paid up life insurance, extended term, cash the policy in, or pay the premiums -- continue the premiums. Now, let's look at which one gives him all "yeses". The first one gives him one yes -- that is to stop the premium, and if he does he doesn't get eight hundred dollars, he gets three hundred and forty seven, but he loses both of those. If he takes the paid up insurance, what does he get? Seventy-six thousand, not one hundred. He doesn't pay any more premiums. He doesn't give any cash flow to himself. The other two are both below one hundred.

If he takes the third alternative, this is the one he gets the best deal on in terms of how many "yeses" he gets. This is a marvellous situation here. Yes, he does stop paying the premium. No, he doesn't get eight hundred dollars a month. Yes, he does get a one hundred thousand death estate for thirteen years and seventy-one days. If he dies thirteen years and seventy-two days later, he gets three shells and one pea, and he got the one with the no pea, and no one hundred thousand dollar living estate.

The last one -- cash surrender -- he gets forty nine thousand, and that is half, or he can continue the premium. There is actually and virtually no comparison in any dimension whatsoever. Again, a formal study of this will prove the fact so we won't be in these kinds of chambers debating the issue; rather, we will be under subpoena and furnishing it to you. And, the first guy that lies gets to go to jail.

Let's talk about advantages and flexibility. Cash accumulation flexibility -- keep in mind that these are advantages over and above the economic advantages. These are the ones you don't see, but they really come into play if you need them. Contribution may be increased or decreased on a monthly or lump sum basis; it may be stopped or started again, consistent

to the way the real peoples' money actually works. That is the way the real people in America live -- sometimes they have some and sometimes they don't. With our good whole life contract, he does not have those options. He will pay that premium every time. His only other choice is to pay it out of his own reserve.

Functional separate elements for insurance and cash accumulation allows for more stable financial flexibility. Insurance and cash accumulation are integrated and are stated to you that you can't even split them apart. You can't do it; it's magically stuck together. The Federal Trade Commission says it isn't, as well as the 85th Congress says it isn't, but we say it is.

Significantly lower fixed premium commitment, you have already seen that. Higher total premium commitment -- again, there is no choice when it comes to what alternative the client has under varying and changing circumstances.

Liquidity -- let's look at his access to his money. As my colleague commented on this morning, all those interest rates went up, and still are, and what a super thing they had. Let me show you what they would have had under a different plan. In liquidity under partial withdrawal, ten percent of the annuity accumulation may be withdrawn each year at no charge -- zip. And, withdrawals after that come out in excess of ten percent, subject to a one-time low withdrawal charge that melts down at the end of the ninth year to two percent -- a one-time two percent. That is significantly different than a compounding interest factor of five to eight -- a significantly different factor. Competitive interest rates reflect the many market conditions and our own investment result. Fixed by law, interest on dividend accumulations vary, but have no underlying guarantees. Every dollar going into life cycle has that underlying guarantee. Since that is the business we like to talk about being in, years ago when the people were in the mutual fund business and we were trying to stop that, we hammer on the one guarantee.

Ability to modify type and amount of coverage -- over here you can modify it to a higher premium type, just what the average American citizen needs, the right to pay more for his insurance.

Flexibility -- our conclusion is there is no comparison between traditional whole life and life cycle. The objections are based on inability, or unwillingness, to compete. Those are the real issues.

Let's look at it from one point of view that we think you will find particularly interesting, having seen the preceeding slides. If you were in that business and did not have these products, and this was a public forum of New Jersey people interested in buying life insurance, and saw those two, and they are both truthful, which do you think they would buy? We don't have any doubt which they would buy. This is why we were the number one growth company in the United States. We know what they are buying. If you, therefore, are in the position of trying to generate new business, and you didn't want to come out with that product, would you not try to stop it? I clearly would. If you were losing your agents to companies that are doing this because of exactly the reasons you are looking at, would you want to stop it? Clearly, you would want to stop it.

On the issue of replacement, if you are looking at, side by side, the advantages of that, where you were told you would lose control of your

money, etc., etc., the consumer can read the economic facts. In that case, we were talking about a \$100,000 policy, with which the company is involved here. Probably the average sized policy is twenty five; we are talking about four hundred dollars. That is hardly what you would call asset management loss.

Those are the real issues right there, having nothing to do with the protection of the consumer; it is protection of self interest.

Let's look at how interested these individuals are in the consumer. About seven percent of the consuming public in the United States that are life insurance buyers are sub-standard risk. Let me show you how that works with the standard, typical, "vanilla", participating whole life. The premium goes from nineteen hundred and something. Incidentally, sub-standard table four means they have one hundred percent increase in mortality risk, ladies and gentlemen. In other words, they have a one hundred percent increased opportunity for looking at the roses from root end. This entire loading loads both sides, the cash accumulation side and the mortality side. Now, if you went to a bank to deposit any money, or a savings and loan, have you ever had anyone ask you, "What is your state of health"? If you don't have a very good heart, or if you are a little bit chubby, they say, "Well, this is ten thousand you want to put in; we will give you eighty six hundred of it back if you withdraw it." You would look at the guy like he absolutely smoking grass, or something. Okay? That's what we do here. But, when you split the products and you say: "This is a risk premium", that's what that is; that's pure life insurance premium, and that has an extra mortality on it because we are sorry you are not as healthy as everybody else is. This piece over here doesn't because that's just plain savings. Now, the difference in that in total outlay. We combine these two to make them constant. So, you will see that the consumer has the ability to put the money aside. Let's see what happens to his difference. At the end of the first year, on a twenty three hundred dollar premium, there is fifteen hundred dollars worth of difference. By the time you go to the fifth year, there is five thousand, seven hundred and forty-one dollars worth of difference. By the tenth year, there is ten thousand, six hundred and forty. And, by the twentieth, there is twenty-two thousand dollars worth of difference. Now, that is a ripoff product. That's incredible, isn't it? That's the one we are supposed to be legislating against. I don't think that is going to stand the light of day, gentlemen, when you see it closely. I don't think it is going to stand the light of day.

Now, we ask you some rhetorical questions here. If this is what it is represented to be -- what you have already heard and what you undoubtedly will hear further today? Is the American Council of Life Insurance, which represents 94% of the insurance in the United States, here today to testify in its behalf? No. And, will they be? No. Is the National Association of Insurance Commissioners here today to testify in its behalf? No. Will they be? No. Are any national or state consumer groups here to testify on outlawing a single product? I doubt it seriously. The Society of Actuaries, are they here today to testify in its behalf? We doubt it seriously. The Federal Trade Commission, or the Congress, that has done a great study on this issue -- no one. Who supports it? Our local association.

The replacement -- let me give you a reading. This is an absolute quote, which will be on the slides you were furnished. This is a quote from the National Underwriter, September 13, 1980, by Mr. Myron Margolin. It says - I quote: "The replacement of Prudential policies with partial endowment policies (deposit term) on financial grounds rarely, if ever, can be justified." It rarely, if ever, can be justified. That testimony, incidentally, was in front of the National Association of Insurance Commissioners, so it clearly would have been said in absolute, ultimate honesty. Interesting point.

We would like to make a challenge to that. Firemens Fund American Life, based on its experience, contends this statement is self-serving, misleading, and inaccurate, and it was testimony before the National Association of Insurance Commissioners. What do we suggest be done about it? The truth, from the consumer's perspective, can be determined, and clearly should be determined before any changes are made in the non-forfeiture statutes that may adversely affect New Jersey's consumers' choice of products. We respectfully request that the New Jersey Legislature, in concert with the New Jersey Department of Insurance, undertake an in-depth study of the subject of replacement to determine if replacements are in the best economic interest of the consumer. Such an undertaking will have the full and complete support of the Firemens Fund, and I can assure you will have the support of a number of other interested parties.

As to the remaining part of the bill in front of you, relative to sales and the advertising section, we have no objections to any rules that are fairly and equally applied to all products. We strenuously object to rules designed to discriminate against a single product line.

May I be specific in an example of that? It is suggested that the consumer be focused on how much he will lose if he drops a deposit term contract in the first five years, second year, fifth year, or whatever year. We completely agree with that. The consumer should - if you will pardon the expression - damn well know; but, he should also know what he loses in any cash value policy he buys. So, the seventeen hundred dollars we show with the whole life, the gentlemen who sell whole life will show that and they will say, "If you buy this plan and you do not continue it next year, you will lose \$1700. Do you understand that"? As long as the rules are equitably applied, equally and fairly, we have no objection to whatever they are. We are perfectly willing to live with whatever this Legislature and this department comes up with for the protection of its consumers. What we are not willing to live with is a discriminatory act focused only on one thing, and that is competition; it is not in the best interest of your consumer.

We thank you very kindly for the opportunity of presenting our views. (applause)

ASSEMBLYMAN BORNHEIMER: Do the members of the Committee have any questions for Mr. McCormick? Lou.

ASSEMBLYMAN KOSCO: Just one thing. Mr. McCormick, you said that Congress did an in-depth study of this particular situation. Do you happen to have copies of that study, or are they available?

MR. MC CORMICK: Yes, sir, they would be. They are published under the Moss Committee, which is a Subcommittee on Interstate and Foreign

Commerce, 85th Congress, published December, 1979, Congressional Printing Office, Washington, D.C.

ASSEMBLYMAN KOSCO: All Right. Thank you.

MR. MC CORMICK: It was a very in-depth study. It covered a period of years, and I think it would be enormously enlightening to your Committee.

Incidentally, parallel in enormously close detail is the Federal Trade Commission. It is very, very parallel to the Federal Trade Commission.

ASSEMBLYMAN BORNHEIMER: Mike.

ASSEMBLYMAN ADUBATO: I want to compliment you first, Mr. McCormick, on the very enthusiastic and informative presentation. I start off by saying that some of the things you spoke about I agree with. In my opinion it is true that the insurance industry, first of all, should find newer and more innovative ways to produce more for the people they are selling insurance to.

With that aside, I took special notice during your presentation that you, I think, agreed that an annual renewable term contract would probably be the best product as far as net cost analysis over a projection, as opposed to whole life or deposit term. Is that a fair statement?

MR. MC CORMICK: That's correct, sir.

ASSEMBLYMAN ADUBATO: And the reason I believe you gave for not selling annual renewable term was because the agent - and I agree with it - must make a living. But, it is not necessarily a purist statement that it is the best thing for the person who is buying the product. Would that also follow?

MR. MC CORMICK: Do you mean in every instance?

ASSEMBLYMAN ADUBATO: No, I won't say in every instance. I won't say that.

MR. MC CORMICK: I don't think anything fits every instance. There is clearly a time when a number of the insurance products we have fit the consumer's interest, which is one of the reasons why you don't hear us, in our side of this philosophical discussion, if you will, siding for "take that off the market; change its cash value" -- you know, do all those wierd things to it -- because, quite frankly, we don't find any fault with competing against it. We find no fault with it, and in many instances we find great use for it. Okay?

The only thing the people in our philosophical bent are attempting to do is to prevent ourselves and what we represent to the American consuming public from being pushed off the sled.

ASSEMBLYMAN ADUBATO: The next question I was going to ask you was, in your opinion, in your vast experience, who or what would you consider the profile in income earning need of the individual that you think would be the ideal prospect for deposit term?

MR. MC CORMICK: That's very interesting that you raised that question, sir, because we just completed a study on that exact issue; albeit relatively informal, nonetheless, over a year we have looked at that subject. We average about \$78,000-average-sized policy, which indicates to us that we are selling to a slightly above middle income market -- that being probable average income in the \$27,000 to \$32,000 class. Now, part of that is the fact that the product is not available in its present form to the lower

income group. We are designing a product for mass merchandising that will, in fact, be available to the modest income American. We are finding - which is true of the profile of all of the insurance companies - the larger the product, the larger the sale, the more apt it is to be ART. You find a two, three, four, five million dollar sale almost inevitably is an annual renewable term because this person is getting the advice of attorneys, CPA's, etc., where the person buying a five, ten, fifteen, or twenty-five thousand dollar policy is not getting that kind of advice, if, in fact, he could get the ART at that price.

ASSEMBLYMAN ADUBATO: Well, then I would assume - and it may be presumptuous to presume anything - that your profile is dealing with a non-corporate entity?

MR. MC CORMICK: Oh, yes, indeed; it is with the individual person.

ASSEMBLYMAN ADUBATO: So, you are not soliciting corporate entities as such?

MR. MC CORMICK: Not as such, no.

ASSEMBLYMAN ADUBATO: Okay, so we have limited the discussion to individual sales.

MR. MC CORMICK: If it would be helpful to you, and I think perhaps it might, sir, a comment was made earlier that people are soliciting through property and casualty agents who answer four questions and obviously the intent of that statement is to disqualify them as either qualified people or knowledgeable people. We have over 10,000 property liability agents in the Firemens Fund Agency organization. We have a little over 11,000 in the Firemens Fund Life organization. There are about 2,000 that are common between. I would venture to say, without statistical fact on this - but here again, our study, if you choose to initiate it-- We would be more than glad to get the numbers together for you. I would estimate that over ninety something percent, probably in the ninety percentile range, of our life sales are from life agents, not property-casualty agents. The overwhelming majority is from life agents.

ASSEMBLYMAN ADUBATO: I appreciate the information. I didn't know I asked that question, but it's okay.

First of all, let me back up by saying that I have never sold debit insurance. I think I have some knowledge of it, and I agree with you, that in the cost analysis it is horrendous; however, the \$25 a week policy that my mother still has on my life, which is returning about 40% when I am 65, was something that she could afford. She couldn't afford anything else. So, while I agree with you with the net cost analysis, I think it is fair to say that the debit contract was sold specifically to those people with the cookie jar, and I think it served a purpose and had its day. I think it is out-dated today for the most part, but I really think it was a product that did a lot of good for a lot of people, in spite of the fact that times have changed and the money market has changed.

I just want to bring that out because while, again, I agreed with you that the insurance industry could do more for the product, I would like to tag a comment onto your comment that the agent has to make a living. You have to have a profit in free enterprise, which I think we all agree with. Your comparisons, for the most part, dealt with participating contracts.

First, I would like to tell you that my first seven years in the industry were with a good mutual company, but I agreed, philosophically, that the better deal, as far as I was concerned for my clients, was to associate myself with one of the - if not the -lowest, net cost, non-participating, insurance companies in the industry. But, that is my personal philosophy.

The amount of money that is controlled -- you mentioned Prudential -- and the amount of jobs, excluding agent, the amount of diversification that goes into the pyramid of industries, the other jobs, the other employment, do you think that is a legitimate basis for the life insurance companies to say: "Yes, this is our product, and this is what we are giving you for your money"? In New Jersey, as you may well know, when you deliver a contract you also have to deliver an illustration. I am sure most agents in the industry, when they deliver their contracts -- I hope they do; I think they do -- analyze it and explain it to the individual. In fact, most companies that I am aware of also show a cash value sheet outside of the policy itself -- separate. They project every year. What I am getting at is the philosophy of deposit term as opposed to whole life, as you laid down those ground rules.

You already agreed that annual renewable term is better. The justification for going in and selling it initially is one thing, to a primary buyer. I think it is another thing when you go in and you cancel out a contract that has been in force for some years, as opposed to canceling the contract and taking that equity, if you will. I agree that you can't limit it to one policy because I am sure you know that there are contracts that would provide the same amount of death benefit even though you extract and take the equity out of the contract, either by a dividend option, if you are dealing with a mutual company, or a non par term rider. So, you are not losing any death benefit, necessarily, if the agent is doing a good job. But, he can still take the money and have that flexibility and diversify it into something else without using deposit term. There is no need, in my opinion, for him to use deposit term at that stage, without arguing our philosophical differences -- okay? Do you find that plausible?

MR. MC CORMICK: Plausible is a very sweetening statement. Yes, it is plausible. Would it be intellectually bullet proof? No. And, the reason it wouldn't be intellectually bullet proof is because there are a number of different factors you have to look at, one of which is the composition of the person, and what he wants to do. One of the reasons that we have so strongly supported the buyers guide in life insurance, which you know got a thundering round of applause from all of our colleagues in the Association -- they were very strong to see that this came out early, having fought for years to get it - was because it did, in fact, define those different choices to people in simplistic language. So, the questions were raised just exactly as you raise them.

You see, one of the things that is a myth about deposit term, and it is certainly a myth relative to our own company, is that its whole reason for existence is replacement. That is ridiculous, from our position. First of all, about twenty-six percent of our business is replacement. That comes about as a result of-- It is not because we are oriented to "replacement." It is extremely difficult to show someone a contract, as you have seen up

here today if the guy is sitting there with a \$25,000 contract and you have just done an estate analysis for him and he needs \$250,000 worth of coverage, or whatever he needs -- maybe it is \$100,000 -- and you show him the balance of seventy five and he says: "Wait a minute; that incredible.

I am paying five hundred for twenty five, and I am paying seven hundred and fifty for seventy five thousand. What would it look like if I had the whole thing"? Now, the agent at that point in time has two choices: He can lie or tell the truth. He is very well advised to tell the truth, and the truth is, "I don't know; I will run a comparison for you and we will look at it." But, you see, one of the interesting things about replacement is -- which your study, sir, I submit, done properly, will show, and only you have the power to do it, not us; I can't make any insurance company in this country do anything, you can because you can tell them they don't get to stay in New Jersey if they don't -- (continuing) you say, "Okay, this policy was replaced by what and for how much." You see, one of the things that is open to some considerable amount of intellectual debate is whether or not a policy replaced at \$25,000 for one at \$75,000 is deleterious to the client. If in fact, the insurance need exists, I strongly suggest that it is not.

Now, if in fact -- your premise is based on the fact that the man has one hundred and your are replacing it with one hundred for the purpose of doing it with deposit term versus ART, I quite frankly would side with you and have great difficulty with that.

ASSEMBLYMAN ADUBATO: So, the real overview - if I can say that - is that I have no problem in saying to you that out of the fourteen or fifteen hundred life insurance companies, forgetting deposit term philosophy, you have many, many differences in the course of doing business, and whatever. Is there any other remuneration when you sell deposit term besides what is a very, very high commission on term insurance? I am not arguing it one way or the other, but is there any other value the person receives who sells that product, or could receive?

MR. MC CORMICK: Is there any other value that the agent, or the person selling it receives?

ASSEMBLYMAN ADUBATO: Or a district manager?

MR. MC CORMICK: Economic value, yes. Okay. Yes. First of all, he will receive - it is very small - a commission on the annuity. It will generally be something like 4%. He will receive, if the policy is renewed-- Oh, he may receive on our products - we have what is called a scheduled annual renewable term which allows the face amount of the policy to be increased as it goes forward. So, a one hundred thousand dollar policy can be programmed by our agent on behalf of our client to be worth two hundred thousand dollars ten years from today. So, actually, he receives a commission on that. If the entire plan rolls over, at the end of the tenth year he would receive yet another commission.

ASSEMBLYMAN ADUBATO: Would he receive at the end of the tenth year another new, first year commission?

MR. MC CORMICK: It could be described as that, yes.

ASSEMBLYMAN ADUBATO: Well, that's what it would be, right?

MR. MC CORMICK: Yes. Which is similar, I might add, to the property and casualty business, the group business, or whatever else, where a new

commission is paid every single year, except this one goes down and back up at the end of ten years.

ASSEMBLYMAN ADUBATO: Well, I want to limit it to life insurance, if I may. Is there anything else?

MR. MC CORMICK: Not that I am aware of.

ASSEMBLYMAN ADUBATO: Well, maybe in your company there isn't. Are there any other companies selling deposit term that allow for pyramiding, or stock options, or lump sum participation after, say, five or ten years, producing a certain amount of volume that the agent will receive--

MR. MC CORMICK: I--

ASSEMBLYMAN ADUBATO: Forgive me; let me finish. (continuing) --that the agent receives a piece of all the business that is produced under those people that are in this circle.

MR. MC CORMICK: I personally have no knowledge of that, no -- certainly not within our company.

ASSEMBLYMAN ADUBATO: Are you aware of any other company that does that?

MR. MC CORMICK: Not per se, no. I am aware of companies all over the United States that have stock options, that have--

ASSEMBLYMAN ADUBATO: (interrupting) I am talking about specifically dealing with deposit term as their vehicle -- that is really their leader. I think they are from California also.

MR. MC CORMICK: A California company?

ASSEMBLYMAN ADUBATO: Yes.

MR. MC CORMICK: No, we are not aware of them.

ASSEMBLYMAN ADUBATO: Oakland or somewhere out there. You are not familiar with them?

MR. MC CORMICK: No.

ASSEMBLYMAN ADUBATO: I thought maybe you could help me because I have some limited information on them.

MR. MC CORMICK: There are a number of companies in the United States that have all sorts of promotion things. You know, one company has been famous for years for giving away cadillacs. You know, you sell enough whole life, they will give you a cadillac. There are a number of companies like that.

ASSEMBLYMAN ADUBATO: I think that is a fine company.

MR. MC CORMICK: Yes, it is.

ASSEMBLYMAN ADUBATO: I'm with it.

MR. MC CORMICK: Are you? (laughter)

ASSEMBLYMAN ADUBATO: By the way, I didn't take the cadillac: I took the Lincoln Continental. (laughter)

MR. MC CORMICK: Gas mileage is better in the cadillac.

ASSEMBLYMAN ADUBATO: But, of course, it is also a company that doesn't provide us with any secretarial help; any telephone costs; any office costs; and I am a pure general agent. As you know, the cost of doing business in insurance is hidden; it is not just the agent's commission, as we all know. But, that is another side.

The value that I am getting at and the reason why I am taking this stand, I think, is because I took exception -- not to some of your statements

as much as to the tone of some of your statements, because we can discuss and disagree, as you pointed out, philosophically. The one thing I have to say for the record is, the easiest thing to attack, and I have been doing it for seven years, is a giant. But, at the same time you attack that giant, I think it is fair to say that Prudential Insurance Company -- you mentioned Prudential two or three times-- I would like to say that the State of New Jersey is very proud that Prudential's Home Office, in its beginning, started in this State, and it provides an awful lot of jobs and an awful lot to our economy. In fact, it wouldn't be an overstatement to say that one of the things that has given us an identity in this state is our Meadowlands Sports Complex, where the New York bankers left us in the twelfth hour, and Prudential put up the "bread." I am very proud of that, and I am very proud of Prudential -- although I don't always agree with them, as you may or may not know. I think they are an excellent company, and I just have to say that because I believe it. I believe it is true. I think they can improve on their products, like we all could improve on a lot of things, but I don't think the attack on Prudential was necessary, in my opinion. On the product, it is one thing.

I would also like to see in your illustrations -- and maybe the next time you deliver a slide you will use that company that I earned that car from -- the Prudential Insurance Company. I would like to see that, because I have already done it. Then, let's talk about who is doing what for people and who is giving more to people, not only in return, which is important, but in flexibility and the right to choose. I couldn't agree more with your philosophy, that once you have that pile of money, the way the economy is today and with what is happening today, you are losing money by leaving it there, but the thing that I haven't heard anyone bring out today is that in that 6% return of interest that you have to pay - and I don't want to debate it today because I have been debating it for a little while now with some people from Florida that are selling deposit term - after that seven year period, you see, in that grey area, we talk about whether or not that interest is tax deductible or not. It is a very interesting proposition that arises because if you took that money out then and you still had the 6%, and if it is true that you still can take that tax writeoff because you meet the seven - but I don't want to argue that - then you project it into a similar situation, with a similar return, comparing apples to apples and peaches to peaches, and I think you would find what happens very interesting.

The problem, as you pointed out, is that you have to be there; you have to tell your client about it; and you have to provide him with that information. And, I agree with that, it is a hard thing to do, but it can be done, and I suggest it can be done as well if not better in many cases than selling a person deposit term. That's my opinion. (applause)

ASSEMBLYMAN BORNHEIMER: All right. As I said before, we will hold back the emotions. Are you finished, Mike?

ASSEMBLYMAN ADUBATO: Yes.

MR. MC CORMICK: May I make an observation to Mr. Adubato's statement?

ASSEMBLYMAN BORNHEIMER: Surely.

MR. MC CORMICK: First of all, I would respectfully submit to

you that we are not the attacker we are the responder -- okay? We are not the person or the company or the philosophy that is attacking. We have not ever. We have just, with a great deal of consistency, had to respond to the same identical issues -- and, incidentally, to the same identical results. The fact of the matter is, we would like very much to just simply have it accepted on its face value, as "there are places for other things." It was purely by choice, or by chance - and I mean totally by chance - that the incentive award program I pointed out happened to be your company. That was a remarkable coincidence, but nonetheless it was a coincidence. I picked that because we find great fault sometimes with the fact that company "a" over here is doing something and its incentive is too nifty, or it is too something or another, but if it is being done over here under a different format, then it is kind of like whose ox is getting gored. Now, interestingly enough, you have not hearing us say incentives ought to be stopped, or life commissions ought to be lowered, or any of those kinds of things. You see, we are not on the attack here -- never have been. We never want our company to be in that position. But, what you must do when you are attacked is, you must respond. That, sir, is respectfully what we are trying to do.

ASSEMBLYMAN ADUBATO: You are doing a good job.

MR. MC CORMICK: Thank you, sir.

ASSEMBLYMAN BORNHEIMER: If I may--

ASSEMBLYMAN ADUBATO: Even though I may not agree with you, you are doing a good job.

ASSEMBLYMAN BORNHEIMER: Has your company projected what the initial cost would be to the consumer with a renewable clause at the tenth year, and without the different age category?

MR. MC CORMICK: I'm sorry, Mr. Bornheimer, would you say that again, please?

ASSEMBLYMAN BORNHEIMER: Has your company projected what the insurance will cost to the consumer at the end of the tenth year when he has to buy a new policy?

MR. MC CORMICK: Yes, it is projected out. The choice the consumer has is given to him at the time he buys it. As was stated, an illustration is given to every consumer. It goes all the way out to any age he wants, including age 100.

I would like to make one observation that I think should be noted here. One of the legitimate, in my opinion, objections to deposit term is the fact that it converts to whole life at the end of ten years in many of its forms. I totally agree with the legitimacy of that objection. I think you should, however, understand how it came into existence. Some years ago when the product was being filed in a number of states - and letters of record can be shown if you choose to initiate the investigation we recommended, or the study - they refused to approve the product because it didn't, some time or another, turn into the magical product of whole life. So, companies that design the products said, "Okay, we will design the product for a term of ten years, and then automatically convert it to whole life, with the option to renew it," which, of course, did nothing but placate the states on a particular point. Subsequently, the newest products we have brought out do not convert to whole life automatically, but rather renew automatically, with the option to take whole life, if that is what you want. Subsequently, we intend to

change all of our products, so that whole entire option is out of it, except as an option; it is not automatic.

ASSEMBLYMAN BORNHEIMER: Now, that projection is a guaranteed price?

MR. MC CORMICK: Oh, yes, sir. It is fully guaranteed price, that's correct.

ASSEMBLYMAN BORNHEIMER: Has any state, or anyone -- or the Congressional investigation -- asked the Internal Revenue Service to take and make a recommendation of whether these interests, or whatever you may call them, are non-taxable? And, on what basis have you established that they are are non-taxable?

MR. MC CORMICK: Under IRS Section 101, cash value accumulation, until it exceeds the gross premium, is non-taxable.

ASSEMBLYMAN BORNHEIMER: Now, let me ask you another question in reference to your own particular company. Take, for example, that you have a consumer, or a client, who has a whole life policy with a cash surrender value, or has a cash value. Do you recommend to that consumer, or do your agents recommend, or it is the company's policy, that he take and convert his whole life policy to deposit term, or do you recommend that he take the cash value and convert that to some other type of term which would be compatible to deposit term?

MR. MC CORMICK: First of all, in the company we have only one stated position on the subject of replacement, and that is that it is in writing, it is made crystal clear, it has been done, or stated, publicly, as it is being stated now. First and foremost, we are unalterably opposed to the concept of replacement, unless it can be clearly shown to be in the consumer's best interest. That is position one.

Position two is that in the conducting of the affairs that bring about the conclusion of position one, it must be within the letter, the moral, and the spirit, of the law of that state, and if that state is silent, as fifteen states of this country are silent, then they will use our replacement statute. -- which means we have no silent states at Firemens Fund. There are none. To my knowledge, we may be the only company in the country that does that. So, we supply an analysis of that, irrespective of whether the state law requires it or not, because we think it is necessary and in the consumer's best interest.

ASSEMBLYMAN BORNHEIMER: Are there any other questions from the members of the Committee?

ASSEMBLYMAN ADUBATO: You know, I wrote almost the same question down. I didn't ask it; I took so much time. But, I would like to say that when we talked about profile, and we are talking about the earning years, and the years of dependency - I saw a young lady walking around with a sign that said, "Vote No; Protect our Children"-- Unfortunately, I have had the opportunity to pay death claims, and it is one thing in dependency; it is another thing when you start talking about those people. Today I think there are a hell of a lot more people that are in need of insurance for state tax, as well as non-taxable money -- as much as we can get, legally. What happens to that individual if he goes along with the process, say from age 35, and then doesn't have the same earnings that he had and is now on a fixed income - which most people would be - but needs that \$100,000 life insurance? He is

going to pay - if I am wrong, correct me - either a very high premium for term insurance again, or if, for instance, the individual becomes uninsurable, I would think he would convert to whole life at any stage, in my opinion. We can debate that, but I would rather not. That is what I would urge. What happens to that individual when he has to pay that kind of a premium, as opposed to the argument that if he --? I am not defending the system; what I am defending is that there are ways within the structure of the system, according to what contract you are using, and how you apply and diversify that equity, to have that person have that \$100,000 whole life contract paid up at age 65 by replacing the money that he spun off, not into the deposit term concept necessarily, but taking that money out that he had the use of and then buying-- You know, he kept the contract. He never lapsed the policy. So, he is tying up whatever amount -- \$60,000 or whatever it may be according to the company -- to buy a fully-paid-up life insurance contract without paying any more premium, but still having the benefit of today's economy. I would think that there is no comparison to doing it that way, as opposed to having a man take money now and then purchase a life insurance policy. And, I admit that I am setting up a certain situation, specifically. I admit it. You know, it is not universal. I am not saying it is for everybody. I am saying for this specific situation.

There is no way, that I can think of -- and I can change my mind if I see facts -- after 20 years in this business -- and I know something; I am not saying I know everything, but I know something about this business and money -- that anybody can say that he is not a heck of a lot better of taking that equity out, diversifying, having that policy, without having to pay for it at age 65, if there is a need for permanent life insurance. If there is not a need, that is another story. But, if there is a need for life insurance, for whatever reason, when that person is on that fixed income, how do you or I, as salesmen who believe in what we are doing regardless of where we are coming from, sell that man that product and say, "Okay, at age 65 you are going to have to go out and you are going to have to pay maybe \$6,000 a year in premium for the \$100,000 policy -- or more. Is there any response that you can help me with?

MR. MC CORMICK: Yes.

ASSEMBLYMAN ADUBATO: Good.

MR. MC CORMICK: In fact, there is one I can give you beyond help; I can give you absolute proof, and that is commence the study that we suggested. Commence the study that we suggested, and then when you outline specific detail, you have alternative a, b, c, d, and intelligent people - knowledgeable people such as yourself - can look at it and say, "Given these circumstances, there are four legitimate choices there, two that are sort of flaky, but nonetheless real," and you might find that of 100,000 New Jerseyians that look at it, 25,000 take each of the four, for whatever reason. Because when you use terms like fixed income, if fixed income is at \$800 a month, that is one thing; if fixed income is "I'm fixed and right down to my last \$140,000 a month from my oil wells", that might be a different fixed income problem. What is a gross estate? What kind of tax problems do we, in fact, have under the then existing Federal Income Tax laws? All of those are variables, and thus preclude my responding to them in any specific "yes", "no", "I agree", "I don't agree" manner

ASSEMBLYMAN ADUBATO: I agree that I was unfair by setting out a specific situation, and I also say that it is fair to say that while whole life is not apple pie and motherhood, I don't think deposit term is apple pie and motherhood either.

MR. MC CORMICK: I didn't suggest it was; I do not now suggest that it is.

ASSEMBLYMAN ADUBATO: Thank you.

MR. MC CORMICK: All that we suggest, and have all along, is it is a legitimate product; it has a legitimate place in the marketplace, and it should not be legislated against. That has been out only suggestion all along.

ASSEMBLYMAN BORNHEIMER: We will break for lunch now. We will be back at 1:30.

(lunch break)

AFTER LUNCH:

ASSEMBLYMAN BORNHEIMER: We will call the hearing back in session now. The next person we will hear from will be Robert Witney.

R O B E R T W I T N E Y: Good afternoon

ASSEMBLYMAN BORNHEIMER: Good afternoon, Mr. Witney.

MR. WITNEY: I feel privileged to be the lead-off speaker this afternoon. My name is name is Robert L. Witney. I am the Vice President of Huggins and Company, consulting Actuaries of Philadelphia, Pennsylvania. I am a fellow of the Society of Actuaries, a memeber of the American Academy of Actuaries, and also a Certified Life Underwriter. I am representing Firemens Fund, American Life Insurance Company.

My testimony will explain our opposition to Assembly Bill 2001 for reasons based simply on the minimum cash value requirements therein.

Huggins and Company is one of the oldest actuarial consulting firms, having been in business since 1911, and has had extensive experience with additional first year premium policies. Incidentally, my usage of the phrase, "additional first year premium" here is consistent with the spirit, and perhaps the letter, of Section 4 of the subject bill. As is noted in the Statement accompanying this bill, the original label of "deposit term" can be misleading to the consumer, who might think of the additional first year premium as a deposit in a savings bank.

First, I will provide some historical background. As was mentioned this morning, the development of additional first year premium contracts dates back to the mid-1960's. At that time, many newer companies found it difficult to attract quality agents. Those agents that they did attract provided them with poorly persisting business. This produced losses for these companies, many of which did not have the capital to absorb such losses.

These losses arise because when a life insurance policy is written, a substantial expense is incurred, ranging from 125% to 200% of the annual premium, just for acquisition costs. These costs cover sales commissions, sales management and training costs, policy issue, record establishment, underwriting expense, medical exams, etc. These costs are then recovered

over a period of five or more years.

When a policy lapses for nonpayment of premiums, the unrecovered acquisition becomes a loss. In the premium calculation process, the actuary anticipates such losses, and arranges for them to be absorbed by the persisting policyholders through higher premiums. If the level of lapses exceeds what had been anticipated, the Company absorbs the losses. The dilemma of many new companies was to minimize the risk of such Company losses. They also were interested in reducing the impact on persisting policyholders' costs.

A few creative companies, in analyzing these problems, came up with the idea of providing a more specific penalty to lapsing policyholders. This took the form of an additional first year premium added to a level 10 year term policy. If the policy did not lapse during the 10 years, the policyholder would receive twice the additional premium back.

It has been accepted by the vast majority of actuaries and regulators that it is proper to provide a penalty to lapsing policyholders of additional first year premium policies in the form of policy cash values which gradually increase to the tenth year endowment of double the additional first premium. Another facet of what is generally acceptable is that the first positive cash value will be available in the fourth or fifth policy year for most ages at issue. This level of cash value is actually in excess of what is required under the standard nonforfeiture law, which is applicable in New Jersey.

Assembly Bill 2001 maintains a penalty to lapsing policyholders, but the required minimum cash values are significantly in excess of what I just described as generally accepted minimums. This leads to our opposition of Bill 2001 for the following reasons, each of which will be discussed briefly:

1. It does not follow the principles or the spirit of the Standard Nonforfeiture Law.
2. It is inconsistent with basic actuarial approaches to the determination of cash values.
3. It would unnecessarily add to the cost of the product, causing companies to raise premium rates for New Jersey residents.
4. It treats one type of insurance product completely differently from all others, although the same issues concerning early termination equity pertain to these products also.

Mr. Alfred M. Guertin, currently a consulting actuary and a resident of New Jersey, and previously an actuary of the New Jersey Insurance Department, was Chairman of the National Association of Insurance Commissioners Committee, which developed the Uniform Standard Nonforfeiture Law. The purpose of this law was: 1. to update minimum cash value requirements in a way that is fair and just to the policyholder, and also recognize some, but not all, of the insurance company's acquisition expenses; and, 2, to establish uniformity of cash value requirements in all states.

Mr. Guertin has testified that the additional first year premium type of policy was considered when the standard law was drafted, and that such policies which contain cash values within the requirements of the standard Nonforfeiture Law cannot be regarded as unfairly discriminatory. In addition, it is not within the principles nor the spirit of the Standard Nonforfeiture Law to split a policy the way Bill 2001 does into a term insurance element

and a savings element, and to require separate minimums on each part. If such were the case, the minimum cash values on virtually all permanent forms of insurance would be higher. In short, Bill 2001 is unfairly discriminatory but the standard Nonforfeiture Law currently applicable in New Jersey is not.

As I indicated earlier, in describing the initial development of additional first year premium policies, it is standard actuarial practice for an insurance company to recover its commission and other acquisition costs over a period of time. Assembly Bill 2001 would significantly lengthen this recovery period, thereby increasing the costs of early lapsation.

This additional cost would cause some companies to stop issuing in New Jersey, or to raise premium rates for New Jersey residents. Prior to this morning, I thought the indirect intent of the framers of this bill might be to prohibit the sale of additional first year premium policies in New Jersey, now I learn that the intent is to lower commissions. In my opinion, there is enough superiority in the typical life cycle type product over the typical whole life product for the result to be an increase in the term premium, rather than a reduction of commissions. I might add that it is rare for a State to adopt a special nonforfeiture provision for the additional first year premium type, or any other type, product.

My testimony has been essentially limited to the minimum cash value requirements of Assembly Bill 2001. It is very difficult to understand the statements describing these requirements, whether one is an actuary or not. We question whether the Assembly would want to follow such poor form which could lead to substantial differences in interpretation between the insurance department and carriers. Aside from this point, we have mentioned several substantive concerns with this bill. I would like to close by repeating them in summary form:

1. The bill does not follow the principles or the spirit of the Standard Nonforfeiture Law. Such law anticipates additional first year premium policies.

2. It is inconsistent with basic actuarial approaches to the determination of cash values which take into account the impact of acquisition costs.

3. It will cause companies to increase premiums in New Jersey.

The National Association of Insurance Commissioners is considering a cash value formula for additional first year premium policies, commonly called the NAIC method. It is my understanding this method will be discussed more fully by other speakers. My purpose here is to indicate that if New Jersey were to take any action on cash value requirements, it should follow the NAIC method in the interests of uniformity.

Thank you for the opportunity to present my views.

ASSEMBLYMAN BORNHEIMER: Thank you very much, Mr. Whitney. Mike, do you have any questions?

ASSEMBLYMAN ADUBATO: No, not really. I would just like to thank the speaker.

ASSEMBLYMAN BORNHEIMER: Thank you very much.

ASSEMBLYMAN ADUBATO: Mr. Chairman, if I may make a suggestion, with this long list that we have before us, I hope that we can give everyone an opportunity to present their point of view. It might be helpful if the Chairman would request the speakers to, if they have one, leave a copy of

their presentation and to, more or less, give us an overview instead of reading. We have allowed the previous speakers this morning to take all the time they wanted. We haven't heard at all, but I think that the speakers who presented their point of view this morning did it very eloquently, on each side of the issue, and I would hope that the speakers, in fairness, give everyone an opportunity to speak, and that we could limit the time for each speaker, and read into the record their total statement, if they have a printed one with them. That is just a suggestion, Mr. Chairman.

ASSEMBLYMAN BORNHEIMER: Okay, Mike.

The next speaker will be Roland Panneton.

ROLAND PANNETON: My statement starts out with good morning. I am not sure of whether that was wishful thinking or what, but please disregard it. Good afternoon. My name is Roland Panneton. I am an attorney and I am here representing the views of the National Association of Life Underwriters. NALU is a federation of approximately 1,000 local and State associations, whose membership in the former totals over 140,000 individual life insurance agents, general agents, and managers throughout the United States, and 3500 of these individuals are located right here in New Jersey.

We are pleased to be afforded the opportunity to present our Association's views concerning what we consider an extremely serious matter. A-2001 is legislation which, if enacted, should have a significantly positive impact on the consumers of New Jersey who might be considering the purchase of deposit term type insurance. As we understand it, very generally, A-2001 would not adversely affect the sale of deposit term, but would require certain disclosures which will assist the consumer in his decision-making, and also A-2001 would prohibit certain marketing techniques which would tend to mislead and confuse the consumer.

I think I can safely say that we can all agree in this room that since the introduction of deposit term into the marketplace, it has certainly been controversial, to say the least. It has been described as being "a real break-through for consumer oriented life insurance;" "a superior type life insurance", all the way down to "it shouldn't be allowed to be sold."

We see the need this afternoon to address ourselves to two basic questions: One, does the deposit term type of product and the way it is marketed create such problems as to call for special legislation to alleviate these problems? And, two, if it does call for such legislation, is A-2001 substantially that legislation which will insure that purchasers of these products in New Jersey be protected from these problems?

After years of research of deposit term, I am sure it is no surprise to anyone that there are varying, differing views of the product. There are a number of qualified authorities in the field who feel that there are very serious problems with the product and the way it is marketed.

In my prepared statement I list six or seven of these authorities, and go into detail as to some statements that they have made in the past concerning the product. You have it. It is part of my prepared statement. Due to the constraints in time, I see no reason to go into them now, but they are there for the record. I would like, however, to concentrate, if I might, on the last authority, which is quoted there on page 5 -- that is

number 7 -- "The problems with Partial Endowment Type policies stem primarily from the conflict between the marketing techniques associated with the product and the true nature of the product. These problems fall into five broad categories: 1) misleading or confusing terminology; 2) artificial relationships; 3) arbitrary severability; 4) cash value inequities; and 5) inadequate disclosure."

This quote is from a very well prepared article, by Dr. Harold Skipper. He was mentioned this morning, more than once. And, this article that he prepared is in the CLU Journal. The full context of that article is in the prepared document of the New Jersey Association of Life Underwriters.

In that article, he explains in detail, and analyzes the problems associated with deposit term products. Dr. Skipper does point out, however, that in his opinion the problems associated with deposit term policies should not be viewed as peculiar to these products but are actually endemic to the existing system of life insurance. They merely magnify already existing systemic problems. He believes that as such they cry out for systemic analysis and solutions.

The systemic problems that Dr. Skipper outlines fall into five basic categories: One is the inadequacy of the Unfair Trade Practices Acts; two is the inadequacy of Standard Nonforfeiture Laws; three is inadequacy of solicitation regulations; four is inadequacy of the replacement regulations; and, five, inadequacy of licensing procedures.

From a long-range perspective, Dr. Skipper may be absolutely correct, presuming Dr. Skipper's prognosis is correct: To remove from the marketplace the supposed five systemic problems above would certainly be the ideal solution, not only for deposit term but for all other problems now present in the marketplace. However, this is the real world we live in and to even suggest that these five categories of systemic problems will be successfully addressed in the short term is wishful thinking at best. The consumers of New Jersey need relief from the problems associated with deposit term today, not six or seven years from now. If and when long-range systemic solutions can be implemented - and I am reminded of the study which was suggested by the Firemens Fund spokesman this morning; such a study would take, I am sure, years and years and years to conclude, meanwhile the consumers of New Jersey are in need of a solution and they need one now -- the short term solutions needed today can be supplanted. New Jersey needs a solution now.

The last question I would like to address is whether A-2001 is adequate to protect the New Jersey insuring public from the many problems which are mentioned in the formal statement with the deposit term product and how it is marketed. We feel that it is, and we fully endorse A-2001.

I want to thank you again for the opportunity to share our views.

ASSEMBLYMAN BORNHEIMER: We want to thank you for your kindness in paraphrasing.

MR. PANNETON: You're welcome.

ASSEMBLYMAN BORNHEIMER: Mike, do you have any questions?

ASSEMBLYMAN ADUBATO: I would just like to make one comment, Mr. Chairman. Mr. Panneton, when you talk about time going by, I would just like to share with you that the other day - in fact, last week - I attended the opening of a spur on the New Jersey Turnpike in Harrison, coming out of Newark, and that was something that was planned for 23 years, but we

finally got to it.

MR. PANNETON: Well, you are to be congratulated.

ASSEMBLYMAN BORNHEIMER: The next speaker that we will take will be Commissioner James Sheeran.

COMMISSIONER JAMES SHEERAN: Mr. Chairman, I have a prepared statement, which is quite lengthy.

ASSEMBLYMAN BORNHEIMER: Okay, would you paraphrase it?

COMMISSIONER SHEERAN: I am going to try and get into the more specific parts. The first part is a rather complete background statement, in which we attempt to view it from the perspective of all parties, and I think fairly so.

The New Jersey Insurance Department believes there are three essential criteria that should be used to craft a workable, remedial response to partial endowment term insurance problems, or to evaluate any of the multitude of proposals that have already been advanced.

We believe, first, that any proposal should be evaluated primarily for what it does to advance the overall interest of New Jersey's life insurance consumers, and not for the relative advantage it provides to one or another group of agents or companies who are understandably competing to retain, or expand, their share of the life insurance business in New Jersey.

This criteria immediately suggests a second, which is that remedial action should be to the extent feasible neither piecemeal nor discriminatory, but should deal with whole classes of consumer problems and should be applicable across the board to any and all industry practices or products that generate these problems.

Third, we have subscribed to the traditional wisdom that where a problem can be handled by an administrative agency under existing general statutory standards, it is preferable the problem be handled through available administrative procedure.

This brings me to a consideration of the Department's position on Assembly Bill 2001. There are two main parts to this proposed legislation. The first is a product's specific set of rules for determining minimum non-forfeiture values, or cash values, during the succeeding years of a partial endowment policy term. The second is a product's specific miscellaneous list of disclosure rules that would apply to the sale of partial endowment term policies.

To begin with, the section of the bill establishing new, specific non-forfeiture values for partial endowment term policies -- it is the Department's position that these provisions would operate not so much to advance the general interest of the consumers, as to advance the special interest of the industry competitors of partial endowment term companies and agents. We do not object, in principle, to the idea of increasing the required cash values in the early years of any life insurance policy. This is one possible approach - as more adequate disclosure is another - to the problem of avoiding, or reducing, the risk to the consumers of significant financial penalties because of early lapsation policies.

What we do find offensive about the specific provisions of Assembly Bill 2001 is that they single out partial endowment policies for precisely the kind of discriminatory and punitive regulation that we have said we

would like to avoid. If the minimum non-forfeiture values which would be imposed by Assembly Bill 2001 are really necessary to protect the interest of consumers, we would wonder why they are not proposed for application to all cash value life insurance policies. (applause)

ASSEMBLYMAN BORNHEIMER: I will repeat, if I may -- as I said three times this morning, and the first time this afternoon -- there is no need for emotion, and if there is another outburst I will have to pick and choose and maybe have some people stand out in the hall, or sit in the hall, until they find out how to act as they have been directed.

ASSEMBLYMAN ADUBATO: Excuse me, Mr. Chairman, excuse me, Commissioner, for the benefit of those people who are here for the first time - and I am glad to see so many people here today fighting for their cause, or whatever it may be - the rules of this House are enforced very strictly. Now, we would just like to help you by saying that we would like you to remain in these chambers. Now, the Chairman has very patiently, three times, requested that you conduct yourselves the way you are supposed to conduct yourselves in these chambers. If there is another outburst, I am going to request the Chair to have the person removed from the room and he will not be allowed back.

Now, we would appreciate if we would be fair to all speakers here. That is our system, and if you want to cheer anyone, wait until they go outside, or wait until this meeting is over and you can cheer right here in these chambers, but allow us to go through with the procedures. Thank you, Mr. Chairman.

COMMISSIONER SHEERAN: I'm sorry, Mr. Chairman, if anything I say--

ASSEMBLYMAN BORNHEIMER: No. Please, it is just a thing that we have to do in order to maintain order.

COMMISSIONER SHEERAN: I understand, we have dealt with many problems over the years.

As matters now stand, if these provisions were enacted, partial endowment policies would be required to provide higher cash values in the policies early years, than, for example, competing straight life insurance policies sold by major insurers. We think this is unfair, and we think it is unnecessary. We think it violates Professor Skipper's suggestion that such changes not be couched in terms of punitive action against partial endowment term policies exclusively, and his point that for the sake of practicality all proposed changes in nonforfeiture laws should be undertaken at the same time.

We note that the National Association of Insurance Commissioners is now perfecting recommendations for a variety of improvements in the standard nonforfeiture laws, and we believe that that is the appropriate general context in which to consider equitable changes that would affect partial endowment term policies.

Turning to the miscellaneous list of disclosure rules in the remainder of the proposed legislation, the Department of Insurance has no strong objection to the content of most of these provisions, except that where they would permit certain misleading terminology, or mandate certain forms of disclosure, we think that the consumer interest and the ordinary common sense would dictate they apply to any life insurance policy where the same kind of problem needs

to be addressed.

In a recent meeting with companies and agents who are among the major sellers of partial endowment term insurance, and others who are among its severest critics, we propose to amend the Department's existing life insurance solicitation regulation so that the most important of these proposed disclosures and provisions would be available as protections for the New Jersey consumers in any and every solicitation situation where they are relevant.

We propose, for example, to prohibit the use of the term "deposit", either in the name of partial endowment term insurance, or as a designation for the addition of first year premium, and to prohibit misleading statements or implications of a rate of return relationship between the additional first year premium and the endowment available at the end of the policy term.

The critics of partial endowment term predictably favored this prohibition, and we found it interesting that the representatives of partial endowment term companies and agents at our meeting were also willing to accept it.

We felt that the single other most valuable provision contained in Assembly Bill 2001 was the designation of an unfair trade practice of, "the failure to include information that explains what happens to the additional first year premium if the policy is terminated prior to the end of the term period." Or, in other words, a mandatory disclosure of the risk of a substantial financial penalty if a consumer lapses a policy in the first few years of a policy term. Since this risk may be equal or greater in the case of a traditional straight life policy, we propose an amendment to the Department's existing solicitation regulation that would mandate such disclosure for all cash value policies.

The reaction to this proposal was also interesting. Representatives from partial endowment term companies and agents were willing to live with it, while their critics were opposed to applying such a rule to the sale of their own policies.

Although the critics of partial endowment term apparently find it consistent to require a special warning of the dangers of early lapsation exclusively for the purchasers of that product and not for their own, we find this to be a monumental inconsistency. The unwillingness of some partial endowment term critics to live under the kinds of rules they would make for others is, in our view, prima facie evidence of the discriminatory cast of many of these proposals.

The Department of Insurance believes that many of the disclosure rules prescribed in Assembly Bill 2001 should be adopted for the protection of New Jersey consumers, but we do not think it is a good or practical idea to fashion separate miscellaneous lists for every different insurance product that may need additional regulation. Still less do we think it is a good or practical idea to engage in such miscellaneous regulatory list-making through the legislative process.

The third criterion we have suggested for the evaluation of proposals on partial endowment term problems is that these proposals should rely, to the extent possible, on available administrative remedies. The Department of Insurance does not believe that the problems relating to partial endowment term insurance are qualitatively different than disclosure and other problems

which are currently addressed in the Department's solicitation and replacement regulations, and we believe that those regulations are the obvious starting point for efforts to improve disclosure to consumers. To address the problems with legislation would, we believe, foreclose the opportunities provided through these administrative mechanisms and set a burdensome precedent for legislative involvement in the detailed regulation of dozens of other insurance products with their own problems and their own avid partisans and critics.

The Department is actively pursuing its study of partial endowment term insurance problems and at the first opportunity in the New Jersey issue of the New Jersey Register, we will publish remedial proposals in the form of amendments to the existing life insurance solicitation regulation.

While we have not yet put this proposal into final form, it will cover many of the practices intended to be addressed through the disclosure Standards proposed in Assembly Bill 2001.

In addition, we agree with companies and agents on both sides of the partial endowment term insurance controversy that an improvement in the Department's life insurance replacement regulation is needed, and that this would benefit consumers in a variety of ways including but not limited to partial endowment term replacements. A revised model replacement regulation recommended by the National Association of Insurance Commissioners seems to provide many improvements over our existing regulations, and we will therefore propose changes based on this model in the New Jersey Register in January.

One defect of all replacement regulations is that they seem more attuned to the clarification of rights and procedures applicable to existing and replacing companies and agents than directly to the plight of the consumer in trying to make a sound decision regarding a proposed replacement of insurance. Rules governing the conduct of existing and replacing insurers are a step in the right direction, since they increase the likelihood that the consumer will receive information illustrating the argued advantages of either course of action. In any replacement regulation finally adopted by the Department, however, we will try to assure that the consumer is the prime focus of attention and concern, and not merely a passive third party in a vigorous tug of war waged by existing and replacing insurers.

We will, of course, provide adequate opportunity for industry and public comment on each of our proposed administrative remedies before adopting them in final form.

In conclusion, I would like to thank the Assembly Banking and Insurance Committee for this opportunity to present the Department's views on Assembly Bill 2001. We certainly share your concern that action be taken to correct the problems which it is intended to address. I hope that my comments have been helpful in this regard. Thank you very much.

ASSEMBLYMAN BORNHEIMER: Thank you, Commissioner. Mike, do you have any questions?

ASSEMBLYMAN ADUBATO: Commissioner, I want to thank you for being here today. I would, however, being a legislator and not a regulator, say to you that in the past I think we have shown that sometimes - and I am not necessarily specifically talking about today's issue - with all the good intentions on everybody's side, it is necessary to have legislation, for whatever reason.

COMMISSIONER SHEERAN: I certainly recognize your function.

ASSEMBLYMAN ADUBATO: And I thank you, being that I have been elected seven times -- or, I don't know how many times -- I haven't been appointed, I am sure the people recognize it too - a little bit.

But, I would like to just give some thought to some of the conclusions. When we talk about, first of all, the issue today, and we talk about deposit term, we talk about being fair to all products that are similar, and we talk about cash value products, I think one of the things I have come to realize today is that the argument, as you pointed out in your closing statement, is not necessarily what is in the best interest of the consumer, but what is this tug of war?

Now, if we are going to talk about what is in the best interest of the consumer, then I think it is fair to compare apples to apples. Now, it is my understanding that a product called deposit term, number one, is a term policy -- term life insurance - a side fund - that does not have cash value in the true sense of the meaning of cash value. So, I would think that if you are going to compare equals, the comparison should be made with deposit term and an annual renewable term contract. Then, take the same amount of money that the person would have to pay out of his kick for deposit term, including the money that is used in the side fund, and project if that individual, for instance, bought that term insurance with another company, as opposed to the company that is selling deposit term, what value would he get for that protection, and apply that same amount of equity that is in the side fund into a similar side fund, without any commissions, with no load, and then see what is in the best interest of the consumer, because certainly that is what we are here to talk about today -- the consumer.

It is totally out of focus to talk about a whole life product as opposed to any term product, that is the first step. They are two separate animals, no matter what you think of them. They are not equal. No one ever said they were equal. And, according to the specific situation, that's the product the individual should buy.

So, I just feel that it is unfair to the discussion to talk about whole life as opposed to term insurance, because that is what this person is buying. And, the uniqueness of the product, as opposed to whole life, is that this individual, every so often, must make a decision. The norm, we say, is ten years. So, if he starts out and uses the classic projection of age 35, now he is 45; now, if he decides to take option four, which is an automatic conversion to whole life with that company - because if the person becomes uninsurable, he cannot go to the lowest net cost life insurance company that he can find; he is restricted to that company, that product, that portfolio -- of course, he is ten years older. Now, if you project that out to age 65, then the consumer that we are all interested in is on a fixed income. He has projected for those periods from 35 to 65, and now he decides, "Hey, I am uninsurable; I need whole life; I am not going to buy term 100; I want to make sure I have it and I have to come up with that premium" - which is a heck of a lot more for whole life than when he was 35 -- you know, we seem to forget that, even in the analogy with whole life. We seem to forget that. We cannot make these sweeping statements and compare apples to oranges. It doesn't work. It doesn't fit. It may

sell. It may be appealing. It looks great on paper, just like Equity funding looked great on paper. The point is, if we are going to be fair, and I know everyone here wants to be fair, we have to compare equals. And, I suggest, Commissioner, very strongly that the equal to this product, regardless of the legislation-- I am not defending it one way or the other at this point in time because I think it is fair to listen first, in spite of the fact, Commissioner, that some people here are talking about spending four million dollars to defeat me next time. I think that is a waste of money, to tell you the truth - to spend four million dollars to defeat one legislator - but I welcome the challenge, in spite of the fact I haven't made a decision yet. But, I think they are helping me go the other way.

The point is, that in spite of that arrogance by some of the people here today, and that attitude of dogma that they have the answer to the public's problem and everybody else is wrong -- in spite of that, I will do my best to be fair. I think everyone else should. And, we cannot be fair if we are going to limit the discussion to comparatives of just whole life and this product. We must discuss the entire marketplace in the best interest of the consumer, first of all -- as you pointed out.

I would just like to say that those questions that are unanswered-- As was pointed out by one of the previous speakers, the answer is to have a study; well, I don't need a study. I know what that man is going to pay at age 65 for whole life. I don't need any commission. I don't need anyone to wait five years, or seven years to tell me that. All I have to do is open up a rate manual of any company, and I can find a premium. Now, if the individual wants to buy a product, knowing what he is going to buy, I have no problem with that -- absolutely none. But, I don't think we ought to be here today saying that for one hundred years or so the industry has been raping the public. That is ridiculous, and it is slander at its worse. And, I resent it. I resent it very much that these "Johnny-come-latelys" come out with this pie in the sky and two weeks in a course, and they have the answers to the insurance problems. I would hope that the State of New Jersey, in all its official capacity, will be fair in dealing with these issues and not be intimidated and not be misled into thinking that in a matter this complex we are going to sit here and make judgment on a product based on the ground rules of other people, and not on reality. The reality is we are talking about a term product - for the third time - with a side fund. That is what we are talking about, and you must use that product.

If a person wants to buy whole life knowing what's there, I think it's great. If a person wants to save money in an insurance company and he can't afford to do several things at once, he is limited, and he doesn't want to buy term insurance -- no problem. If he wants to take a paid up life contract at age 65 -- no problem, the money is going to be there. We can guarantee that too. You can guarantee it with any product, but it is the cost of that product. And, the trick with this product is that you don't work it out to its final conclusion. That's the trick.

ASSEMBLYMAN BORNHEIMER: Okay, thank you, Mike.

Jim, I just have to be a little critical. It seems like we are separate branches of government, and it is always interesting to me - it has been in my short experience down here in the Legislature - that as soon

as you put a piece of legislation in, everybody gets interested. I think this piece of legislation is very interesting to the public of the State of New Jersey. I hear about it because I am involved with it. I am involved with banking and insurance. But, the average citizen sitting in his closed room in his home doesn't know anything about it, and it is our obligation, your obligation, and actually the agents' obligation, and the insurance companies obligation to see if we are doing the right thing by the public in general.

So, the original purpose of this piece of legislation was to stimulate activity, and I think I have done that very well today.

COMMISSIONER SHEERAN: I agree.

ASSEMBLYMAN BORNHEIMER: I think it has become an important fact in the legislature, even though we didn't override the Governor's veto, that we always like to have legislative oversight, as we did with the standards bill.

I am glad to see that your Department is involved in this, as they always have been in the past. I think we would like to invite ourselves to be part of that with you, while you are going along in your process, and in our plodding ways - being novices - we will try and find out all the facts we can, and draw upon your Department for expertise.

We appreciate your being here, and we thank you very much.

COMMISSIONER SHEERAN: Thank you, Mr. Chairman.

ASSEMBLYMAN BORNHEIMER: The next person we will have to testify is Mr. Guasconi. I hope I have pronounced that correctly, Mr. Guasconi.

J O S E P H G U A S C O N I: Thank you. Good afternoon, Mr. Chairman, Mr. Adubato, my name is Joseph Guasconi and I am an assistant counsel in the law department of Equitable Life. I am pleased and grateful for the opportunity to testify before this distinguished committee concerning A-2001, a bill which we believe would provide the insurance purchasing consumers of New Jersey with additional protection when purchasing partial endowment type products.

The Equitable has more than 500 agents and employees here in New Jersey. The Equitable also provides life insurance protection for more than 650,000 New Jersey residents, the total coverage for which exceeds \$6.5 billion. In addition, the total of our mortgage and real estate investments alone in this State exceeds \$330 billion. I think these numbers demonstrate that Equitable has a vital stake in New Jersey and, therefore, we feel it is particularly important for us to be here today.

Now, I will heed the admonitions of Mr. Adubato and do my best to try not to repeat some of the things that have been said already here today.

Although we don't market a partial endowment product, we have come to learn a great deal about it because of a large number of replacements of in-force Equitable policies.

In New Jersey, for instance, alone, for the first nine months of 1980, almost 40% of the reported replacements of whole life insurance were by a partial endowment product. Now, while Equitable is committed to adoption by all states of the NAIC Model Replacement Regulation, we do believe that replacements are generally recognized as not being in the best interest of an insured.

As I indicated, our agents and our underwriting specialists have become familiar with this partial endowment product, and we found that the sales presentation of the product is often accompanied by a distribution of a package of information which may denigrate companies which offer whole life products, and characterize these products as outdated and even a "rip off." The fact that among the more common options available to a partial endowment purchaser is a contract which then converts to a traditional whole life product is usually avoided.

We have reviewed the proposed Marketing Guidelines, as set forth in Section 4 of the bill. We believe that these proposals to eliminate references to certain terms and phrases will be especially helpful in implementing the consumer protection purposes, which this bill serves.

In anticipation of this hearing, I asked our Agency Operations Area to see what they could do to develop a profile of the Equitable whole life policyholder whose policy is replaced by a partial endowment product. Admittedly, it was an unscientific sample, but the sample indicated that over 60% of the replacements involved policies with face amounts of \$25,000 or less. Almost 88% of the involved policies were \$50,000 or less. Now, these data suggest to us that the person most likely to be receptive to a partial endowment sale is from a lower or middle class family and, with no disrespect intended, described as a "less sophisticated" buyer. Although the data we prepared are not intended to be conclusive, it is our strong impression that the average purchaser is more likely to be impressed by the overwhelming amount of computer-printout information which is used to attempt to convince the purchaser of the sale information which is, by our analysis, sometimes misleading and, by virtue of its volume, confusing. Because partial endowment, though available for many years, has only recently become somewhat attractive and well known, the average person doesn't have enough familiarity with the product to be able to immediately determine whether the promises being made can be fulfilled. Therefore, the potential for misrepresentation is greater and will continue unless corrective action along the lines of the proposed legislation is enacted.

Now, we recognize that any discussion of the marketing tactics used by the partial endowment companies, and the purported benefits of the product offered is likely to be highly charged and controversial. Therefore, it is all the more important that this Committee consider the benefits and drawbacks of the proposed bill. We believe it represents a constructive effort towards correcting one of the major problems involved in marketing the product. We have supported and will continue to support efforts at the National Association of Insurance Commissioners level to develop a partial endowment regulation, and to improve upon the existing replacement regulation.

That concludes my paraphrased statement. I would be happy to answer any questions you might have.

ASSEMBLYMAN BORNHEIMER: Thank you very much. Mike.

ASSEMBLYMAN ADUBATO: I would just like to say that from your presentation, it is not so much the product that you are arguing about.

MR. GUASCONI: We have no objections to the sale of the product. That is why I was kind of entertained by the discussion earlier today. We are not objecting to the sale of the product in New Jersey, we are just

concerned with the marketing standards that are sometimes used, because we see the promotional literature that is put out and we find quite a bit of it to be misleading.

ASSEMBLYMAN ADUBATO: Thank you.

ASSEMBLYMAN BORNHEIMER: Thank you very much.

MR. GUASCONI: Thank you.

ASSEMBLYMAN BORNHEIMER: The next person will be L. L. Schmid.

L I L I S C H M I D: Mr. Chairman, Mr. Adubato, ladies and gentlemen, my name is Lili Schmid and I represent the Newark Association of Life Underwriters, which is the largest association in New Jersey.

You have in your possession a copy of my presentation. Since it is getting late, I would like to forefit my statement because many of the statements would be repetitious, and for the sake of saving time I would like to say thank you very much; we would like to support your bill.

ASSEMBLYMAN BORNHEIMER: Thank you very much, we appreciate it. Your statement will become part of the record. (see page)

The next individual will be James Hunt.

J A M E S H U N T: Mr. Chairman, my name is James Hunt. I am Fellow of the Society of Actuaries. I am former Insurance Commissioner of Vermont. I have worked in the Massachusetts and New Hampshire Insurance Departments as an actuary. I was consultant recently to the Federal Trade Commission. And, currently, I represent the National Insurance Consumer Organization. This is a newly-formed organization, which has been aided by Ralph Nader in its formation, and obviously intends to do work in insurance.

I have done two different studies on deposit term, and feel that I am quite informed about the product, at least from a technical point of view, not necessarily how it is sold in the marketplace.

We just heard about the hearing a couple of days ago, and that is the reason I have no prepared statement. I would like to ask whether the record will be open?

ASSEMBLYMAN BORNHEIMER: Yes, it will.

MR. HUNT: Thank you. I think we will supply a statement, perhaps going into some detail on some of the technical areas raised this morning.

Our position on deposit term is that we are not against the concept of deposit term, but rather against the way the theory is put into practice. I consider, as an actuary, the contrived relationship between cash value, and the difference between the first and second premium, or the deposit, to be a kind of actuarial trick. The reason for that is, that contrived relationship implies a certain rate of return -- double your money, or increasing 10% on your money. If we are making the kind of comparison that Assemblyman Adubato has been talking about, with going rates for term insurance, we find that the actual rates of return on that deposit, if you will, vary anywhere from pretty close to the representation, at least in the case of double your money, to negative 10% on one's deposit. And, we think that when the representations are made on a certain rate of return, it ought to be matched in the product, and it is not. It is especially not matched in the products which are widely sold, because the better deposit term policies pay lower commissions and are not sold so much.

If I understand the way deposit term is sold, it is represented that it is low cost term insurance because you put up a deposit, and if you

drop out, the deposit is forfeited. If that is the case, then deposit term rates ought to be even lower than renewable term rates, but they are much higher. In addition, one is promised double his money, or even better. Now, either you don't get low cost term insurance, or you don't double your money or better. You don't get both, yet it is sold on that basis.

Now, this raises the question of what, if anything, should be done about that. As a personal matter, and I am not sure that our organization has been in business long enough to have formed a position on this question, I consider the way in which deposit term is sold to be an unfair trade practice. I think that the Commissioner should convene a hearing, not only on some of the reforms he just mentioned, but on this question of whether when they say they are going to double your money and don't, it is an unfair trade practice.

I am not against the deposit term concept. If they don't say we double your money, if they want to sell high-priced term insurance with an additional first year deposit, if they want to wrap a deferred annuity around it -- all of those are perfectly appropriate, competitive products.

Now, it would be one thing if this product were only used to compete with other products, but it is used to replace older policies. It is used a great deal, as I understand it. I would just like to give you one example. If I take a four or five year old Prudential policy - I am going to guess, but I could take another company - and I calculate this rate of return that you may have heard the Federal Trade Commission mention, I find that the rate of return for the next ten years is going to be five, six, or seven percent on that policy. That is the return on the equity in the policy. But, if I take that equity out and buy deposit term, I am going to get anywhere from zero to negative ten -- maybe not quite negative ten, but somewhere in that range. Now, why would anyone want to surrender a policy that has a positive seven percent rate of return for one that has a negative rate of return, and also give up the right to borrow one's money at five or six percent, which is a valuable right in and of itself?

I will state it as an actuarial judgment on my part that almost all existing policy forms that are replaced by deposit term policy forms are unjustified replacements, and one of the reasons that it is unjustified is that if you do the analysis on a borrow out cash value, which the Assemblyman was talking about, you will find that it is much better to keep the old policy.

What is our position on the Bill? I don't think the bill will knock out deposit term insurance. It will just make it even higher priced. I don't think the initial cash values are that much different from some that are already on the market, but I have not tested this myself.

I question whether the sanctions in the bill will be effective. If you allow the contrived relationship to imply double your money or better, I can't imagine the agents won't find some way to point that out.

So, we have some worries about the merits of the bill. I am not sure if we had to come down on one side or the other which side we would come down on, but I would suggest the better approach is for the Commissioner to take up this question of whether the sale of deposit term, as it is now structured, with a double-your-money-or-better relationship, is an unfair trade practice, because if it is, then I think he has the powers within New Jersey

law - although I haven't read the law, but all states have Unfair Trade Practices to deal with the problem -- not necessarily to knock out deposit term, but to knock out the double your money representations.

ASSEMBLYMAN BORNHEIMER: Thank you. Are there any questions, Mike?

ASSEMBLYMAN ADUBATO: I would just like to thank the speaker because I agree with him that we shouldn't knock out the opportunity for the people to buy the product if that is what they want to buy. That's their right. I don't think there should be any more restrictions on that product as opposed to an equal product. That is why I said what I said before, and I was glad to hear that you are not convinced about the necessity of this bill, because I am not convinced of it either. But, I am convinced that we have some learning to do and some education to do in protecting the people who are buying the product which could be sold, and is sold sometimes, I think, under false pretenses. It is very simple. And, it is not only this deposit term, I think we all know in this room that there are some agents that replace an existing policy and sell the guy another whole life policy with another company under false pretenses. So, it is not unique to deposit term.

MR. HUNT: That's right.

ASSEMBLYMAN ADUBATO: So, I think our job here is to not look at the product as the enemy, but as something that is misunderstood, something that should be understood by the public before they buy it, put their money up front, and give up something else.

Another thing I would like to point out concerns your statement about the commissions with the product as opposed to one company and another company. There are companies that sell deposit term that pay a commission of 40%, not 245%, and that is a different product than the one you are talking about today.

ASSEMBLYMAN BORNHEIMER: Thank you, Mike. Thank you very much, sir, we appreciate it.

The next individual will be Allan L. Hellman.

A L L A N L. H E L L M A N: Thank you, Mr. Chairman. I am here to speak in favor of Assembly Bill 2001. My name is Allan L. Hellman, and I reside in Montclair, New Jersey. I have been selling life insurance for nine years and I carry the professional designation of Chartered Life Underwriter, CLU. As President-elect of the Passaic-Bergen Association of Life Underwriters, I am representing a professional organization of 600 life underwriters, and I have been authorized to speak to you today on their behalf. I appreciate the opportunity to be here.

The Passaic-Bergen Association is involved in providing educational opportunities for its members, sponsoring public service projects, offering consumer education, and striving for excellence in the business we practice. In addition, we adhere to a Code of Ethics which states the following:

"I believe it to be my responsibility: To keep the needs of my clients uppermost; to respect their confidence and hold in trust personal information; to render a continuous service," and I will skip on to the last point which is, "to keep myself informed with respect to insurance laws and regulations and to observe them in both letter and spirit."

It is this last point in our code which prompts me to appear before you. The spirit of the laws and regulations you are concerned with involves protecting the best interest of consumers, as has been stated. Our Association

is concerned because consumers are being hurt by licensed insurance agents who disregard all of the six points in our Code.

Despite our Association's efforts to promote ethical standards, and to build public confidence in our profession, we are constantly being plagued by the marketing activities of those who take advantage of the consumers you serve as legislators and we serve as life underwriters. Because of the complex nature of the products we sell, it is not very difficult for a clever individual with questionable motives to confuse and to mislead consumers.

I would like to cite something that has not been mentioned yet, and that is a personal example of what does happen in the marketplace. We have been talking a lot in theory. I am one of those individuals who is on the firing line day in and day out, dealing with the consumers. I would like to tell you the story of what happened with one of my clients. My client was approached through a telephone solicitation by a so-called financial consultant who claimed he did not sell life insurance, but merely worked as an advisor who would help him cope with inflation.

What happened is as follows - and this is just last January: This consultant proceeded to review my client's insurance policies and advised they were inadequate, and that he was being ripped off. The statements my client remembers hearing about the values in the policies which he was able to pass along to me were inaccurate.

The consultant advised immediate replacement of the permanent insurance with a policy that would provide twice the coverage for the same amount of outlay. Even though he previously represented himself as not selling insurance, he offered to now handle this transaction for my client.

Papers were signed and one-half of a large first year deposit was paid. My client was assured that the deposit would double and be paid back to him in ten years. My client did not sign a disclosure statement required by the State of New Jersey, nor did he recognize it when I showed him a blank form and what it looked like.

My client was not informed as to what premiums would have to be paid after ten years. He was of the impression, when I talked to him, that the attractively-low premium would continue indefinitely. My client was not told that he would forfeit all or part of the deposit if he terminated the policy before the end of ten years. My client was not given, in hand, any kinds of figures or illustrations regarding the replacement policy.

When the policy was issued, the agent left it at the door and did not offer to review it. Again, no illustrations or explanatory literature was offered. Two days after the policy was received, I met with my client and reviewed the policy with him. Also, we compared it with what he was giving up -- what I had previously sold to him. My client realized that he had made a mistake and decided to return the new policy under the ten-day-free-look provision. The next day my client informed the agent of his decision. In response, the agent paid my client a visit and proceeded to, one, tell my client it was unnecessary to file a disclosure statement; two, assured him that the policy could be returned and his money returned anytime up to thirty days; and, went on to convince him that he might better wait and reconsider. When my client later insisted on returning the policy, the agent paid another visit, this time with his general agent. Again, without leaving any illustrations, the two agents now offered an annuity to go with

the deposit term policy, led my client to believe that the high rate of interest was guaranteed indefinitely and convinced him to consider buying the annuity and keeping the new policy. By now the ten day period had passed.

My client decided, finally, that he would return the policy and buy the annuity. However, the agent refused to sell the annuity unless the life policy was kept, and my client ended up mailing the policy and a letter to the agent. As you might expect, the agent denied ever receiving the policy in the mail, and my client never received his deposit back.

Living through this sequence of events used up a great deal of my time and energy; however, in keeping with the code of ethics I subscribe to, the best interest of my client was served and I was unable to help him avoid a mistake that could have jeopardized his family's financial security for years to come.

Now, this was one of six cases that I have personally had to deal with in the past year. You multiply that by six hundred, and you will understand why our Association is concerned and why it is in the public interest that Assembly Bill 2001 become law.

I might also mention that as an added comment, every time I have run into a situation with deposit term, it has not been in competition for a new sale, it has always been involving a replacement situation.

Secondly, I would add that after hearing the insinuations that have been made early today about the motives of life underwriters, for me this is a profession, and the commissions I receive - although I make a good income - are not uppermost in my mind. If I do the job for my clients, I know that I will be taken care of, and my first interest is in serving them, and I think I say that for many, many other underwriters in our State who are concerned about this problem. Thank you.

ASSEMBLYMAN BORNHEIMER: Thank you, I appreciate your testimony.
Mike.

ASSEMBLYMAN ADUBATO: Yes. I would like to clarify something. Did you say that you were able to recoup your client's money?

MR. HILLMAN: No. The deposit was not returned. They denied having the policy, and we were not able to recoup the money.

ASSEMBLYMAN ADUBATO: Was the Department of Insurance contacted about this transaction and the way it was done?

MR. HILLMAN: The client did not wish to pursue it. At this point, he was very disgusted with the whole thing and decided not to push it any further.

ASSEMBLYMAN BORNHEIMER: Thank you. The next individual will be Robert Germann.

ROBERT O. GERMAN: My name is Robert Germann. I live in Bricktown, New Jersey, and I am a consumer and a factory worker. Excuse me, I am not used to speaking like this; I am a little nervous. Bear with me.

ASSEMBLYMAN ADUBATO: Please don't be nervous, you are the person I want to hear.

MR. GERMAN: Yes. I am the first consumer. I hear everybody talking about consumers, but here I am.

In March, 1980, I had the pleasure of talking to a gentleman from Charter Life. He came and he talked to me, and for the first time in my life

he explained to me about life insurance. I had three different policies -- Metropolitan, Prudential, and Equitable -- and I never knew what I had. Agents always came; they sold to me; and they gave me the policy. They never went into the policy. They always had a piece of paper that showed me different things, but they never went into the policy itself.

These people went into the policy and explained some good things and some bad things. This is what I wanted to hear.

Then, they made a complete comparison of what they had to offer, a comparison to Metropolitan, Prudential, and Equitable. With this comparison, and the same amount of money - I didn't have to change my outlay one penny - I was able to double my face on my life insurance, my wife's face, and I kept the children the same.

I also have a cash value, and this cash value is going to grow too, and it almost doubles. The only difference is, now, if I want any of that money out of the cash value, I don't have to take a loan or anything like that, it doesn't come off the face if I take a loan; I just withdraw it -- no loans, no nothing; there is nothing. I just take out if I want it. And, if I die, I get the complete face amount and the cash value -- or my wife does; I'm not around to get it.

I mean, I can't see how anybody can discredit something like that. I didn't have to change anything, and it goes all the way down the line for the same outlay, because I would have put the same amount out with the other policies, no matter what. The question is, there is nothing wrong with it. What is wrong with the others? Why couldn't they do that? That's what I want to know.

My agent never explained. These people came with my policy - the new one - and they went through that whole policy for two hours and explained every little bit to me. I didn't comprehend it all. I'm not that good. But, I knew it was a lot better, I just knew it. It was cut and dry, unless you can change my mind.

ASSEMBLYMAN ADUBATO: I don't think anyone wants to change your mind, Robert. I think it is beautiful that you have faith in the person you are dealing with.

MR. GERMANN: I don't have faith--

ASSEMBLYMAN ADUBATO: Regardless of - if I can interrupt you--

MR. GERMANN: Go ahead.

ASSEMBLYMAN ADUBATO: I think it is good if you find someone that you have confidence in, someone that you feel is doing the job. If you want it done, then you ought to do it. The question is, is the fact that you feel that way-- Well, let me put it this way: I don't want to question your feelings; I don't have a right to. I think the bottom line is you, and sometimes government does try to overprotect people and that is wrong. Whether you made a mistake or whether you didn't make a mistake, that is your right. And, if you feel good about it, that is not for us to judge.

If you feel that you improved your situation and if you feel that you are getting more value for your bucks, fine. I am not going to try and sell you anything, but if you would ever like to talk to me about it, I would be happy to show you the first step is, as you pointed out, the one you took with all the oh's and ah's. I would be very happy to sit down and discuss it

with anyone because I don't know everything and I am always willing to learn. I don't think anyone in this room knows everything.

But, you know, some of the people here are emotional for the things they believe in, otherwise they wouldn't be selling it -- no matter what side of the aisle you are sitting on. So, I don't think that is the issue.

I think the issue is that you have poor service, number one, regardless of what company you were doing business with. That is something that I don't think anyone that respects themselves and their identity in the insurance business sanctions. I think people in the life insurance business, regardless of what product they are selling, are all upset about things like that, because that happens too often, unfortunately.

The product, on the other hand, when you talk about your total outlay and you talk about doubling your face - or your protection - and you talk about the fact that now you are putting out the same money that you were putting out--

MR. GERMANN: That's right.

ASSEMBLYMAN ADUBATO: (continuing) --and you got double your face and nearly double your money back in ten years -- well, is it true that--

MR. GERMANN: No, I didn't say ten years.

ASSEMBLYMAN ADUBATO: I'm sorry.

MR. GERMANN: My cash value grows, and it will be a lot more at retirement time.

ASSEMBLYMAN ADUBATO: Okay. I wonder. I don't know the answer, but I wonder if you are putting out the same money? Did you put out a lump sum payment, plus payments as was described here?

MR. GERMANN: No, I will tell you exactly. I was putting out fifteen sixty-five with my old policies, and I am putting out fifteen sixty-five now.

ASSEMBLYMAN ADUBATO: One thousand five hundred and sixty five dollars a year?

MR. GERMANN: That's right.

ASSEMBLYMAN ADUBATO: That's what you were putting out annually?

MR. GERMANN: That's right.

ASSEMBLYMAN ADUBATO: And today you are still putting out one thousand five hundred and sixty five dollars a year?

MR. GERMANN: That's right, forty-three thousand on myself, fifteen on my wife, and two fives on both children.

ASSEMBLYMAN ADUBATO: Can I ask how old you are?

MR. GERMANN: I am thirty six.

ASSEMBLYMAN ADUBATO: And you had forty-three thousand dollars worth? What did you have endowments?

MR. GERMANN: No. Whole life.

ASSEMBLYMAN ADUBATO: Robert, let me just say this to you: I am not going to try and defend anybody, but let me defend myself. In twenty years I have never sold an endowment because I never believed in them. In twenty years I have never sold a retirement income contract because I have never believed in them. And, I am not going to criticize those people that do. I mean, if they believe in it, they sell it.

Let me say to you that you are a tough customer and your testimony

means a lot to me and I will certainly weigh everything you have said, and I will investigate it even more so I can make a better judgment. I want to thank you for coming down.

MR. GERMANN: Okay.

ASSEMBLYMAN ADUBATO: Come down again. Don't be nervous.

MR. GERMANN: I will. I think the bottom line is, I had the choice.

ASSEMBLYMAN ADUBATO: That's right. I agree totally with you.

It should always be your choice.

MR. GERMANN: Thank you very much.

ASSEMBLYMAN ADUBATO: Thank you.

ASSEMBLYMAN BORNHEIMER: The next individual we will call will be George Harding. And, for the record I would like to let everyone be aware that we are making part of the record a statement by Hal Wolf. He submitted it. He is not here, but we are making it part of the record. (see page 66x)
G E O R G E W. H A R D I N G: My name is George W. Harding. I am Senior Vice President and Actuary, University Life Insurance Company, Indianapolis, Indiana. I am a Fellow of the Society of Actuaries and a member of the American Academy of Actuaries. I have given you a copy of my prepared statement, which I will not read.

Basically, it makes two points: I am in opposition to Assembly No. 2001. I believe the cash value portion of that bill is inappropriate on its face. I believe things of that sort should be done through NEIC, which, in fact, is taking place currently.

Lastly, the effects that are in the bill with respect to cash values will produce unfortunate results for New Jersey residents in the form of either higher premiums for consumers or lower commission for agents, or both.

With respect to the disclosure portions of that Assembly Bill, it seems entirely inappropriate to me to do that through legislation. There is adequate regulatory administrative authority in the Commissioner's office to handle those matters quite adequately.

I did have a few other comments though, generally. I have attended a lot of hearings of this sort in various states. I have kind of lost count over the years. It has been over a relatively brief period -- three and one-half or four years -- but there must have been fifteen, or sixteen, or seventeen meetings like this. In one sense I would find your position to be very difficult because you are being bombarded by an immense amount of information and you are trying to make some sense of all of this.

If I may, I have just a couple of comments in trying to sort this information out. Perhaps my comments on these items will be of value to you. First of all, one type of comment that you have been bombarded with is whether or not deposit term is good -- whether it is good or bad -- in and of itself. I submit that is not a question that has any relevance to this hearing. You are committed, as is the Commissioner, to allow all products which meet the laws of this state. To prohibit any particular product is entirely inappropriate in a free market economy.

Secondly, another type of comment that you are being bombarded with is a comparison of deposit term policies with other types, whether they are yearly renewable term, or life, or anything else. Again, that seems

to me to be irrelevant. Every person is going to have his own opinion about that, and the only one that really counts is the purchaser.

Third, in the areas of marketing practices, there are a lot of comments made about marketing practices and the sale of deposit term, and probably rightly so. Over my three to four years, that is probably the area that down-deep causes the most problems.

I would like to go on record supporting Commissioner Sheehan's approach to this. That, I believe strongly, should be done through administrative means rather than through legislative means, first of all; and, secondly, any such action should be on a non-discriminatory basis. Anything that is done in the sale of deposit term policies that is bad is likely being done in the sale of other policies as well. It is no more wrong when it is done in the sale of other kinds of policies than it is in connection with deposit term.

Fourth, you have been hit with a lot of questions about replacement, whether replacement is justified, unjustified, how you determine that, whether replacement even ought to be permitted -- I submit that is irrelevant. I think replacement has been, is, and is going to be even more so a fact of life. That is not caused by deposit term. It is not caused by whole life, or YRT. It is caused by increased interest rates, decreased mortality, lower unit costs. Those are the things that cause replacement. It is also caused by consumers not being willing to pay higher charges in their insurance costs for commissions, expenses, and so on. Companies are being forced to bring down the price of their products. That makes newer products more attractive than older ones. So, I submit that arguments about replacement are irrelevant for the purposes of this hearing. Again, it is up to the policy owner to decide whether a different policy serves his needs better, and even if it doesn't, it is up to him to make the decision.

ASSEMBLYMAN BORNHEIMER: Thank you, sir. I would challenge some of your statements, but for purposes of expedience I will not at this time.

ASSEMBLYMAN ADUBATO: Well, I will. Excuse me. I agree, quite frankly, philosophically, with almost everything you said in the bottom line about the consumer. The question is, is the consumer given accurate information when the replacement is made, regardless of whether the replacement is made so the consumer buys deposit term or he buys another whole life product, or anything else? When the analysis is made, unfortunately, I have had the opportunity in the past 20 years to bring to task some of my colleagues in the industry who - and I am not talking about deposit term; let me clear the air - who replace the contracts and in that column where it talked about the comparitives of the amount of premium the person was paying, and the mode of premium, this one specific contract that I remember vividly is, the person was paying a five hundred and sixty dollar a year premium and the person who replaced the contract labeled that as an semi-annual premium when he made his comparison. It is so simple to do that it is unreal. And, I challenge that no one in the Department picks it up -- no one. They are not questioned about it, and unless the person who is servicing that individual, who is the original agent, is on his toes, analyzes it and finds things like that, nothing is ever questioned. And, no legislation is going to stop that, I agree with you. No legislation is going to prevent that from happening.

None.

The other exception that I have is when we talk about the regulatory power and the legislative power. While I am prejudiced toward the legislative power, I have a right to be because the Commissioner of Insurance - and I am not talking about this Commissioner of Insurance - in that role has always had the power, through regulatory processes, to deal with the blatant inequities - for instance, in auto insurance - and they don't do it, not only in New Jersey, they don't do it in any state. And, the only way it changes is through legislation.

Now, I am not saying the analogy fits this bill or this subject. All I am saying to you is that it is not always the regulatory way to do anything. There are ways where even though people have the power to change things for whatever reason, they don't do it. And, unfortunately, then the legislature must act. Now, whether or not the time to act legislatively in this situation is now, I am not prepared to say. But, it doesn't mean that it isn't.

MR. HARDING: May I respond to that?

ASSEMBLYMAN ADUBATO: Sure.

MR. HARDING: With respect to the latter subject, I am in no position to argue. There is a time for legislation and there is a time for regulatory action, and never shall the twain meet. The circumstances when each is more appropriate vary from case to case, so I can't argue on the point.

With regard to whether the individual gets all the facts in the case of replacement, I suspect many times that is not true. There may be errors. There may be incomplete disclosures, or there may be no disclosure at all in some cases. There is ample authority in the Commissioner's office to discipline anyone found guilty of not correctly completing the necessary papers. But, in any event--

ASSEMBLYMAN ADUBATO: That's not true. Forgive me for interrupting you, sir. That is absolutely not true.

MR. HARDING: I stand corrected.

ASSEMBLYMAN ADUBATO: I apologize for telling you that, but it is not true. There are complaints that are laid there; they don't even get telephone calls. And, it is not true, forgive me.

MR. HARDING: May I suggest then that if there isn't ample authority, then that is a subject for appropriate legislative action.

ASSEMBLYMAN ADUBATO: Thank you, sir.

MR. HARDING: With respect to providing facts on replacement or disclosure on original sale, though I think that is a broader subject and there is no difference with respect to deposit term and any other kind of policy, I would point out to you, whether it is New Jersey or it is New York, probably New York is one of the most heavily regulated states in the country with respect to life insurance. California is one of the least regulated with respect to life insurance. As far as I know, there is no evidence to indicate that original purchase decisions, nor replacement decisions, are any better in New York than they are in California. I think there is some doubt whether regulations or legislation have a magic effect just by themselves. Thank you very much for the opportunity to appear here.

ASSEMBLYMAN BORNHEIMER: Thank you.

John D'Amico.

J O H N D' A M I C O: Mr. Chairman, my apologies for missing my turn.

ASSEMBLYMAN BORNHEIMER: All right. Just paraphrase what your statement says.

MR. D'AMICO: Sure, I will be very brief. My name is John D'Amico, Jr., Counsel of the Mutual Benefit Life Insurance Company in Newark -- the other life insurance company in Newark. We are one of the oldest, in fact, in the country, having been chartered in New Jersey in 1845. We have been in Newark ever since. We plan to stay there a good long time. When we look down the street at Prudential, we think that this is the company with the might of ten. We are the company with the might of one, I guess.

We haven't grown to one of the twentieth largest mutual life insurance companies in the country with insurance in excess of thirty five billion dollars on the basis of any arbitrary event. We have done it because we have, throughout our history, provided high quality life insurance products, met our contractual obligations, and treated our policyholders equitably. We are appearing today in support of Assembly Bill 2001 because we feel that its enactment is in the best interest of our policyholders, and also in the best interest of the citizens of New Jersey.

We do not offer for sale deposit term, or additional first year premium life insurance policies for reasons which I won't articulate orally, but are listed in our statement, and I think you have heard them over and over again.

We also do not contend that the marketing of deposit term should be prohibited. We are not afraid of competition. Obviously, we have been able to survive competition since 1845. We do feel, however, that the experience in the marketplace suggests the need for legislation such as Assembly Bill 2001, to extend to consumers the protection of the non-forfeiture laws previously enacted by the legislature and to curtail abuses in the marketplace, which have arisen from the unique features of deposit term.

The legislature has seen fit to regulate life insurance generally. It has enacted nonforfeiture laws; it has enacted unfair trade practices legislation, and so on. Unfortunately, when those laws were passed, many, many years ago, we were not confronted with the economic forces which have brought us here today, and with the kinds of products which don't seem quite to fit those earlier laws and regulations. And, what we are saying is: Let there be competition, but let it be on an equal basis. Put everyone on an equal footing. Extend the protections that you have already seen fit to provide to the public to this new type of product.

As far as replacements are concerned, we do feel that this is a very complex area which is probably best left to regulation by the Insurance Department. The National Association of Insurance Commissioners recently promulgated a new model life insurance replacement regulation which, unfortunately, does not adequately take into account the unique nature of deposit term insurance. So, I think there is much more work to be done, but I think the best work probably could be done at the insurance department level in that area.

However, as to nonforfeiture legislation, and as to the marketing practices, which this bill addresses, there being no laws which now clearly apply to this situation, we feel that this bill should be adopted.

That's all I have to say.

ASSEMBLYMAN BORNHEIMER: Thank you very much.

The next speaker will be Abe Tarrieff.

A B R A H A M T A R R I F F: Ladies and gentlemen, I am speaking on behalf of the New Jersey Association for Truth in life Insurance. We are an Association that is consumer oriented for the purpose of trying to bring to, and educate the public on, ethical practices and counseling in life insurance and, as you say, side funds.

This is not in my speech, but I will also take exception here. We have nothing to do with, nor is there any similarity between our work and the equity funding. We have opposed that, and we currently oppose that type of funding.

I am a certified financial planner and have two offices in New Jersey, in Bergen County and in Monmouth County. I am a general agent. I have been in the insurance business and I have been in the securities business for the last 20 years. I have been weaned on whole life. I was also a securities salesman with a major security firm. I am currently a general agent and I employ about ten people. I am also an adjunct faculty member of the College for Financial Planning, and a member in good standing of the Institute for Financial Planners.

Gentlemen, I am a little nervous, so forgive me.

ASSEMBLYMAN BORNHEIMER: Take your time.

MR. TARRIFF: First of all, it is imperative that we understand the purpose of life insurance. It is not a panacea to cure all financial ills. It is a need to replace a lost future income for the family unit in the event of an unfortunate premature death, so the family unit may maintain its cohesiveness. It is also used to keep an estate in tact upon a death, and, again, to maintain the family cohesiveness.

Another thing about insurance: There is nothing in the Good Book that states that insurance must be kept from the cradle to the grave. Life insurance should be kept only as long as the need and suitability exists. If the suitability exists and there is a need at age 100, by all means one should be able to keep it to age 100. It should not be mandated that you must terminate it at a premature time.

For the purposes of differentiating those who favor this bill, and those who know this bill is a horror, I will call the opponents, those who have proposed this bill, the "vampire life insurance peddlers." I am Afraid these vampires perpetrated a great fraud and deceit upon the sponsors of this bill. Hopefully, I can be instrumental in preventing you learned gentlemen from committing fraud and deceit upon the consuming public and your constituents.

These vampires would lead you to believe that cash value life insurance is a virtue, and that any other kind of life insurance is only temporary and should be avoided, and should only be used sparingly and as infrequently as possible.

Gentlemen, cash value is a cancer on the public. Allow me to induce you to kill this bill in its infancy. The vampires claim that our product and the information we impart to our clients represents unfair competition. Perhaps so, if you were to consider the least expensive with the maximum of protection as unfair competition. The vampire insurance industry penalizes their salesmen if they were to sell the proper type of life insurance protection.

I will ask you, is it unfair to give you a product that will permit you to have adequate protection, while simultaneously permitting you to save and invest your hard earned dollars for the benefit of you and your family, or would you prefer to provide only a portion of your needed protection plus leave your savings with the vampires at your death? It is your choice. If this bill should pass, you are asking each and every one here and the consuming public to leave our savings with the vampires.

The vampires are asking you to legislate for them what they cannot do, or are unwilling to do. They are asking you to legislate us out of business so they can continue to commit legalized fraud and deceit on the public.

Are you aware that cash value is owned by the insurer, not the insured? The vampire insurance industry sells this type of insurance as a savings plan. It has convinced the public, and hopefully you can see through this, that it is in your best interest to buy two benefits, but receive only one benefit. Should you die, the face amount is paid to the named beneficiary, and your hard earned savings remains with the vampires. Should you need any of your own money, you may have some, but they will charge you interest for you to use a portion of your own money.

If you were to die and your savings had not been returned to them, they will take it from your widow. These vampires will pay your widow a death benefit, minus the amount of your own dollars you have used. If that is not criminal, I don't know what is; it is tantamount to theft, theft when the money is needed most, theft at the time of death of the breadwinner.

The product these vampires are asking you to do away with is the most consumer oriented life insurance product known to man today. The vampire insurance product has been with us since 1860. Now a product comes along that will permit the insured to maintain protection to age 100, if needed, a product which is the least expensive and the cheapest possible to purchase and maintain. In one fell swoop, it has taken the life insurance industry from the horse and buggy age into the rocket age. These vampires want to do away with progress. Why are you letting them?

The life insurance product which we foster is constantly being improved. Tremendous strides have been made, and will continue to be made. It is general agents like myself, and those who are opposed to this bill, those of us who are consumer oriented, who continually prod and push to create better life insurance products for the consumer. We have a product will allow us to make a living and employ many who can also make a living. It is this product that permits our clients to invest in municipal bonds.

If I may make an aside, the Spots Complex bonds that you talk about -- I sold over one million dollars worth of those bonds to my clients.

It is we term agents who have provided for the needs of the public. It is we who have our clients hard earned dollars earning dollars for their retirement.

The vampire insurance industry tells us it is sinful to save and invest in Series E Bonds. It is the vampire insurance industry which is asking you to make it unlawful for us to tell the public that they will have more dollars by investing their hard-earned dollars in tax deferred E Bonds at 7%. They want you to make it unlawful for us to tell the public that 8% is more than 4%. These vampires want you to make it unlawful for us to educate the public about the magic of compounding. Yes, gentlemen, these vampires

are asking you to perpetrate fraud and deceit on the New Jersey consumer for their own self-serving interest. Please do not let them.

These vampires also would have you believe that their dividend is a return on profit. They never tell the public that is a misnomer, as it has nothing to do with profits. They are nothing more than a partial return of your own dollars which are derived from a deliberate overcharge of premium. If you must legislate, I suggest you pass legislation denying the use of the word dividend from life insurance contracts. It is incumbent upon you to see that they clean their house.

Gentlemen, the product these vampires are asking you to legislate out of business is the best consumer oriented life insurance policy on the market. This product is the best consumer buy on the market. We are living in inflationary times, yet this product is one of the very few buys for the consumer which costs less to buy. Why are you thinking of removing this product from the marketplace? This product permits the consumer the greatest value for their dollar.

Please do not remove this from the market. This is the Cadillac of the industry at Pinto prices. Next week are you going to do away with the Pinto or the Chevette because they are cheaper than the Cadillac, or because Cadillac cannot compete? Will you next outlaw the sale of these cars?

Why are you tampering with free enterprise? The vampires would like you to for their own self-serving interest.

The product we offer has the greatest flexibility. Why not let the law of supply and demand dictate what should be sold in the marketplace? Why not let the consumer decide. Why are you now regulating the marketplace? If this product were so bad, why is the consumer demanding it? Next week are we going to ban health insurance if it is not sold by these vampires?

The overwhelming majority of complaints received by the New Jersey Department of Insurance concerning the sale of deposit term are from vampire agents losing a client. They cannot compete with our product, nor with our conscientiousness. Why are you doing for them what they are not willing to do for themselves? Why are you promulgating deceit and fraud on the public for these self-serving vampires?

Never has a deposit term agent been fined or lost his license in New Jersey as a result of doing anything improper. There is a replacement regulation in force in New Jersey since 1972. No one deposit term agent has lost his license or been fined for violating this regulation. Gentlemen, this legislation before us has been proposed and written by those companies and their agents who do not sell deposit term. This legislation has been written and proposed by the vampire life insurance industry. They are angry every time they lose a sale to us. They want you to eliminate the competition for them. Why are you permitting them to have you accomplish for them what they cannot do for themselves? You are being used to hurt one group for the self-serving interests of another group. Perhaps next week you will regulate that only one brand of milk, or eggs, or bread can be sold in the State of New Jersey.

Gentlemen, there are approximately 30,000 people who will lose all or part of their income if this bill passes. These people have done nothing wrong except to create and sell an excellent consumer product.

Why are you even thinking about taking their jobs away from them? I think you gentlemen are too intelligent to allow this to happen. I think you gentlemen are too clever to be rooled by these vampires. These vampires suck out the family's life savings. They suck at the interest your money can be earning for you. They suck away a child's education funds. They suck away a person's retirement funds. They suck away a widow or widower's income. They suck away at the very fiber of protection.

Gentlemen, I beg you to consider the consequence, and search your own conscience and defeat this bill here and now. Do not allow this bill to be released from this committee.

ASSEMBLYMAN BORNHEIMER: I don't know whether to say thank you, Mr. Tarriff. Thank you very much for your presentation.

Mike, do you have a question?

ASSEMBLYMAN ADUBATO: No, I just want to make an observation. I wish you would come down here more often, because I have to laugh more in these Chambers sometimes.

I respect your judgments, and I certainly respect you. I want to thank you very, very much for coming down today. Please don't be nervous. The next time you do, try not to be nervous. There is nothing to be nervous about. We are here to learn. There is nothing conclusive here. That is why we have a public hearing.

If I can make a suggestion to you-- Can I ask you this first?

MR. TARRIFF: Sure.

ASSEMBLYMAN ADUBATO: You call me Mike and I will call you Abe. Abe, let me ask you this: How long have you been selling deposit term?

MR. TARRIFF: I started selling deposit term in the early '70's. The first product I sold I wasn't too thrilled about. I was selling securities. However, the deposit term, as you call it, has had a tremendous evolution, and it is nothing like it was in the early '70's or late '60's.

ASSEMBLYMAN ADUBATO: Okay. You have been selling it for less than 10 years would you say?

MR. TARRIFF: I have been selling it for six or seven years.

ASSEMBLYMAN ADUBATO: What I am trying to get to is, your enthusiasm is great; you sell a lot of insurance because you have the motivation and you believe in your product, and that is great. What I want to know is, before you sold deposit term, were you one of the vampires?

MR. TARRIFF: Unfortunately, yes, I was one of the vampires, and strangely enough - if I may - do you know when I realized that something was wrong with cash value insurance? When I was studying for my CLU. There was something about it that I couldn't put my finger on, but that made me very, very uncomfortable. I really comes back home to you when you pay a death claim, when you know that instead of \$20,000 or \$10,000 you could have given that widow \$80,000, \$90,000, or \$100,000 for the same dollars, gentlemen; you know what insurance is all about. When you have a client call you up and say: "Abe, I have to thank you; because of you I have enough money to have my son's jaw corrected," this makes you feel like a calling.

ASSEMBLYMAN ADUBATO: Abe, I don't want to belabor this, there are other speakers, but just let me say this to you: I am sure you are

probably aware that there are products in the industry, not necessarily participating - although if a person wants to, they can use a dividend option - but in a non-par situation, I am sure you are aware that there are products that have term riders on the equity portion of a contract and a cash value. You know, I don't consider the people that believe in their product and are getting the best value that they know of for their client vampires. But, you are entitled to your opinion.

MR. TARRIFF: That's the only way I can describe them without getting more forceful.

ASSEMBLYMAN ADUBATO: Abe, I will leave you with this: You have to remember that there are people on the other side of the issue, who feel that the people who are defending your position are incompetent, to put it nice. Now, the word incompetent and the word vampire are, to me, trigger words; they avoid the issue. And, what I am trying to say, at the risk of being serious for thirty seconds, is that I would hope that when you market your product, you don't go out and call life insurance people vampires, and I would hope that life insurance men who don't sell deposit term do not go out and call you a crook. Maybe then we can deal with the issue, instead of with the emotion.

MR. TARRIFF: As a matter of fact, I had to sit with myself a little bit before preparing this and say, "how am I going to differentiate my philosophy from theirs," and the word vampire came to me. What other industry just sucks away everything the family tries to create? So, I thought that was very appropriate. I'm glad I gave everybody a little giggle.

ASSEMBLYMAN ADUBATO: Thank you, Abe.

ASSEMBLYMAN BORNHEIMER: Thank you. Ronald Richman.

R O N A L D R I C H M A N: If there are any cash value agents by the name of Dracula, I am glad that I am not a woman.

I think that what we are talking about today -- none of us really hit the issue, nobody, because we only had one consumer. What we have listened to is rhetoric. What we have listened to is our opinion of the consumer. What we have listened to is how it affects our income.

Mike, if you want to call me Ron -- you made a statement earlier. You said: "Solely for one's own enrichment." I wrote it down, that the agent sells this solely for his enrichment. There is an enrichment to the client. I want to read it to you.

ASSEMBLYMAN ADUBATO: I didn't say that.

MR. RICHMAN: You said a lot of things, and it is easy to forget.

ASSEMBLYMAN ADUBATO: I may have said something but--

MR. RICHMAN: Well, I wrote it down, because I think what is going on here today is criminal to the people of this State. Let me finish what I am talking about. We have a bill that is sponsored by a couple of men that probably can't pass an insurance examination.

ASSEMBLYMAN BORNHEIMER: I'm one of them; I am the sponsor.

MR. RICHMAN: Okay, then they don't even understand what it is to sell insurance.

ASSEMBLYMAN ADUBATO: Can I help you, please?

MR. RICHMAN: Yes, you can.

ASSEMBLYMAN ADUBATO: I realize that we can fill the air with a lot of sparks very easily.

MR. RICHMAN: You have had that opportunity; I haven't.

ASSEMBLYMAN ADUBATO: Be my guest. Go right ahead, sir.

MR. RICHMAN: Now, what I am saying is this bill has been put forward by a couple of people and we don't even know if they know anything about insurance or what is even happening out there. And, I wonder where it comes from and why it came from there. I don't see a lot of clients around here complaining that they are getting hurt. I just don't see them. I don't see them marching through that door saying that they are being ripped off and hurt by this product that we are talking about doing "this", "this", and "this."

I am going to read you something that I think is the most important thing I have ever seen. It is called the "Widow's Study." Now, the women on this panel, or the women listening, should be really interested in this because this is what life insurance is about -- it is about children. I am going to read something, with the help of Abe's glasses. I am going to quote this. You have that article up there. This says: "During the month of July the ADCO home offices were favored with a visit by Ron Richman" - that's me - "of New Jersey..." Incidentally, I started as a Prudential agent, and after one year, when I found out what the truth was, I could no longer sell that product.

(continuing) "...ADCO partner and MGA." That's who I am. "During his visit Ron showed us what he calls his Widow's study and we want to share it with you in Ron's own words." These are my words:

"We show them that we believe this is the most important document (widow's study page). More than all the articles you've read, what the FTC has said, or what ever your agent has said" - or even an Insurance Commissioner, which I respect - "this document is the most interesting one. You will notice there are sixteen names on here (see the list)." It is on the second page. "If you will notice, the column that says insurance before replacement -- because this bill in its disguise is designed to help us stop replacing -- the total amount of insurance these people had was \$190,500." That is a little over \$10,000 a family, which is the wonderful job that was done by the opposition. That meant if they died, that is the total amount of insurance their families would get.

"Now, inside these policies was that old cash value, and that totaled \$30,350 as you will see at the bottom of the third column. But the way those contracts are worded by their company lawyers is that if these people were to die all this money is kept by the insurance company. There would be \$30,000 that made someone else richer and not the children since insurance is for the widow and the children.

"With the philosophy we have, we don't want to spend any more money 'cause times are tough enough right now. Since there are modernized products" - and let's call what we are talking about a modernized product, whatever name you want to give it - "we took the same money these people were spending, replaced their policies and increased their insurance to what you see in the second column. You can see the total amount of insurance became \$588,708 without their spending a nickel more. In addition, once we replaced their old insurance it released over \$30,000 in cash values. Most of the people took that money and put it into savings or an investment. This is not a

hypothetical situation we are talking about. This is called the Widow's Study because you see," Mike, "all those sixteen people are dead. They all died. These are my clients. I cried with everyone of these families," no matter who laughs, but the families didn't.

"The point I am trying to make is, they received \$588,708 plus \$30,500 for a total of \$619,058 instead of \$190,000. That's over \$400,000 better," to circulate in the community, "and do you know all they had to do? Believe and listen to what I had to tell them. This junk that these other insurance companies are putting out is your children's enemy! And that's why you should get out of selling what you are selling. That's why I want you to change what you are doing...doesn't that make sense?"

You see, what I am trying to tell you is this country had an election. I've been a Democrat for a long time. You are. And they said, "We don't want this bureaucracy; we want free enterprise. We want the people to be able to decide what they want."

I question this regulation. You see, I am a little bit of a cynical person. I don't know why they drew it up. I mean, I don't want to accuse people of getting paid off. I just can't do that. But, I just wondered how intelligent these people are that put forward this bill, and what was their purpose? It certainly wasn't to help these children. It certainly wasn't to help these people.

There are so many things that were said by a lot of the opposition, and unfortunately by you also, Mike. We don't have the time. If we did, I would like all of them to be up there and I will handle all of them, because when you speak the truth, you cannot be beat. And, the truth is, yes, there are a lot of guys "scram up" selling deposit term, but every time you sell a cash value policy you "scram up", in place of another word, because you don't tell the people that when they want their money they have to pay eight percent. You don't tell the people that they keep the cash. You don't tell them anything.

I made a suggestion to Mr. Sheeran one time, from the Insurance Department of the State of New Jersey, I said, "I really believe in full disclosure. Let Prudential, Metropolitan, and all the companies you guys represent as helping their client, send disclosures out." Say to the people-- I mean, they don't know about this until we come in the house. They don't know that they get charged, a lot of them. They don't know that the face of their policy comes down. All of a sudden, four months later, or four weeks later, when the agent comes back he says, "Is this dividend an option? How come you didn't tell me about that before?" We educate the people. Yes, we educate them. And, I will tell you what I heard from a lot of the people here. I have challenged people--

ASSEMBLYMAN ADUBATO: Excuse me, sir. I would appreciate it if nobody made any sly remarks when a person is sitting in that seat. That goes for anybody in this room. This is not the Franklin Life Insurance Company - or whatever it is - Board Room, and it is not the Prudential Board Room -- okay? I apologize for interrupting you.

MR. RICHMAN: Well, I am used to that.

ASSEMBLYMAN ADUBATO: Well, okay -- go ahead.

MR. RICHMAN: You see, they won't handle me one-on-one. I challenge whoever snickered to give me ten of his clients, and I will give him ten

of mine. Let me to into his home and tell him what a wonderful fellow he is, and then let him go and talk to my clients. You see, I am a guy who is very loved and very hated. I am hated by the agent and loved by the client. These people died. I am person that is considered very dishonest by an agent, but very honest by my client. That is what this hearing is about. I don't want to protect thee, and I don't want to protect me; I want to protect the client. We only heard one client. This guy back there who talked about the six cases he had for the year -- I may be responsible for replacement of 1,000 clients who were misled by the old kind of insurance by this "rotten" deposit term.

I would like to tell you something: There are some deposit terms on this market that should be taken off. There are. Because there are some things in these deposit term products that are bad for the consumer. As bad as they are, they are better than any old cash value policy. But, they should be off the market.

There are policies -- like we talked about ART doing such a wonderful thing. Why is it wonderful? It is not self-completing. There are no savings at the end for the client. It is not systematic savings, which people need. They will get to the point where they can't afford it. I mean, we talk about things: it runs out; it is temporary -- these are all the arguments that I used to have to come up against when I was replacing. There is a product on the market that is level outlay, that is self-completing, where the premium doesn't go up, the outlay doesn't go up, you get much more insurance than the old way. Their savings at the end is completed.

You see, the thing that I question is, if I was an agent and I knew that there was a product like that on the market, why would I continue to sell one that gave people a low rate? I don't know what it is, one point three, two, four -- I don't know. Who knows? It is not printed in the policy. You talk about using deposit term wrong -- I mean, the agents that sell cash value insurance go in and tell them it pays eight percent. Where? Where? You can't find it in the policy.

There is a policy on the market when people want their money, Mike. You don't have to pay interest to get it. It doesn't affect the face value. And, you don't have to pay extra money for the dividend option. Why shouldn't the people be allowed to have that? And, also, when they die, they get the cash value, plus the face. Why is that product, and products like that, being thrown into one container which says: all modified premium whole life, all deposit term? If you want to legislate deposit term, speak to the people in the deposit term business. They will tell what is wrong with their product. I will tell you what is wrong with deposit term, and I will tell you what's wrong with whole life.

You see, if there is a product on the market that had the best features of whole life and the best features of term, that would be super. There is a product like that. Are you aware of it? Are you, Mike?

ASSEMBLYMAN ADUBATO: Are you talking to me?

MR. RICHMAN: Yes, I am talking to you because you made a lot of statements about--

ASSEMBLYMAN ADUBATO: I want you to finish.

ASSEMBLYMAN BORNHEIMER: Hold it. You are dealing with personalities. It is not a one-one-one hearing.

MR. RICHMAN: The only reason I referred to Mike is that he seems to have a lot of statements.

ASSEMBLYMAN BORNHEIMER: Mike has right to have statements, and you have a right to have statements, and we are not going to debate between you and him.

MR. RICHMAN: I oppose a lot of the things he has said, because they are not knowledgeable.

ASSEMBLYMAN BORNHEIMER: That is personal.

ASSEMBLYMAN ADUBATO: Are you finished with your statement?

MR. RICHMAN: Yes, I'm done. I have a lot of things, but I will stop here.

ASSEMBLYMAN ADUBATO: Mr. Chairman, I would appreciate the opportunity, number one, to say that I am glad Ron came down today.

MR. RICHMAN: Thank you. I came down for the people.

ASSEMBLYMAN ADUBATO: Well, I am happy you are here for the people, because I think that is what I am here for.

MR. RICHMAN: I hope so.

ASSEMBLYMAN ADUBATO: I think that is what I was elected to be here for. I am not going to get cross with you. I don't think it serves any purpose, quite frankly. Except, I would like to ask you, if you would help me.

MR. RICHMAN: Okay.

ASSEMBLYMAN ADUBATO: May I ask you, Ron, how long you have been selling deposit term?

MR. RICHMAN: Oh, about ten years now -- about eight or ten years, somewhere around that.

ASSEMBLYMAN ADUBATO: And, in those ten years you have had the misfortune to lose sixteen clients?

MR. RICHMAN: Yes, unfortunately. It happens.

ASSEMBLYMAN ADUBATO: I know it happens. What I see from this profile, and the people involved - again, the kind of people we are talking about - it is obvious, I think, that you are talking about people who have somewhat limited resources.

MR. RICHMAN: The average guy.

ASSEMBLYMAN ADUBATO: For insurance, number one. Well, I don't know what the average guy is anymore. My average policy is over \$200,000 face.

MR. RICHMAN: Well, I am not interested in that guy. I am interested in the people.

ASSEMBLYMAN ADUBATO: There is nothing wrong with that.

MR. RICHMAN: Well, I'm concerned about the people.

ASSEMBLYMAN ADUBATO: People are people, and I wish you would let me finish; I allowed you to talk.

MR. RICHMAN: Okay.

ASSEMBLYMAN ADUBATO: Now, I am going to say to you that you have a right, and you have been given that right. What I tried to say to you before was, I don't think you do your cause any good by attacking individuals instead of attacking the issue, because, sir, respectfully, there are some

things that you are not aware of that exist in the insurance industry -- you indicate this by your statements.

MR. RICHMAN: What are they?

ASSEMBLYMAN ADUBATO: I don't want to take the time of this Committee, but I would be happy to talk to you later.

MR. RICHMAN: Okay.

ASSEMBLYMAN ADUBATO: And, perhaps I can learn something, and perhaps you can learn something. It might be beneficial to both of us.

MR. RICHMAN: Okay.

ASSEMBLYMAN ADUBATO: I want to thank you for coming down.

MR. RICHMAN: Thank you.

ASSEMBLYMAN BORNHEIMER: The next person will be Alexis Berg.

A L E X I S B E R G: Good afternoon, Mr. Chairman, and Mr. Adubato. I am Alexis Berg, Assistant Counsel of the Life Insurance Company of North America, which we call LINA. I am here this afternoon with Paul Sulik, a Vice President and Actuary of Investors Life Insurance Company of North America, a subsidiary of LINA. On behalf of these companies I wish to file comments concerning the proposed legislation, although I am not going to read my entire statement into the record. I am just going to try and summarize some of the points that perhaps have not exactly been made in this format, although much of the contents of my statement has been previously discussed.

The companies I represent are within the Life and Group Division of INA Corporation, one of the nation's largest insurance, health care, and diversified financial institutions.

The Life and Group Division markets a full line of individual life insurance in 50 states, approximately 50% of which is whole life. We therefore believe that we represent a balanced view. Investors Life markets, in 43 states, two forms of ten-year renewable term insurance with maturity benefit policy. These products would be adversely affected by the proposed legislation.

Charges of misrepresentation and misleading marketing techniques have been leveled against the product and other modified premium life products. We feel that similar charges could be leveled against many products, or against any product that is improperly sold, and that this product should not be singled out for what we believe is discriminatory treatment.

Our strongest objections pertain to Section 2 of the Bill, and I will make a few brief comments on that section. This section, if promulgated, would effectively destroy our product. From the standpoint of the Nonforfeiture Law, the major problem underlying Section 2, as I understand it, is that it splits the product into separate pieces, a savings component and the amount at risk. This splitting technique is inconsistent with, and contrary to, the intent of Standard Nonforfeiture Law. The pricing and design of any product takes into account the entire stream of premiums, which must be sufficient to offset the cost of benefits and to provide the company with a sufficient margin for expenses and profits.

Moreover, the question of appropriate accumulation of cash values has been fully addressed by existing Nonforfeiture law. We see no reason why this product should be singled out for special treatment. A decision to materially change the Nonforfeiture Law, which is implicit in this proposal,

should not be made without thorough and thoughtful consideration of all ramifications by qualified actuaries and other insurance professionals. We understand that the NAAIC is undertaking such a study, and we feel that no action to amend the Nonforfeiture Law should be made until the results of that study are made final.

The additional first year premium - that unique feature of the product that has been most often criticized, is the central feature that makes it a worthwhile alternative to whole life and term insurance. One of its purposes is to provide a persistency incentive to counteract problems of lapse. That additional first year premium also enables the agent to be compensated at a dollar level more consistent with the compensation for whole life, while enabling the premium cost to be kept closer to that of term. These, in fact, are the reasons modified premium products work so well for the consumer, the company, and the agent.

I would like to make a couple of comments pertaining to Section 4 of the proposal. We have no objection to the contents of Section 4, which addresses marketing and advertising techniques. We believe that our sales practices are consistent with that section, but we question the appropriateness of legislation geared to the marketing of a single life insurance product. We believe that such a task is more appropriately the province of the State Insurance Department.

We believe the fundamental issue underlying this proposal is an issue of competitiveness in our economy and of the willingness of the legislature to pass laws to limit or prohibit free competition. In this age of high inflation, many criticisms have been leveled at whole-life insurance. We believe that whole-life insurance continues to be an appropriate product for individuals in many circumstances. And, as I indicated earlier, our companies sell a great deal of whole life insurance. But, consumers appear to be increasingly moving toward term.

According to an article published in Fortune Magazine on July 14, 1980, the growth in whole-life sales in the United States has slowed sharply with the increase in inflation and in interest rates. According to this article, and I quote:

"The average annual compound growth in face values of whole life dropped from 4.2% in the 1969-'72 period to 1.6% in the years since. In contrast, sales of term...have grown at an average rate of 7.8%. Last year, about 54% of all ordinary life sold was term, up from roughly 43% in 1972."

The article continues to state that:

"Whole-life has been the product on which most agents have made their living; alternative products, such as term and annuities, are not as rewarding. They generally carry lower commission rates...and, more important, generate fewer premium dollars. Premiums of each dollar of term sold, for example, run about one-third what they do on whole life, and there is no evidence that the agents can make up the difference by selling three times as much in face values."

Whether or not one agrees with the subjective conclusions of the Fortune article, one must recognize that there is a growing need for the life insurance industry to be more flexible in offering products to today's consumer.

Inflation and high interest rates have combined to make consumers more sophisticated in making their financial choices. This in turn has created a challenge to the insurance industry to meet consumers' needs with new products that make sense in this economic environment, products that make sense to the company, the consumer, and the agent.

In response to this challenge, a huge array of new offerings has hit the insurance market. Some are structured to relate premiums and face values either to the rate of inflation or to current interest rates. But, the real challenge to the industry may well be products that take their cue from the old advice, "buy term and invest the rest." In the past, that advice, if heeded, left the policyholder entrusting the money he did not spend on whole-life to a bank, or the stock market. Now, certain segments of the insurance industry are beginning to come forth with products that will accommodate the needs of the consumers to provide funds for the future, reward the saver with interest rates more appropriate to the economic realities of today, and still provide an insurance death benefit. Products such as modified premium life insurance are designed to meet these industry challenges.

The effect of the proposed legislation, if adopted, would be to indirectly accomplish the banning of a product, currently marketed as a viable alternative to whole-life insurance by imposing arbitrary requirements for early cash values.

It is essential that the insurance industry, state insurance departments, and state legislators not only allow but encourage innovative products which reasonably meet, or attempt to meet, the challenges of today's problems.

Though we generally believe that modified life insurance should be subject to disclosure and non-forfeiture requirements no different from those applied to other life insurance products, we recognize the legitimacy of certain criticisms that have have been directed at the marketing and advertising of the product. We believe that the appropriate response to such criticisms is informed regulation by state insurance departments.

We acknowledge that these products may have the potential for being misunderstood by less sophisticated consumers because the products are relatively new and have relatively unique premium and benefit patterns.

For these reasons, we believe that the advertising of the product should be subject to strict standards, and that the nature of the product, especially the premium and benefit petterns, should be fully disclosed and carefully explained to prospective purchasers.

We believe, however, that the proper arena for the regulation of the marketing, advertisment, and solicitation of modified premium life is the same as that for any other insurance product -- the state insurance department.

To protect against marketing abuses, and to insure full disclosure, we recommend that a regulation be adopted by the New Jersey Insurance Department along the lines of a regulation recently promulgated in Pennsylvania. I have attached a copy of this regulation to my statement as "Appendix A."

Alternatively, if you believe that the issue is sufficiently general in scope that it should be addressed at the legislative level, we would request that the attached regulation be introduced to the Assembly. It is far more appropriate than Bill A-2001 in answering the criticisms of the product. It requires full disclosure by means of a specific disclosure statement

that would supplement the disclosures required under the New Jersey Life Insurance Solicitation Regulation and contains specific and strict marketing rules.

In conclusion, we sincerely hope that the Banking and Insurance Committee will not succumb to pressure to support legislation which we believe is contrary to the best interest of the citizens of New Jersey. Rather, we hope that you will recognize the anti-competitive features of Bill A-2001, and that you will not issue a favorable report to the floor of the Assembly.

Thank you for the opportunity to present our views.

ASSEMBLYMAN BORNHEIMER: Thank you very much. Mike, do you have any questions?

ASSEMBLYMAN ADUBATO: I was listening from the back of the room, so I was paying attention. I want to thank you for an excellent presentation, and I think a fair one. Thank you.

MS. BERG: Thank you. (see page for recommended regulation)

ASSEMBLYMAN BORNHEIMER: George Olson.

G E O R G E O L S E N: Good evening.

ASSEMBLYMAN BORNHEIMER: Not yet. (laughter)

MR. OLSEN: First of all, I want to make a correction. I am a consumer. I own a lot of life insurance, of which a good portion is whole life, and of which some is term. I haven't been convinced that I shouldn't have a little bit of both.

I am here today on behalf of myself. I am here today on behalf of myself as a private practitioner in the business of life insurance, health insurance, and pensions.

I would like to give you a brief description of what I do and what a majority of my peers do. I consider myself a private practitioner. I have clients who pay me money because they are concerned about their loss of income. My clients recognize that there are three ways that they can lose their income. One is by death, another is by old age, and the third is by disability. In my private practice, I accept a responsibility. Whenever one of my clients loses his income because of death, old age, or disability, I provide the arrangements to replace that income he lost, consistent with an amount of money that he was paying me -- not directly to me but to the companies contracted to indemnify him against these hazards.

Very basically, these are the elements in the professional life underwriter's job. I am induced to do this job with commissions I receive from the insurers of these risks, and I am encouraged to service them with my continued availability if they had any questions about their specific coverage. For this continued service, I receive service fees. Because of this commission basis, I have an incentive to visit with my clients regularly. Keeping in touch through regular visits helps me keep the policyholder informed about any changes in policy form, and also direct him to make any changes that may be required because of increased business responsibilities, mortgages to insure, or changes in family situations and possible changes in his estate plan where life insurance could provide liquidity to pay state and/or federal inheritance taxes.

The life and health insurance industry requires intelligent, honest, people, I feel, who must be geared to provide free counsel -- free counsel --

and direction to the consumer. With this, I also feel a responsibility to compliment the consumer when he has bought something properly. These practitioners must be well informed in matters of health insurance, life insurance, and pensions. However, unlike the stockbroker, investment counselor, the banker, or the trust officer, I am not interested in any fiduciary involvement. This, I believe, places me in the majority amongst my peers. I am defining my business to you in order that you understand our long term service obligations to the most important people in our world, the consumer. There are always changes in marketing methods in this great country. This is the mainspring in our capitalistic society. The reason for our presence here today, however, is due to marketing. Methods of marketing our product, life insurance, with the personal gain of the agent as the only and sole motivation, creates a business climate that is and has proven to be unhealthy. The future service to the policyholder is thereby put in jeopardy.

In my twenty five years in this business, there has been a constant invasion by people outside and inside this industry. They have made a career for themselves convincing the life insurance policyholder, whom I would like to refer to as poor gullible Joe consumer, that he can do ever so much better with the cash values he has generated in his whole life insurance policies by surrendering them and reinvesting or leveraging his money. Today's promise is double your money in ten years. The most successful vehicle in these invasions of the past have been mutual funds in the late 1950's and early '60's, mutual funds combined with life insurance in the late '60's, and now deposit term. Each of these plans have one common denominator -- getting the cash values out of the life insurance policies. In most poor, or lower to middle class families, because of the semi-compulsory or forced savings principals of life insurance policies, the cash value was the easiest asset, if not the only asset, to liquidate and reinvest. The mutual funds salesmen was encouraged during his period of invasion to get his "upfront money" for what is known as a contractual plan.

By way of example, poor gullible Joe bought a life insurance policy and paid the premiums for ten to fifteen years. Cash value generated approximately \$2,000. To the mutual fund man this \$2,000 represented twenty months times \$100 toward a ten-year contractual plan, upon which his commission was based -- on \$12,000 or 120 months times this \$100 monthly payment. When poor gullible Joe consumer started to pay the premiums, however, after the 20 months were paid by his cash value, the financial squeeze was on and poor gullible Joe consumer had to cash in the plan. He then found out that a good portion of his input, more than he ever dreamed, was in the form of commissions, loading costs, and investment and sales charges, but he went back to this old friend, the life insurance man who sold him the original policy, and started a new one. Ten years later, these cash values were built up enough to be vulnerable to a new scheme he was referred to by a good friend, poor gullible Lou, to an investor syndicate that was offering a truly fantastic plan, combining mutual funds along with insurance. The premise of this new plan was that with approximately a \$1500 deposit, he could be the owner of a leveraged premium payment plan where the increasing asset value of the mutual fund would, or at least should -- and I must say was expressed very optimistically -- be able to pay the premium on the life insurance.

The plan incorporated a whole life policy along with the fund -- whole life, of course, because it paid a higher commission. The major carrier of this plan is now bankrupt. It was known as Equity Funding. The program sounded terrific: one premium of \$1500 and no further premiums required, if all went well with the funds. The life insurance was well over \$25,000 without paying any premiums. Now, you might remember the rest of the story. The mutual funds went down in asset value and their values could not meet the premium payments on the life insurance, and poor unlucky gullible Joe consumer had to start paying the premiums on the life insurance policy, which he soon found were too high with the help of the sinking mutual funds. Unfortunately, the agent who sold him the plan was by this time selling two-acre lots of desert property in Nevada, and could care less what happened to the poor gullible Joe consumer back here in New Jersey. So, poor gullible Joe consumer called his friendly life insurance man and started a new plan with him all over again. Seven to eight years later, he was telephoned by an investment consultant assistant, or whatever title he wanted to use since he could be completely irresponsible in what he said to poor gullible Joe to get to see him because he had no license responsibility.

He was informed that because of his firm's wise ways in the investment market, Joe could be shown why the cash values in his life insurance portfolio were a swindle, low interest rates, no return of cash value upon death and a long list of reasons why the unsavory ways of the giants of the life insurance industry were stealing his hard earned dollars, and how the agent who sold him the plan was an accessory.

When he heard the fraudulent ways of his existing life insurance on his life he is ready again to become a victim of still another scheme. Deposit term. This is truly a sad story in our times. It is truly difficult to determine how many dollars passed through the hands of poor gullible Joe consumer and into the pockets of high-commissioned salesmen and their short term, highly promoted investment vehicles. A great number of these sales people, unfortunately -- well, maybe fortunately -- immediately leave the business and move on to the next gimmick as soon as this one fails to produce the key to open the door to the promised land where there are horns of plenty waiting for all the unsuspecting poor gullible Joe consumers.

Your passage on the control of deposit term, as defined in the legislation discussed here today, will help to protect ourselves from ourselves. It should be understood, gentlemen, that all of us who are licensed to sell life insurance in New Jersey could, if we wanted to be less professional, market these schemes amongst our own policyholders. We could do that only, however, if we were motivated purely for mercenary reasons.

Thank you.

ASSEMBLYMAN BORNHEIMER: Thank you very much. Are there any questions, Mike?

ASSEMBLYMAN ADUBATO: No. Thank you for coming, Mr. Olsen.

ASSEMBLYMAN BORNHEIMER: Bob Graham.

ROBERT B. GRAHAM: Good afternoon. My name is Robert B. Graham, Sr. I am a registered investment advisor, and the President of Basil Investment Corporation, which is a fully-licensed stock brokerage firm, registered with the Securities and Exchange Commission. I am also a registered principal

which required more than four answers to pass the examination. In fact, it required an eight-hour examination. I am also Chairman of the Board for the Committee for Constitutional Taxation, and in that capacity I addressed Congressman Al Ullman and the House Ways and Means Committee in Washington on August 18, 1980. I stated that the second American tax revolution has already started, and that we the American people were going to do everything in our power to make sure that politicians who vote for and support unconstitutional, un-American, anti-free enterprise laws, are never reelected.

The effectiveness of our recent program for cleansing the political system was very successful. Congressman Al Ullman, one of the most powerful, and many other Congressmen like him, was defeated, never more to hurt the American people by their votes for more controls and more regulations, which only favored the special interests of the politicians.

At the last hearing on the matter in front of us today, which you had postponed, I had requested in the interest of honesty that all the members of the Committee sign an affidavit under threat of perjury which simply states that you nor your families nor any of your friends have not and will not accept any financial remuneration from any insurance company, and to show your honesty in this matter, you would waive your sovereign immunity rights.

One person stated, and I quote: "I won't sign that. Hell will freeze first." Another yelled: "Call the State police." Now, since none of the members of that panel would sign the honest politician affidavit that day, I had prepared another honest politician affidavit for every member of the Committee to sign, and your signing of the honest politician affidavit will go a long way in convincing your constituents that you are not profiteering from the passage of this unconstitutional, un-American, anti-free-enterprise proposed legislation.

I started my career in the insurance business with the Prudential Life Insurance Company in 1959. I worked hard and I studied their materials, and they claimed, at the time they did it, that they gave me a promotion to a manager. Now, it didn't take me long to realize that there was something drastically wrong, and I think today we have skirted all around the issue completely. We have done a dance with it.

I blame the ninety seven percent turnover in agents each and every year on everything but the real problem. You just can't make enough money selling cash value insurance. You can't make enough money to keep an agent in the business selling term, because the hidden problem that no one wants to admit to is that the top management of Prudential, or the other mutual companies and their home office bureaucracy which feeds off the efforts of the agents, is just too great. I am sure you have seen the football player in the back of the car with the big head and the small body, and the head keeps going around like this (demonstrating) -- well, this is the problem we are faced with right now within the industry.

Now, that is like the bureaucracy in government today, where they are only interested in their own survival, for they could always hire another gullible agent for a short period of time and then replace him with another new agent. The companies thrived on turnover. They really didn't care how many unsuspecting, good people they wasted to feed themselves. Their motto is well known throughout the industry. The motto is: Hire them in masses; train them in classes; and kick them out on their asses. Sell your friends

and relatives to get started, and time will take care of the rest. And, I am sure you, being in the insurance industry, have heard that.

Now, up until 1965, I sold cash value insurance, which is a whole life insurance. In fact, in 1965 I received an award for selling over two million dollars of insurance. Then the President of the United States started to counterfeited money by removing the silver backing to support his "guns and butter" policy to finance the Lyndon B. Johnson great, agent orange, Viet Nam society. At that point, in 1966, cash value life insurance became obsolete, and I never sold anything but term insurance after 1965.

I was taught by Prudential that cash value life insurance was an investment, as it paid a two and one-half percent return on the money invested. And, in 1965, when the banks were only paying two percent, it was a good product, and I commend the people who sold it up to that point. But, the Federal Trade Commission last year proved that the information was a lie, and that, in fact, it was a poor policy.

Now, I am sure that you, gentlemen, and everybody else in here remembers the Prudential ads showing the Empire State Building and the jet planes landing, and the TWA's and the Eastern's, and the pouring of the steel, and the making of the rubber, and a beautiful voice in the commercial saying: "If you get a piece of the rock, you share in the profits of Prudential." Now, this was another deliberate lie, and the Florida Insurance Commissioner, Thomas O'Malley, not only banned Prudential from its false advertising, I know - because I testified there - but he made them advertise a complete disclaimer and a retraction.

Did you ever wonder why, when you needed money the most and had to borrow your money from your cash value policy, you had to pay someone else interest on your own money? The cash value companies lower your protection and increase your premium until you pay yourself back. That is a real stupid investment.

Now, I am not here today to tell you to ban this cash value policy, no. By the way, it is the worst possible insurance policy for anybody earning under \$100,000 a year. The free enterprise system allows consumers to choose, without government control, without government intervention. The Edsel became obsolete. Gentlemen, the Ford Company did not go to the politicians and demand that people must only buy Edsels, no. Ford changed. They updated their product. They modernized and they built the Escort. Only under a communist government, or communist rule, do you not have competition.

If Prudential and the other supporters of this anti-free-enterprise legislation want to keep selling their Edsels, let them. They, in a free society, have a right to be as wrong as they want to be, as long as they don't hurt others. Your bill will hurt the consumers of New Jersey. It is pernicious. It is a swindle, and it is a deception. If you, the politicians who support this bill, are not deceived, then you are the deceivers. And, any politician who does support this bill will, I believe, be telling the consumers in his area that he opposes the free enterprise system, and supports an anti-free-enterprise system.

I must confess I appreciate one thing you have done today; you have done something with this bill that I could not accomplish in two years. Because of your efforts to -- I don't know, I used the word railroad, maybe that is the wrong word -- railroad this anti-consumer legislation, you have aroused and, yes, even angered an awful lot of normally apathetic producers to unite, and tomorrow I will be instructing them, in detail, on how to expose your voting

record to your constituency. The choice of systems is yours today. The choice on election day belongs to the people, and we will make every effort to inform them of your vote on this bill. If you value your position, remember August the 18th Al Uhlman laughed at me. Please, remember Al Uhlman.

Those are my closing remarks, but I would like to add something else because there were so many things that were said here today. I don't think we are trying to attack any individuals. I don't really believe this. I think we are trying to hold people accountable. I don't think there was one person - and no one can name one person - who has retired on the cash values of their life insurance policies, because they have all been eroded. The most important thing we have to remember is don't let this thing continue.

Instead of all of us in this room fighting one another about the wrong thing, we shouldn't be fighting. We are both on the same side. I agree with everyone. I remember when I paid off a death claim on a cash value policy, but I remember paying off a lot more on a term policy. Here is our problem. Here is everybody in this room's problem: In 1964 this was interchangeable. You could swap the silver dollar for the paper dollar. Today it costs twenty of these phony -- of these paper dollars to get one of these (illustrating with a silver dollar). That means that in terms of the 1964 purchasing power, this is worth a nickel. So, if you are earning twenty thousand dollars today, what are you really earning? One thousand? And, it is all because of what has happened in Washington. There is no solving this problem unless we all get together. And, I am not here to threaten you; and if you took it what way, I am sorry you did. I am here trying to explain to you that your legislation will not solve the problem. This problem must be solved by the people in Prudential not making bad loans like they just did.

The people from another insurance company - Equitable - made a horrendous loan three years ago. I would have loved to borrow the money from them at four percent. You see, they loaned the money to the Chairman of the Board's company. Now, that should be a full blown investigation.

You see, I am not here today to fight with you about what is happening. All I am saying is, hey, if he wants to try and sell an Edsel, or you want to try and sell an Edsel to her, and I come along and I say, "Hmmm, you get four miles to a gallon; the tires fall off" -- you know, and you go back to him and he says, "Well, look at the comfort you get" - well, what happened to the Edsel? It went. Why should we be forced to keep a product going whose time has past?

I will say this to you: You are right about annual renewable term; you are wrong about deposit term, because if you are looking at a sixteen dollar per thousand cash value product, and you are looking at a three dollar -- I am using a hypothetical figure -- figure for deposit term, and you are looking at a two dollar figure for annual renewable term, and if the three dollar figure will keep you in the business so that you can service your clientele instead of being one of the ninety-seven percent that is turned over -- and I am sure you realize that the turnover in the life insurance business is horrendous -- if that keeps you servicing your client, I don't care what the commission is, the sixteen dollar one didn't. Do you understand my point, and what I am driving at? So, we have to come up with a product that is going to help our people.

We know a man can't make a living selling annual renewable term; we know that. We also have seen the turnover record for the insurance industry

selling cash value -- we know that. We do know another thing. I have been selling this deposit term product since 1966. I have people here. I didn't bring it with me, I am sorry. I would like to tell you my last ratio since 1966; it is over ninety percent persistency. Now, that should tell you something -- okay? And, it has kept me in the business, and it has kept me to the point where I can-- You know, I heard the last gentleman talk about where they take the money out of the policies, and this and that. My only question to him is, if everybody is taking the money out of all the insurance policies, how come the banks are so loaded with money; how come the money markets are so loaded with money? Are they the only places?

You know, I replace a lot of insurance -- an awful lot. I wrote something down here. Everybody neglected to talk about the first year load of the cash value policy. I mean, that is a horrendous load. But, I am not here to knock that. I am saying to you that instead of knocking the commission on deposit term, let's knock the commission that the poor agent is getting paid on whole life. Let's make it two hundred and sixty percent, the commission on a whole life product so that the agent can live, and we eliminate the turnover.

That's the only thing I am saying to you. I appreciate your patience with me. Do you have any questions?

ASSEMBLYMAN ADUBATO: Mr. Graham, I would just like to make one or two observations. May I ask you, Mr. Graham, do you live in New Jersey?

MR. GRAHAM: No, but my companies are licensed in New Jersey -- all of them.

ASSEMBLYMAN ADUBATO: The reason why I brought that up is because you have been selling deposit term since 1966.

MR. GRAHAM: It was leagal in Pensy then.

ASSEMBLYMAN ADUBATO: Yes, I realize that. I am saying New Jersey.

MR. GRAHAM: I am licensed in Delaware.

ASSEMBLYMAN ADUBATO: You may be interested to know that the company I am a general agent for has the product, deposit term, and was refused the product in New Jersey in about '66. It since then has been accepted in New Jersey. But, that is just a side comment to you.

I was extremely interested in your analysis of the changing times we are going through -- the cause and effect of those changing times. I would just like to, if I may, say that I respect your enthusiasm very much. I would also like to say to you, very respectfully, that when you talk about the money market and the value of money, I disagree with you; not that the changes don't take place in Washington, but who is responsible for those changes? You give me an opportunity to say to you that you haven't -- and I am sure you probably have -- with your effort and your energy looked a little closer at how the federal reserve began.

MR. GRAHAM: I know that, sir.

ASSEMBLYMAN ADUBATO: And what is really causing this problem of money in this country -- with the central banking theory and other things like that.

MR. GRAHAM: It is not a theory; it is a fact.

ASSEMBLYMAN ADUBATO: Well, okay. You seem to be at another level in your analysis -- forgetting deposit term for a minute. I, for one, appreciate your observations, even though I don't necessarily concur with your premise as to how they began or who the primary movers of these changes were.

MR. GRAHAM: Can I answer that right there?

ASSEMBLYMAN ADUBATO: Well, I just wanted to make an analysis.

MR. GRAHAM: Okay. There is an answer to the insurance industry. They defeated - they killed - the mutual fund industry by doing the same thing that is trying to be done here. The last gentleman talked about doing away with the contractual. You see, the highest profession in this world is not a legislator, it is a salesman. It is the only profession that separates communism from capitalism. They have legislators in Russia. They have doctors, lawyers -- they have every profession in Russia, but they don't have salesmen. It is the highest profession in the world, and I am proud to say that I am one.

I am not a great salesman, but I get by. The problem that we are faced with in this country is, once you take the incentive away from a salesman to go out and sell his wares, at that point you delegate that product to a death knell. I can hear the bell. I can hear the bell in here. For whom the bells toll, and they are tolling right now.

ASSEMBLYMAN ADUBATO: Let me help you this way, whether you want it or not. You were at the committee meeting, and I am sure you observed the fact that there are seven members on this committee. Now, there were three members present this morning. One had to leave. Quite frankly, I had other appointments this afternoon, and I said to the chairman that I was leaving. I decided to come back. I cancelled my appointments for one reason, because of the enthusiasm that I saw here, and because I feel very strongly about free enterprise, not only in words but in deeds -- you see?

You have a right to question anything you want, but I am judged every two years in my district. I have never, and I never will, sign any statement of my character. If you have anything to question about my character you go ahead and question it. I have nothing to hide. They can do anything they want -- anybody, any bureaucracy, any judgment, any tapping, or anything else, because there is nothing they are going to find. I face that constituency and so do the other eighty members of this body.

I don't take exception to your presentation, but I do take exception to the fact that there is an innuendo that the people here have a preconception, that something sinister is already done. If that was true, let me point out to you, respectfully, I wouldn't be sitting here listening now.

Let me also point out to you that there is nobody that I know of, and I am not saying it doesn't happen, I am saying that I personally know of, that I wouldn't be proud to say is a member of this body -- I don't care what side of the aisle they sit on. That may sound like a speech to you, and perhaps it is.

MR. GRAHAM: It is.

ASSEMBLYMAN ADUBATO: I have allowed your speech, so I will take mine. My speech is that your right is to watch and watch people that are in elected office. And, those people in elected office are there to watch you.

I appreciate you coming down here.

MR. GRAHAM: Okay. Sir, just so there is no doubt in anybody's mind, I would like to present you with one of the affidavits, and you have the right to sign it or not sign it.

ASSEMBLYMAN BORNHEIMER: I would like to make a few comments myself. We will discontinue this portion of the public hearing and reschedule another

one because we have constraints as far as our staff is concerned, and certain limitations.

I would like to say that it is always interesting to me as a legislator-- I have said it before, and I will say it again.

ASSEMBLYMAN ADUBATO: Excuse me for interrupting. Mr. Graham, does this mean I have to give up my life insurance license that I have had for twenty years? Because it says that I, nor my family, nor any friends, have not and will not accept any financial remuneration from any insurance company. I couldn't send my three kids to college if I signed this.

MR. GRAHAM: Well, sir, may I suggest to you that I did not know at the time when I drew that up that there was going to be this conflict of interest on your part.

ASSEMBLYMAN ADUBATO: Well, Mr. Graham, that conflict of interest -- I don't know what you are talking about. But, if you knew anything about Mike Adubato, and if you knew anything about the past seven years, you wouldn't make that statement.

MR. GRAHAM: Well, see, I did not know that you were licensed and that you were receiving it. Now, we can make yours to eliminate your renewals or your future commission.

ASSEMBLYMAN ADUBATO: You can make anything you want. I will end the conversation by saying what I said before. I am not signing anything for you or anybody else. If you have any charges to make, you make them and we will go to due process.

MR. GRAHAM: We sure will.

ASSEMBLYMAN ADUBATO: We may end up making charges against you and your ethics. That's very possible.

MR. GRAHAM: Well, you are welcome to do that, and your threats are idle.

ASSEMBLYMAN BORNHEIMER: As I was stating before, we have developed a lot of information. What I was alluding to was, as the gentleman stated as a true salesman - every salesman will state it - nothing happens until something is sold. Well, we find in government that nothing happens until a piece of legislation is put into the box. A lot of people get excited and we get a lot of conversation and a lot of information. I would presume that a lot of people learned something today. I know I learned a lot. I have learned a lot about life insurance; I have learned a lot about deposit term. I don't sell insurance. I don't sell cars. I am just an accountant that can figure out things and add and subtract a little bit. That's why I have an eraser on my pencil, because I make mistakes too.

However, it is very important to let you know that government does try to find out in a strange way, and it is called public hearings, and it is called listen to the public and listen to both sides of the issue. This hearing will continue sometime in the future. Those who remain on the list will be contacted and will be given an opportunity to testify. Those who will have an opportunity to come back can submit written documentation which will become part of the record, either as of today or the next time we have a hearing on this bill. So, please continue to submit your information, pro or con, whichever you want to send. Thank you for being here today. We appreciate it very much.

(hearing concluded)

1

DEPOSIT TERM:

A matter of consumer concern?

PHONY ISSUE:

Product

REAL ISSUE:

Competition

EXAMINE THE FACTS:

- 1. Product introduced in 1964.**
- 2. Approved for sale in all 50 states, District of Columbia, Puerto Rico, and all U.S. Military Installations through Department of Defense.**

THREE PERSPECTIVES:

- 1. Agents - Protect commissions.**
- 2. Companies - Protect business
inforce and future
profits.**
- 3. Consumers - Economic needs.**

GENUINE CONSUMER INTEREST?

1. Billions of dollars of debit insurance inforce—termed by many—a consumer “ripoff.”
2. Agents’ contracts—almost 40% less commission for selling Art vs. Whole Life.
3. Whole Life Contract—delete one word—save consumers millions of dollars.
4. Northwestern Mutual answer—increase one million policy-holders’ coverage by four billion dollars at no increase in premium.

Others’ response:

Attempt to stem tide through political clout.

**THOSE INTERESTED IN CHANGING
THE NON-FORFEITURE VALUES FOR
DEPOSIT TERM HAVE TWO COMMON
CHARACTERISTICS:**

1. Majority of sales/in-force is Whole Life.
2. Deposit Term not offered as an alternative.

REAL ISSUE: COMPETITION

Deposit Term has several major consumer advantages that some agents and companies object to:

- 1. Lower initial cost than Whole Life—thus young asset-poor families can come closer to fulfilling real insurance needs (see F.T.C. and House Subcommittee reports).**
- 2. Higher commissions than annual renewal term—allows agents to make a living (lower than Whole Life commissions).**
- 3. When coupled with a modern high yielding annuity, offers the consumer more flexibility and protection against early lapse.**

COMPARISON

**WHOLE LIFE
PARTICIPATING**

vs

**LIFECYCLE
MODIFIED WHOLE LIFE &
FLEXIBLE PAYMENT ANNUITY**

ASSUMPTIONS

1. Male age 35
 2. \$100,000 insurance initial amount.
 3. \$1,964 annual outlay.
 4. Dividend accumulated at interest current scale
 5. Flexible payment annuity
- Current Yield 8.25%**
Guaranteed Yield 6% for 5 years, 4% thereafter

DEATH ESTIMATE OF THE POLICY LOAN VALUE

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DEATH ESTATE COMPARISON

PARTICIPATING WHOLE LIFE	
Guaranteed	Current
100,000	100,500
100,000	108,300
100,000	123,100
100,000	142,200
100,000	165,900
100,000	238,500

*Dividend Paid Up Additions
Policy Loan Interest Rate 8%;

END OF
YEAR
1
5
10
15
20
At Age 65

Lifecycle	
Guaranteed	Current
\$ 101,873	\$ 101,902
110,024	110,515
120,934	125,567
133,158	146,492
145,982	175,195
169,505	267,439

*Modified Whole Life
Flexible Payment Annuity
Current Rate 6.25%
Guaranteed 6.50-5 yrs.
4% Thereafter

LIST B.I. QUEST 5

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LIVING ESTATE COMPARISON

PARTICIPATING WHOLE LIFE	
Accumulated	Current
0	800
8,103	8,300
12,881	81,100
21,163	42,200
30,050	68,396
48,663	135,500

Dividend Paid Up Additions
Policy Loan Interest Rate 8%

END OF YEAR
1
3
10
15
20
At Age 65

Accumulated	Current
1,373	1,403
8,491	10,027
10,934	13,173
31,958	43,800
45,932	79,040
69,509	167,500

Reduced Whole Life to
Flexible Payment Annuity
Current Date 8-2-5
Outstanding 5.5 yrs.
4.7% interest

FLEXIBILITY

Problem: Policyowner can't pay 2nd year premium

Whole Life (Par.)				LifeCycle		
Year	Premium	Cash Value		Premium	Cash Value	
1	\$1,964	\$231	PROBLEM	\$668	\$1,402	NO PROBLEM
2	\$1,964			\$281		
3	\$1,964			\$295		
4	\$1,964			\$315		
5	\$1,964			\$337		

LifeCycle can pay next 4 years premium...
The Par Whole Life cannot.

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FLEXIBILITY

	Whole Life (Car)	Modified Whole Life
1	1.964	668
2	1.964	281
3	1.964	295
4	1.964	315
5	1.964	337
6	1.964	360
7	1.964	383
8	1.964	406
9	1.964	429
10	1.964	452
11	1.964	475
12	1.964	498
13	1.964	521
14	1.964	544
15	1.964	567
16	1.964	590
17	1.964	613
18	1.964	636
19	1.964	659
20	1.964	682
Subtotal	\$ 39.280	\$ 2,225
Age 65	58.920	1,929
		80

OBJECTIONS TO:

- **Modified Whole Life (Deposit Term)**
- **LifeCycle**
 1. Client loses deposit.
 2. Unconscionable commission schedule
 3. Annual renewable term is cheaper.
 4. No stepped-up cost basis at death.

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10-YEAR COST COMPARISON

Particulars: 10 Year Life				Modified Whole Life				Modified Whole Life and Flexible Payment Amounts			
End Outlay Cash, Year	Cost	Ins. to Cash, Year	Cost	End Outlay Cash, Year	Cost	Ins. to Cash, Year	Cost	End Outlay Cash, Year	Cost	Ins. to Cash, Year	Cost
Yes - Date	Account - Date	Yes - Date	Account - Date	Yes - Date	Account - Date	Yes - Date	Account - Date	Yes - Date	Account - Date	Yes - Date	Account - Date
1 1964	231	1973	1173	1 1964	231	1973	1173	1 1964	231	1973	1173
2 1972	1582	1224	1224	2 1972	1582	1224	1224	2 1972	1582	1224	1224
3 1972	1582	1224	1224	3 1972	1582	1224	1224	3 1972	1582	1224	1224
4 1972	1582	1224	1224	4 1972	1582	1224	1224	4 1972	1582	1224	1224
5 1972	1582	1224	1224	5 1972	1582	1224	1224	5 1972	1582	1224	1224
6 1972	1582	1224	1224	6 1972	1582	1224	1224	6 1972	1582	1224	1224
7 1972	1582	1224	1224	7 1972	1582	1224	1224	7 1972	1582	1224	1224
8 1972	1582	1224	1224	8 1972	1582	1224	1224	8 1972	1582	1224	1224
9 1972	1582	1224	1224	9 1972	1582	1224	1224	9 1972	1582	1224	1224
10 1972	1582	1224	1224	10 1972	1582	1224	1224	10 1972	1582	1224	1224

Includes Dividend Accumulations on current years for public use with 3% from interest rate. Dividends were not guaranteed.

*Fully adjusted basis on current interest rate of 8.25%. Rate may change in future but is guaranteed never to be less than 8% during the first 10 years and thereafter.

PRESENT PRESENT

NEW CASE - THE

ABOUT

COLLEGE

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OBJECTION

Annual Renewable Term is Cheaper

TrueReal IssueART
\$2.00Modified Whole Life
\$2.38 + (4.00)Whole Life
\$16.22

If the logic in Modified Whole Life is
 bad on a cost basis of \$6.38 with
 a first year cash value of 0,
 what is whole life with a cost of
 \$16.22 with a first year value of 0?

Conclusion:

Real issue is competition, not price

et

RETIREMENT OBJECTIVES

- 1. Stop paying the \$^{1,652} annual outlay from earned income.**
- 2. Provide additional retirement income of \$⁸⁰⁰ monthly.**
- 3. Maintain a minimum \$100,000 death estate.**
- 4. Maintain a minimum \$100,000 living estate.**

AT RETIREMENT, USE LIFECYCLE FLEXIBILITY
TO MAKE THESE CHANGES:

<p>o Use partial withdrawal feature to provide income equal to the current 8.25% interest rate. Cash accumulation stays level.</p>	<table> <tr> <td>Cash Accumulation ⁽¹⁾</td><td>\$143,345</td></tr> <tr> <td>8.25% Withdrawal Rate ⁽²⁾</td><td><u>x .0825</u></td></tr> <tr> <td>Annual Withdrawal</td><td>\$ 11,825</td></tr> </table>	Cash Accumulation ⁽¹⁾	\$143,345	8.25% Withdrawal Rate ⁽²⁾	<u>x .0825</u>	Annual Withdrawal	\$ 11,825
Cash Accumulation ⁽¹⁾	\$143,345						
8.25% Withdrawal Rate ⁽²⁾	<u>x .0825</u>						
Annual Withdrawal	\$ 11,825						
<p>o Continue \$25,000 of the Modified Whole Life as Whole Life. Discontinue the other \$36,000</p>	<table> <tr> <td>\$25,000 Whole Life Annual Premium</td><td>\$ 1,754</td></tr> </table>	\$25,000 Whole Life Annual Premium	\$ 1,754				
\$25,000 Whole Life Annual Premium	\$ 1,754						
<p>o Use the annual withdrawal to pay the life insurance premium and provide \$839.25 additional monthly retirement income.</p>	<table> <tr> <td>\$25,000 Whole Life Premium</td><td>\$ 1,754</td></tr> <tr> <td>Add't Income (\$839.25 x 12)</td><td><u>10,071</u></td></tr> <tr> <td>Annual Withdrawal</td><td>\$ 11,825</td></tr> </table>	\$25,000 Whole Life Premium	\$ 1,754	Add't Income (\$839.25 x 12)	<u>10,071</u>	Annual Withdrawal	\$ 11,825
\$25,000 Whole Life Premium	\$ 1,754						
Add't Income (\$839.25 x 12)	<u>10,071</u>						
Annual Withdrawal	\$ 11,825						

(1) Excludes \$800 cash value continued in \$25,000 Whole Life Policy.

(2) 8.25% withdrawal rate is illustrated to equal the current 8.25% interest rate. Current rate may change in future, but will never be less than the guarantees.

RETIREMENT CASH FLOW ANALYSIS

AGE	Non Participating Whole Life			LifeCycle		
	65	75	85	65	75	85
CASH IN	\$ 0	\$ 0	\$ 0	\$ 11,825	\$118,250	\$236,500
CASH OUT (PREMIUM)	1,652	16,520	33,040	1,754	17,540	35,080
TOTAL	-(\$1,652)	(16,520)	(33,040)	10,071	100,710	201,420
LIVING ESTATE	49,800	65,900	77,000	143,345	150,670	157,770
DEATH ESTATE	100,000	100,000	100,000	168,345	168,345	168,345

LifeCycle Total Difference is $\$201,420 + \$33,040 = \$234,460$

RETIREMENT WITH TRADITIONAL WHOLE LIFE*

Retirement Objective	OPTION (Choose Any 1 Column and Read Down)				
	Monthly Life Income No Refund \$347 Monthly	Paid-Up Insurance \$76,400	Extended Term Insurance 13 Years 71 Days	Cash Surrender Policy \$49,800 Cash	Continue Premiums \$1,642 Annually
Stop Annual Outlay From Earned Income	Yes	Yes	Yes	Yes	No
\$800 Additional Monthly Retirement Income	No (\$347 Maximum)	No	No	No	No
Minimum \$100,000 Death Estate	No	No	Yes (But only 13 years 71 days)	No	Yes
Minimum \$100,000 Living Estate	No	No	No	No	No

* Based on \$100,000 Whole Life policy issued to a man, age 35, by Fireman's Fund American Life Insurance Company.

LOAN OPTION REDUCES INSURANCE AND INCREASES PREMIUMS

ADVANTAGES - FLEXIBILITY

LIFECYCLE

- 1. Cash accumulation flexibility. Contributions may be increased or decreased on a monthly or lump sum basis; stopped, then started again or discontinued indefinitely.**
- 2. Functionally separate elements for insurance and cash accumulation allows for more estate and financial planning flexibility.**
- 3. Significantly lower fixed premium commitment.**

WHOLE LIFE—PAR

- 1. Not possible.**
- 2. Insurance and cash accumulation integrated and, thus, less flexible.**
- 3. High total fixed premium commitment.**

ADVANTAGES - FLEXIBILITY (Cont.)

- | | |
|---|---|
| <ul style="list-style-type: none">4. Liquidity via partial withdrawal, 10% of annuity accumulation may be withdrawn each year at no charge. Withdrawal amount in excess of 10% subject to low one time withdrawal charge.5. Competitive interest rates reflecting money market conditions and FFAL investment results.6. Ability to modify type and amount of coverage. | <ul style="list-style-type: none">4. Permanent loan interest rates from 5% to 8% loan reduces insurance and increases cost.5. Fixed by law, interest on dividend accumulations will vary but have no underlying guarantee.6. More restricted. |
|---|---|

FLEXIBILITY - CONCLUSION

- 1. There is no comparison between Traditional Whole Life and LifeCycle.**
- 2. Objections are based on the inability to compete...not real issues.**

COMPETITION OR CONSUMER INTEREST?

- 1. New Business**
- 2. Agent Retention**
- 3. Replacement**

COMPARISON SUBSTANDARD

\$ 100,000 - Rated T4 - Male Age 35

	PAR WL	LifeCycle		
	Life Premium	Life Premium	Annuity Payment	Total Outlay
1	2.322	896	1.426	2.322
2	2.322	522	1.800	2.322
3	2.322	550	1.772	2.322
4	2.322	590	1.732	2.322
5	2.322	634	1.688	2.322
*0	23.220	7.270	15.950	23.220
*0	46.440	23.250	23.190	46.440

*TOTAL CUMULATIVE OUTLAY

SUBSTANDARD COMPARISON

\$ 100,000 Rated T4 Male 35

TOTAL OUTLAY	YEAR	PAR WL CASH VALUE	Lifecycle CASH ACCUMULATION	DIFFERENCE
\$ 2,322	1	0	\$ 1,536	\$ 1,536
4,644	2	200	3,594	3,394
6,966	3	1,400	5,781	4,381
9,288	4	3,100	8,095	5,195
12,600	5	4,800	10,541	5,741
23,220	10	15,000	25,644	10,644
\$ 46,440	20	\$ 44,100	\$66,475	\$22,375

INCLUDES
CASH VALUE
OF PAID UP
ADDITIONS

INCLUDES
LIFE CASH VALUE
AND ANNUITY
CASH ACCUMULATION

SUPPORT?

- 1. American Council of Life Insurance (ACLI)**
- 2. National Association of Insurance Commissioners (NAIC)**
- 3. National/State Consumer Groups**
- 4. American Society of Actuaries**
- 5. Federal Trade Commission**
- 6. Congress**

**“THE REPLACEMENT OF PRUDENTIAL
POLICIES WITH PARTIAL ENDOWMENT
POLICIES (DEPOSIT TERM) ON FINANCIAL
GROUNDS RARELY, IF EVER, CAN BE
JUSTIFIED.”**

National Underwriter

September 13, 1980

Myron Margolin

**FIREMAN'S FUND AMERICAN
LIFE, BASED ON ITS EXPERIENCE,
CONTENDS THIS STATEMENT IS
SELF SERVING, MISLEADING AND
INACCURATE.**

The truth from the consumers' perspective can be determined and clearly should be determined before any changes are made in the non-forfeiture statutes that may adversely affect New Jersey consumers' choice of products.

We respectfully request that the New Jersey legislature, in concert with the New Jersey Department of Insurance, undertake an in-depth study on the subject of replacement to determine if replacements are in the best economic interest of the consumer. Such an undertaking will have the full and complete support of Fireman's Fund.

ADVERTISING AND **SALES SECTION:**

We have no objection to any rules that are fairly and equally applied to all products. We strenuously object to rules designed to discriminate against a single product line.

STATEMENT OF THE NATIONAL ASSOCIATION OF
LIFE UNDERWRITERS AT NEW JERSEY HEARING
ON THE MATTER OF PROPOSED LEGISLATION,
NOVEMBER 12, 1980

Good Morning. My name is Roland L. Panneton.

I am Counsel for and appear before you today representing The National Association of Life Underwriters (NALU). NALU is a federation of approximately 1000 local and state associations, where membership in the former totals over 140,000 individual life insurance agents, general agents and managers throughout the United States and 3,500 of these individuals are located in New Jersey.

We are pleased to be afforded the opportunity to present our Association's views concerning what we consider an extremely serious matter. A-2001 is legislation which, if enacted, should have a significantly positive impact on the consumers of New Jersey who might be considering the purchase of deposit term insurance. As we understand it A-2001 would not adversely affect the sale of deposit term but would require certain disclosures which will assist the consumer in his decision making and also A-2001 would prohibit certain marketing techniques which would tend to mislead and confuse the consumer.

Both deposit term proponents and opponents alike will probably agree that the introduction of deposit term

insurance into the marketplace has been controversial to say the least. It has been praised as "...a real breakthrough for consumer-oriented life insurance, a superior type of life insurance."¹ On the other hand, Dr. Herbert Denenberg, a former Insurance Commissioner of Pennsylvania and former Professor of Insurance at the Wharton School said "... deposit term is founded on forfeiture, is structured to lead to misrepresentation and misunderstanding, is a likely tool of fraud and deception, and is another sorry example of life insurance competition by confusion and by proliferation and profusion of policy forms. It should not be approved for sale."²

We see the need to answer two questions this morning: 1) Does the deposit term product and the way it is marketed create such problems as to call for special legislation to alleviate these problems, and 2) if so, will A-2001 substantially insure that purchasers of these products in New Jersey will be protected from these problems.

After considerable research of the deposit term product it became very clear that a number of qualified authorities feel this product does create serious problems:

1. These types of policies (deposit term) tend to lend themselves to misrepresentation,

¹Sylvia Porter, "Is Deposit Term for You", New York Post, (August 1, 1977).

²Statement of Herbert S. Denenberg presented at a Hearing before the State Board of Insurance, Austin, Texas, (October 4, 1977), p.8.

have the capacity to mislead the purchaser, and therefore are contrary to the public interest.³

2. "We view deposit term as a form of term insurance in which the price structure provides a front-end load. The policy thus generates some funds to make it possible for that company--without dipping deeply into its accumulated resources--to pay the agent a more substantial first year commission than would be possible under a regular one year renewable term policy".⁴ Some have the opinion that one reason deposit term was created was to pay high enough commissions to motivate salesmen to sell term insurance. Insurance trade publications and mailers to agents show commissions as high as 200% to 250% for deposit term insurance.
3. "The nonforfeiture laws were passed to rid the insurance market of unfair and unreasonable forfeitures. These laws define what an unfair and unreasonable nonforfeiture is...the deposit term policy repudiates this tradition by exacting

³ Commonwealth of Pennsylvania Insurance Department Bulletin, (August 2, 1971).

⁴ Dr. Joseph M. Belth, The Insurance Forum, Vol 5, No. 4, (April 1978).

a severe and outrageous forfeiture, in some cases total forfeiture of what had been billed as a deposit."⁵

4. "He (Chairman Yantis) said he will propose an emergency rule that would have the effect of discouraging the sale of 'deposit term' life insurance policies in which customers stand to lose their deposits if they fail to make scheduled payments."⁶
"After reviewing the matter (deposit term) at length, the State Board of Insurance determined that without such rules or regulations, the welfare of the citizens of Texas purchasing life insurance policies would be adversely affected."⁷ The regulations issued in Texas required minimal cash values for deposit term. The State Board later withdrew the regulations when they determined that the Texas statutes did not give them the authority to set cash values in this manner. This technicality does not alter the opinion of the State Board of Insurance as expressed in the Board Order.
5. "There is enough low cost term insurance in the marketplace today for any concerned buyer without adding confusion to the product."⁸

⁵Denenberg Statement (See footnote 2).

⁶Dallas Times Herald, April 20, 1978, p.1.

⁷Texas State Board of Insurance Order 33707, "Rules for Deposit Term and Related Policies", (April 28, 1978).

⁸Howard J. Saks, CLU, "Deposit Term has Significant Drawbacks" Estate Planning, (January 1978), p. 38.

6. Sylvia Porter wrote a pro-deposit term article (see Footnote 1), but in a later article she had this to say, "...some highly respected consumer-oriented critics are openly attacking deposit term sales as 'deceptive'...Belth is concerned that you are not being told the whole truth about replacements of your existing policies with deposit term or about original purchases of the new form of insurance."⁹ In Ms. Porter's original article praising deposit term she mentioned three companies selling deposit term. One point of interest was that Ms. Porter's family was beneficial owner of 21,906 shares of stock in one of those companies. Ms. Porter admitted her family's stock ownership and wrote another article on deposit term and the quote above is from that second article.

7. "The problems with PET (Partial Endowment Type) policies stem primarily from the conflict between the marketing techniques associated with the product and the true nature of the

⁹Sylvia Porter, "Deposit Term Insurance Has Pros, Cons", Dallas Morning News, (Monday, May 1, 1978), p.3C.

product. These problems fall into five broad categories: 1) misleading or confusing terminology; 2) artificial relationships; 3) arbitrary severability; 4) cash value inequities; and 5) inadequate disclosure."¹⁰

The last quote above by Dr. Harold Skipper was taken from an article which appeared in the CLU Journal. Dr. Skipper explains in detail and analyzes the problems associated with deposit term products.

Dr. Skipper points out, however, that in his opinion the problems associated with deposit term policies should not be viewed as being peculiar to these products but are actually endemic to the existing system of life insurance. They merely magnify already existing systemic problems. He believes that, as such, they cry out for systemic analyses and solutions. The systemic problems Dr. Skipper outlines fall into five categories:

1. Inadequacy of Unfair Trade Practices Acts;
2. Inadequacy of Standard Nonforfeiture Laws;
3. Inadequacy of Solicitation Regulations;
4. Inadequacy of the Replacement Regulations; and
5. Inadequacy of agent licensing procedures.

10

Harold Skipper Phd., CLU. "Perspectives on Partial Endowment Type ("Deposit Term") Life Insurance; Implications for Regulators," CLU Journal (July 1979) p. 18.

From a long-range perspective, Dr. Skipper may be absolutely correct. Presuming Dr. Skipper's prognosis is correct, to remove from the marketplace the supposed five systemic problems above would certainly be the ideal solution not only for deposit term, but for all other problems now present in the marketplace. However, this is the real world we live in and to even suggest that these five categories of systemic problems will be successfully addressed in the short term is wishful thinking at best. The consumers of New Jersey need relief from the problems associated with deposit term today, not 6 or 7 years from now. If and when long-range systemic solutions can be implemented, the short term solutions needed today can be supplanted. New Jersey needs a solution now.

The last question to be answered is whether A-2001 is adequate to protect the New Jersey insuring public from the many problems associated with the deposit term product and its marketing. NALU feels that it is and fully endorses A-2001.

Thank you once again for the opportunity to share our thoughts with you.

* * *

REMARKS BY JAMES J. SHEERAN

COMMISSIONER OF INSURANCE

PARTIAL ENDOWMENT TERM LIFE INSURANCE

HOUSE BANKING AND INSURANCE COMMITTEE

STATE OF NEW JERSEY

NOVEMBER 12, 1980

Mr. Chairman and Members of the Assembly
Banking and Insurance Committee:

I appreciate the opportunity to appear here today and to present my views on Assembly Bill #2001, a measure which would establish statutory non-forfeiture and disclosure standards for a class of life insurance policies commonly described as deposit term insurance. Before I state my specific position on the bill, I think it would be helpful to provide some background on this type of life insurance product and on general issues of life insurance regulation which are relevant to its sale.

In recent years there has been a great deal of discussion--focused in the proceedings of the National Association of Insurance Commissioners, the Federal Trade Commission and various committees of the U.S. Congress, and in academic circles--regarding the consumer's need to understand the differences between straight life insurance and term life insurance and to have the use of meaningful cost indexes by which to compare the true cost of different policies in order to make intelligent purchase decisions. Volumes have been written on these subjects, which are considerably broader than the scope of your inquiry here today. Suffice it to say, for your present purpose, that consumers are gradually coming to a somewhat better understanding of two extremely important facts about life insurance purchases: First, that term insurance--or simple death protection--is in the short run significantly lower-priced than straight life insurance, so that an identical amount of initial premium will generally buy from three to five times as much term insurance as straight life insurance; and secondly, that the purchase of straight life insurance (or indeed, any type of life insurance that provides cash values in addition to death protection) represents, in part, an investment of premium funds whose performance can be adequately gauged only through the calculation of some type of cost index or rate of return taking accurate account of the time value of money involved in the transaction.

The practical inferences to be drawn from these facts are also twofold: that term insurance is an excellent choice for some insurance buyers, as straight life is for others; and that, if a consumer decides to purchase straight life or any type of cash value insurance, he or she should select a policy whose cost index or rate of return compares favorably with those of other available policies.

The increased consumer interest in term insurance and concern about a favorable rate of return on cash value policies have both influenced, in a way, the intensive marketing of deposit term policies over the past few years. The deposit term-or as it should more accurately be called, partial endowment term insurance policy - is a variant of conventional term insurance. However, recognizing that conventional term insurance produces a relatively low commission income for agents, and that this in turn creates a disincentive for some agents to sell term policies to their customers, the price of partial endowment term usually includes an additional first year premium that permits additional compensation to agents who sell it. Although such compensation is higher than that usually available for conventional term policies, in absolute amount it may be no greater - and in fact may be less - than the compensation available for the sale of a straight life policy. Incorporating a second distinguishing

feature that makes them in some small degree a hybrid between term and traditional straight life insurance, partial endowment term policies also provide an endowment or equivalent cash value that becomes available to the policyholder typically toward the end of the term period - at the end of eight, nine, ten, eleven or twelve years.

It can be seen, therefore, that the partial endowment term policy by its special structure addresses several of the practical problems involved - from a company or agent's point of view - in the sale of term insurance policies. The additional first year premium provides the opportunity for better compensation to the agent, while the availability of an endowment or cash value amount in the policy's later years creates an incentive for a consumer to make the larger outlay required for the first-year policy premium. The consumer purchases the simple death protection which he or she needs and, if the policy is maintained, will have available an endowment benefit at the end of the term period.

However, the special structure of partial endowment term insurance also lends itself, according to many critics, to serious abuses in the marketing of the product. Critics point first to the name "deposit term" insurance and to the use of the word deposit to describe the additional first year premium. The additional first year premium is not a deposit as that term is commonly understood, the critics rightly contend, because the insurance company does not put it into a special side fund to be gradually accumulated at a specified rate of interest. Rather, the so-called deposit is simply integrated with the company's overall premium collections and serves as a source of funds to offset acquisition expenses - particularly the commission of the soliciting agent. The endowment or cash values that are provided in the policy's later years therefore do not derive directly and exclusively from the so-called deposit or additional first year premium, nor are they accumulated gradually at a specified rate of interest. In fact, there are often no endowment or cash values at all in the first several years of the policy period. Contrary to a consumer's understanding of the word deposit in connection, for example, with a savings account in the bank, the so-called deposit under a partial endowment policy is itself at risk and will be wholly forfeited if the policyholder lapses the policy in any of the first several years of the policy period.

If the critics of partial endowment term object in the first place to the use of the word deposit as a product name and specifically as a name for the additional first year premium, they also strenuously object to the practice found in the sales presentations of some agents of emphasizing an apparently generous "rate of return" on the policy which is illustrated by comparing the amount of the additional first year premium with the higher endowment or cash value amount that will be available to the policyholder at the end of the term period. The critics rightly argue that this is an artificially constructed rate of return relationship that may easily divert the consumer's attention from the negative or much smaller rate of return which the policy would provide if it were terminated in any of the intervening years. Furthermore, even if a policyholder held the policy for the full term period, the rate of return emphasized by the comparison of the additional first year premium and the subsequent endowment or cash value tells nothing meaningful about the true cost of the policy.

Aside from the fact that the endowment benefit does not truly derive from the additional first year premium and does not represent a return on that premium this kind of comparison in any event directs the consumer's attention only to certain fragments of the overall cost of the policy. While the misleadingly labeled rate of return produced by this comparison may be manipulated to produce an apparently favorable rate of return, this inappropriate form of disclosure could easily mask what is a relatively unfavorable cost for the simple death protection or term coverage which is the main point of buying the policy. This kind of fragmentary disclosure is not the overall policy cost disclosure which most, if not all, consumer advocates have championed in recent years; a prospective customer being told a certain figure is a rate of return on his additional first year premium may not understand the difference, however, and may easily be misled.

Although the two I have just mentioned are the criticisms most frequently made of some agents and some companies in the marketing of partial endowment term insurance, there are others. Some critics feel, for example, that agents may not adequately explain the automatic conversion features which apply to some partial endowment policies, under which a policy may be converted to straight life with a different premium structure. Others allege that some partial endowment term salesmen use misleading or improperly identified promotional literature as part of their sales presentations. These alleged abuses are no different in kind, it should be pointed out, from abuses that have often been alleged of agents making sales presentations regarding straight life insurance policies and other "traditional" forms of life insurance.

One of the first problems facing an insurance regulator or other responsible parties wishing to take corrective action regarding alleged abuses in the marketing of partial endowment term insurance is to decide to what extent any of these problems are unique to the partial endowment product, and therefore deserving of a unique remedial response, and to what extent they are illustrative of more general problems in life insurance sales that can be addressed through general regulations covering all types of life insurance policies. One of the particularly controversial dimensions of partial endowment term insurance sales is that the need for a higher than average first year premium outlay makes particularly promising sales prospects of consumers who already have traditional straight life insurance policies with significant cash values that could be used to pay the first year premium on a partial endowment term policy, if the decision were made to replace the existing policy. It has been estimated that as many as 40 percent or more of partial endowment term insurance sales may constitute replacements of existing policies, particularly traditional straight life policies. For reasons having to do with their sincere understanding of their clients' best interests, but also no doubt with their own competitive interests and their desire to retain the continuing commission income available from existing policies, agents who sold the existing policies do not take kindly to this abrupt marketing challenge from partial endowment term salesmen. This concern possibly colors the apparent conclusion of some agents and companies who sell mainly straight life insurance policies that partial endowment term sales constitute a unique and nearly overwhelming threat to the consumer welfare.

We note, for example, the special concern of the traditional agents and companies that consumers be spared the significant financial penalties that may result if they purchase partial endowment term policies and then lapse these policies during the first few years of the policy period. The Department of Insurance fully shares this concern, but we are aware that this financial threat to consumers is not a threat uniquely posed by partial endowment term insurance sales. For decades past, the same risk has applied equally - or perhaps to a greater degree, because of the higher premium amounts involved - to purchasers of straight life insurance who lapse their policies during the first few years after purchase. Published statistics show that at least one in five purchasers of straight life insurance do lapse their policies within the first year or two after purchase, and thereby collectively absorb acquisition costs on their policies amounting to many millions of dollars annually. We have not heard such vehement expression of concern about the plight of these policyholders as we now hear about those who may suffer if they lapse a partial endowment term policy.

In similar manner, a representative of a leading company marketing straight life insurance recently testified in another state that, while he thought that state's existing regulation on replacement of life insurance policies was adequate for replacement situations involving traditional policies, it was not adequate for partial endowment term policies. For partial endowment terms policies, he said, there ought to be a unique requirement that the consumer be provided with an "objective index or yardstick", such as the surrender cost index, for both the existing and proposed replacement policy, indicating which policy would be the "most cost-effective." While the Department shares this traditional insurer's concern that consumers considering a partial endowment term policy as a replacement for an existing policy be given comparative cost information on both policies, we wonder why this proposal should be limited only to those replacements involving partial endowment term. We think that a consumer has a need for the best available comparative cost information in any replacement situation, and that his or her needs should be considered independently of any relative advantage accruing to the existing agent and company or the new agent and company in a proposed replacement situation.

Frankly, the problem which the Department of Insurance has with many of the analyses of partial endowment term sales abuses, and many of the proposed remedies, is that they are too enmeshed in the competing concerns and interests of one group or another of companies and agents and not sufficiently attuned to the primary interest of the consuming public in any remedial action which is to be undertaken. We do not doubt for a minute that principals on both sides of this controversy are proceeding on assumptions of what is best or at least good for consumers, but we do think that a less passionate analysis of partial endowment term insurance problems clearly indicates that in their general form they are representative of the kinds of problems the consumer has faced in the life insurance marketplace for some time past.

While we agree with critics of partial endowment term that, for example, the use of the word deposit and the emphasis by some agents on an artificial "rate of return" relationship between this deposit and a subsequent year cash value cannot be condoned, we do not on that account reach the conclusion that partial endowment term insurance is an inherently objectionable and misleading product which deserves to be singled out for particularly harsh and discriminatory regulation. In this respect we find ourselves in agreement with Dr. Joseph Belth, a professor of Insurance at Indiana University and well known consumer advocate, who has written as follows:

I see nothing inherently wrong with deposit term insurance - unless its name is construed as something inherent. I see nothing wrong with a company selling a term policy with a large first-year premium in order to make possible a reasonable level of compensation to the agent. Nor do I see anything wrong with providing some cash values in such a term policy . . . I believe the fundamental problem is one of inadequate disclosure.

I do not intend to suggest by this comment that deposit term should be singled out for rigorous disclosure, because I view deposit term as simply another in a long line of examples of the adverse consequences of inadequate disclosure.

On this point we also find much that is wise in the published comments of Dr. Harold Skipper, a professor of insurance at Georgia State University whom observers on both sides of this controversy acknowledge as an impartial and expert analyst. "The proponents of partial endowment term life insurance are correct," Professor Skipper has written, "in that their product appears often to have been singled out for special, sometimes unfairly discriminatory treatment."

The "concern over misleading terminology used in marketing partial endowment term policies is understandable," Professor Skipper agrees; however, he adds, "the concern is subject to allegations of being self-serving. Why, one may ask, has the life insurance business waited until the late 1970's to express concern for consumers over confusing terminology used to describe its products? Long before one heard of 'deposit term life insurance,' some insurers and agents described their policies and benefits provided thereunder in terms which often were as misleading as those used by the marketers of partial endowment term policies." A case has not been made "that more disclosure is necessary with partial endowment term policies than with other policies," Professor Skipper continues. "A case has been made that different -- not necessarily more -- disclosure is necessary with all life insurance policies. It is hard to understand how different disclosure patterns for different types of life insurance policies will make the consumer's task easier. The consumer needs one regulation which applies to all life insurance policies and which provides meaningful cost information."

On the question of replacements of existing policies by partial endowment term policies, Dr. Skipper usefully points out that "nothing is inherently deceptive or wrong with replacement.... The problems stem not from partial endowment term products themselves but from Replacement Regulations incapable of providing consumers with adequate information for decision-making in virtually all replacement situations.... The implicit assumption in the [existing] replacement regulation is that the average consumer is capable of simply gazing at the many figures contained in the comparison statement and of somehow arriving at the correct decision. This is an heroic expectation." The marketing of partial endowment term policies "simply has highlighted problems which have been in existence for years. The problems should be attacked at their source -- an inadequate Replacement Regulation should be made consistent with the Solicitation Regulation and both should provide high-quality cost information to provide meaningful assistance to the consumer in decision-making."

Finally, regarding the argument of partial endowment term critics that such policies are a special threat to consumers because of the lack of cash values in the early years, Professor Skipper has this to say:

The claim by critics of [these] policies that

consumers do not fully understand the nature of

potential costs on early termination...should be

removed from its self-serving surroundings and elevated to a proper generalized perspective. One could argue that few purchasers of any cash value life insurance policy understand fully the nature of costs to themselves on early termination. Further, incomplete evidence on lapse rates under these policies suggests that if anyone within the life insurance business should be subjected to criticisms about costs because of early lapse, heading the list should be insurers and agents marketing whole life and endowment insurance. High early lapse rates within the life insurance business continue to be a source of problems for and embarrassment to the business.

Noting that some critics have proposed changes in the Standard Non-forfeiture Laws to compel higher cash values in the early years of partial endowment term policies, Professor Skipper warns that "care should be taken to avoid motivations and changes which are couched in terms of punitive action against partial endowment term policies alone." If changes are to be made in non-forfeiture laws to deal with a variety of problems affecting different life insurance products, Professor Skipper advises that "practicality supports making all necessary changes in the law at the same time..." The principle of equity to be applied in such changes, he suggests, is that "any two essentially identical policies be required to have the same minimum cash values."

In considering what remedial changes should be made in New Jersey to eliminate abuses connected with the sale of partial endowment term policies, I think we are fortunate to have the words of an insurance scholar of Professor Skipper's credentials urging us to a fair and balanced course of action. Although the statements I have just quoted would be an obvious comfort to agents and companies selling partial endowment term who do not want to be singled out for harsh treatment, I think Professor Skipper's remarks are equally persuasive to any responsible party with an ordinary sense of fair play. Indeed it is significant that the article by Professor Skipper from which I have just quoted was described as an "excellent paper" and introduced into the record of an insurance department hearing in another state by a vice president of one of New Jersey's leading domestic life insurers as part of his overall submission on what should be done to eliminate abuses in the sale of partial endowment term insurance policies.

The New Jersey Insurance Department believes that there are three essential criteria that should be used to craft a workable remedial response to partial endowment term insurance problems, or to evaluate any of the multitude of proposals that have already been advanced. We believe, first, that any proposal should be evaluated primarily for what it does to advance the overall interests of New Jersey's life insurance consumers, and not for the relative advantage it provides to one or another group of agents or companies who are understandably competing to retain or expand their share of life insurance business in the state. This criterion immediately suggests a second, which is that remedial action should be -- to the extent feasible -- neither piecemeal nor discriminatory but should deal with whole classes of consumer problems and should be applicable across the board to any and all industry practices or products that generate these problems. Third, we subscribe to the traditional wisdom that where a problem can be handled by an administrative agency under existing general statutory standards, it is preferable to address the problem through available administrative procedures.

This brings me, and I appreciate the patience you have shown in allowing me to fill in the relevant background, to a consideration of the Department's position on Assembly Bill #2001. There are two main parts to this proposed legislation. The first is a product-specific set of rules for determining minimum non-forfeiture values or cash values during the succeeding years of a partial endowment policy term. The second is a product-specific miscellaneous list of disclosure rules that would apply to the sale of partial endowment term policies.

To begin with the section of the bill establishing new specific non-forfeiture values for partial endowment term policies, it is the Department's position that these provisions would operate not so much to advance the general interest of consumers as to advance the special interest of the industry competitors of partial endowment term companies and agents. We do not object in principle to the idea of increasing the required cash values in the early years of any life insurance policy. This is one possible approach, as more adequate disclosure is another, to the problem of avoiding or reducing the risk to consumers of significant financial penalties because of early lapsation of policies. What we do find offensive about the specific provisions of Assembly Bill #2001 is that they

single out partial endowment term policies for precisely the kind of discriminatory and punitive regulation that we have said we would like to avoid. If the minimum non-forfeiture values which would be imposed by Assembly Bill #2001 are really necessary to protect the interest of consumers, we would wonder why they are not proposed for application to all cash value life insurance policies.

As matters now stand, if these provisions were enacted, partial endowment term policies would be required to provide higher cash values in the policy's early years than, for example, competing straight life insurance policies sold by Prudential or Metropolitan. We think this is unfair, and we think it is unnecessary. We think it violates Professor Skipper's suggestion that such changes not be couched in terms of punitive action against partial endowment term policies exclusively, and his point that for the sake of practicality, all proposed changes in non-forfeiture laws should be undertaken at the same time. We note that the National Association of Insurance Commissioners is now perfecting recommendations for a variety of improvements in the Standard Non-Forfeiture Laws, and we believe that is the appropriate general context in which to consider equitable changes that would affect partial endowment term policies.

Turning to the miscellaneous list of disclosure rules in the remainder of the proposed legislation, the Department of Insurance has no strong objection to the content of most of these provisions, except that where they would prohibit certain misleading terminology or mandate certain forms of disclosure, we think that the consumer interest and ordinary common sense would dictate that they apply to any life insurance policy where the same kind of problem needs to be addressed.

In a recent meeting with companies and agents who are among the major sellers of partial endowment term insurance and others who are among its severest critics, we proposed to amend the Department's existing life insurance solicitation regulation so that the most important of these proposed disclosures and prohibitions would be available as protections for New Jersey consumers in any and every solicitation situation where they are relevant. We proposed, for example, to prohibit the use of the term "deposit" either in the name of partial endowment term insurance or as a designation for the additional first-year premium, and to prohibit misleading state-ments or implications of a rate of return relationship between the additional first year premium and the endowment available at the end of the policy term. The critics of partial endowment term predictably favored this prohibition, and we found it interesting that the representatives of partial endowment term companies and agents at our meeting were also willing to accept it.

We felt that the single other most valuable provision contained in Assembly Bill #2001 was the designation as an unfair trade practice of "the failure to include information that explains what happens to the additional first year premium if the policy is terminated prior to the end of the term period," or in other words the mandatory disclosure of the risk of a substantial financial penalty if a consumer lapses a policy in the first few years of the policy term. Since this risk may be equal or greater in the case of a traditional straight life policy, we proposed an amendment to the Department's existing solicitation regulation that would mandate such

disclosure for all cash value policies. The reaction to this proposal was also interesting. Representatives of partial endowment term companies and agents were willing to live with it, while their critics were opposed to applying such a rule to the sale of their own policies.

Although the critics of partial endowment term apparently find it consistent to require a special warning of the dangers of early lapsation exclusively for the purchasers of that product, and not for their own, we find this to be a monumental inconsistency. The unwillingness of some partial endowment term critics to live under the kind of rules they would make for others is in our view prima facie evidence of the discriminatory cast of many of these proposals. The Department of Insurance believes that many of the disclosure rules prescribed in Assembly Bill #2001 should be adopted for the protection of New Jersey consumers, but we do not think it is a good or practical idea to fashion separate miscellaneous lists for every different insurance product that may need additional regulation. Still less do we think it is a good or practical idea to engage in such miscellaneous regulatory list-making through the legislative process.

The third criterion we have suggested for the evaluation of proposals on partial endowment term problems is that these proposals should rely, to the extent possible, on available administrative remedies. The Department of Insurance does not believe that the problems relating to partial endowment term insurance are qualitatively different than disclosure and other problems which are currently addressed in the Department's solicitation and replacement regulations, and we believe that those regulations are the obvious starting point for efforts to improve disclosure to consumers. To address the problems through legislation would, we believe, foreclose the opportunities provided through these administrative mechanisms and set a burdensome precedent for legislative involvement in the detailed regulation of dozens of other insurance products with their own problems and with their own avid partisans and critics.

The Department is actively pursuing its study of partial endowment term insurance problems and at the first opportunity, in the January issue of the New Jersey Register, will publish remedial proposals in the form of amendments to the existing life insurance solicitation regulation.

While we have not yet put this proposal into final form, it will cover many of the practices intended to be addressed through the disclosure Standards proposed in Assembly Bill #2001.

In addition, we agree with companies and agents on both sides of the partial endowment term insurance controversy that an improvement in the Department's life insurance replacement regulation is needed, and that this would benefit consumers in a variety of ways including but not limited to partial endowment term replacements. A revised model replacement regulation recommended by the National Association of Insurance Commissioners seems to provide many improvements over our existing regulations, and we will therefore propose changes based on this model in

the January New Jersey Register. One defect of all replacement regulations is that they seem more attuned to the clarification of rights and procedures applicable to existing and replacing companies and agents than directly to the plight of the consumer in trying to make a sound decision regarding a proposed replacement of insurance. Rules governing the conduct of existing and replacing insurers are a step in the right direction, since they increase the likelihood that the consumer will receive information illustrating the argued advantages of either course of action. In any replacement regulation finally adopted by the Department, however, we will try to assure that the consumer is the prime focus of attention and concern, and not merely a passive third party in a vigorous tug of war waged by existing and replacing insurers.

We will of course provide adequate opportunity for industry and public comment on each of our proposed administrative remedies before adopting them in final form.

In conclusion, I would like to thank the Assembly Banking and Insurance Committee for this opportunity to present the Department's views on Assembly Bill #2001. We certainly share your concern that action be taken to correct the problems which it is intended to address. I hope that my comments have been helpful in this regard.



THE NEWARK, N.J. ASSOCIATION OF LIFE UNDERWRITERS

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RUSSELL WELCH

To The Assembly Banking
And Insurance Committee

At The Public Hearing Held
in Trenton on November 12th, 1980

Statement of the Newark Association
of Life Underwriters Presented
By Lili Schmid, CLU.

My name is Lili Schmid, C.L.U., and I am here on behalf
of the Newark Association of Life Underwriters, the
largest local association in the state. I have the
honor of serving as the current President of the Association
and I am accompanied by:

Name

Title

- | | |
|--------------------------------|--------------------------|
| 1) Sheppard D. Huntington, CLU | 1st Vice President |
| 2) Arthur D. Shankman | 2nd Vice President |
| 3) Timothy R. Holt, CLU | Secretary |
| 4) Joseph A. Spencer, III, CLU | Treasurer |
| 5) John H. Priestman, CLU | National Comitteeeman |
| 6) Daniel J. Ryan, CLU | Immediate Past President |

I would like to point out that the majority of our Association
officers have attained the designation of Charter Life

Underwriter (CLU) which is earned by the successful completion of ten (10) extensive examinations covering not only life insurance, but economics, investments, business law and taxation. Further, that the involvement of our officers in Association activities creates no economic advantages to them. Each works to enhance our profession and encourages our members to conduct the sales of life insurance in the best interests of our clients - the buying public.

We are here to seek your support of Assembly Bill A-2001, which addresses itself to improving the non-forfeiture values available to the purchaser of so called Deposit Term Insurance. The bill also seeks to correct certain unethical practices and misleading representations that have been utilized in the sale of this product and should be eliminated in the sale of all life insurance.

We do not advocate, nor do we believe Bill A-2001 will cause the demise of the Deposit Term contract. There are currently many variations of this type product on the market and it does have its advantages and disadvantages to the purchaser. With full and complete disclosure the buying public would be able to determine whether or not this type insurance contract meets their needs.

We also realize that there are agents, including some of our Association members, who truly believe they are selling the contract of the future and are not selling deposit term as a

replacement contract, but as a means of increasing existing coverage.

In addition to the fact that the contracts often lack non-forfeiture values on early termination, the basic problem with the sale of Deposit Term is the abuses being made by a large number of agents selling the policies. Many of these same agents have little training in the application of insurance to the needs of the public. Their whole sales approach is based on the replacement or raiding of existing contracts. This replacement approach has the effect of charging the buying public with two sales commissions for the same basic coverage. It would certainly be naive to assume that the public is not bearing the cost of this double commission penalty.

The sales process involved has taken many devious forms including a telephone tape recording made by a past member of the U.S. Congress, utilization of misleading and untrue statements, quotations made out of context from governmental reports and last but not least, an open attack on the integrity of other sales people based on totally false charges.

I personally attended a seminar sponsored by a Major Insurance Company selling a form of Deposit Term. The meeting was conducted by a Vice President of Company and was designed to recruit agents

to sell their products. After an explanation of the product, an outline was given of the ways and means to sell the product as the replacement of existing insurance and not on how to meet the needs of the public. This included how to order a computer prepared statement not from the insurance company, but an independent firm which would display the advantages of replacement. No mention was made as to the disadvantages of the replacement, nor what alternative would be available to the insured if they retained their current insurance.


Unfortunately, our industry periodically goes through "The Return of the Locust" who feed upon the productivity of others. Many of the same advocates of Deposit Term, were found to be advocates in the 1960's of replacing current contracts with Term and Mutual Funds. For the many buyers who succumbed to this approach, the years did not produce the magic economic gains promised by these sales people, and the buyers in fact suffered substantial economic losses.

I am sure that many of those who will or have appeared before you, to see the defeat of this bill, will state the bill is a restraint of trade, and violates their constitutional rights. Please keep in mind the Bill does not seek the elimination of the product, but rather the inclusion of provisions that

protect the buyer and which are currently found in other cash value policies. Also they may accuse the backers of this Bill of being PAWNS of major insurance companies, and even recipients of economical inducements. Further, they attack the motives of other agents, while at the same time failing to disclose that the product they seek to market as a replacement, often yields equal or greater commissions than those of the existing agent.

Please do not be mislead by these heated and emotional charges, but try to concentrate on whether or not the Bill in question seeks to accomplish the greatest good for the buying public. If you are able to reach this conclusion we ask your support of A-2001.

Thank you.


Lili Schmid, CLU.

STATEMENT AT NEW JERSEY ASSEMBLY PUBLIC HEARING

NOVEMBER 12, 1980

I am George W. Harding, Senior Vice President and Actuary, University Life Insurance Company of America, Indianapolis, Indiana. I am a Fellow of the Society of Actuaries and a member of the American Academy of Actuaries. I am speaking in opposition to assembly bill 2001 and will give you a number of reasons why this bill should be abandoned.

- (1) A.2001 amends Chapter 25, which deals primarily with the cash value requirements of all types of policies.

Those who have reviewed this Chapter know it is quite technical and virtually incomprehensible to those who are not actuaries.

A.2001 is not well worded and tends to confuse rather than enlighten.

I suggest that any needed changes in such matters be left to actuaries and to insurance department personnel for recommendation.

- (2) Cash values and other insurance matters are separately regulated by each of the various states.

Complete uniformity among the states is impossible but there is substantial uniformity in cash value laws throughout the states.

This uniformity is promoted through the NAIC by promulgation of model regulations and legislation.

Uniformity is desirable so that costs may be kept low and confusion minimized.

- (3) A major package of amendments to this very Chapter 25 has been in the making for over two years.

The package was submitted for final approval last month to a special subcommittee of NAIC which deals with these actuarial matters.

The package will be recommended for adoption at the NAIC meeting to be held in New York this December.

Each state will then be asked to have the package introduced as legislation as soon thereafter as possible.

The package is of considerable importance to the insurance industry as well as to insurance purchasers. The effect will certainly be to substantially reduce the cost of insurance.

- (4) This amendment package deals with a number of changes.

Of significance today is the fact that cash values for additional first year premium policies are affected by certain of these amendments.

The effect will not be nearly so severe as would that of this bill, yet the amendment package will -- we hope -- receive substantial support from the insurance industry as a whole.

Thus, there is no need to "jump the gun" with this bill.

- (5) The apparent effect of this bill would be to require early cash values, in the very first year for most additional first year premium policies, whereas cash values are not provided now until later years.

The early cash values are benefit costs which must be provided out of the total pool of funds provided by the payment of premiums on these policies -- as are all benefit costs.

Clearly then, the increased benefit costs can be met only by (1) reducing commission expense or (2) by increasing premium income.

Thus, either New Jersey consumers suffer from increased insurance costs (and the increases necessary are substantial) or New Jersey agents suffer from reduced commissions or both suffer. (and the reductions are substantial)

The likely result would be to make these policies either unproductive for the agent to sell or imprudent for the purchaser to buy.

- (6) The effect of this bill is to provide greater benefits than are now provided to those who terminate early; those who continue to pay premiums pay the added cost.

Those who terminate early do not pay enough to cover the actual costs incurred up to the time of termination.

Those who continue must make up that loss.

- (7) The early cash values which would be required by this bill for additional first year premium policies are unreasonable and inconsistent when compared with other types of policies.

For example, whole life policies require a premium significantly greater than is charged for additional first year premium policies, yet no cash value is required by Chapter 25 until the third year.

Likewise, if premiums for an additional first year premium policy did not reduce after the first year and instead remained level -- thus costing a great deal more -- the requirements of this bill would not apply and yet no cash value would be required for many years!

Further, the actual pattern of premium payments called for under an additional first year premium policy after the first year is not level but is instead increasing -- so as to more nearly follow true costs of insurance -- the cash value requirements for such a policy under this bill would be the same as for an otherwise identical policy with level premiums. Such a requirement flies in the face of fact and reason and, further, is inconsistent with requirements for other policies with comparable variations in premium scales.

- (8) This bill would do a disservice to insurance legislation in NJ by introducing into the law faulty concepts and perceptions of the nature of life insurance contracts and the relationship between premiums and benefits.

Each life insurance contract provides a package of benefits -- death benefits, cash surrender values, options to forfeiture, loans, etc. In exchange for these benefits, a series of premium payments is specified at the outset.

No particular benefit provided in a policy can be identified with any particular premium or part of it.

Yet this bill clearly assumes that a part of the first year premium is solely allocable to certain benefits and no other.

Quite the contrary is true.

- (9) As written, it appears that this bill would apply to policies currently in force or perhaps even those terminated some years ago.

If so, this bill would impair contractual relationships and most likely would be found unconstitutional.

- (10) With respect to the portion of this bill dealing with advertising and sales practices, I'm really surprised to see a limitation only for additional first year premium policies.

The cited practices are presumably as reprehensible when performed with respect to other types of policies as with additional first year premium plans.

- (11) Certain of the items proposed as unfair trade practices are inappropriate.

(g) The use of the various terms would seem to be appropriate under certain circumstances, for example when true.

(h) For any policy, termination results in forfeiture of all premiums paid, subject only to any cash value which may be available.

(i) The separation of premium into artificial components simply confuses the issue. The entire amount of each premium purchases the entire package of benefits provided by the policy.

- (12) The implementation period of 30 days is far too short. This bill, if passed, would require recalculation of all cash values for each issue age, printing of those values and refiling of the new form for approval by the NJ insurance department.

A more realistic period would be six months.

TO SUMMARIZE, I urge you to set this bill aside.

- (1) It is not needed, because the NAIC is working on the same subject and will be taking action in about a month.
- (2) Even if it were needed, it would produce seriously damaging effects to either NJ purchasers or NJ sellers of this product, or both.
- (3) The effects of this bill benefit early terminators who even now do not pay their fair share, and penalize those policyholders who continue.
- (4) This bill would produce unreasonable and inconsistent results in comparison with other policies.

STATEMENT OF JOHN D'AMICO, JR.
THE MUTUAL BENEFIT LIFE INSURANCE COMPANY
NEWARK, NEW JERSEY

Assembly Committee on Banking and Insurance
Hearings on Assembly Bill No. 2001
Trenton, New Jersey
November 12, 1960

I appreciate the opportunity to testify before your committee today on behalf of The Mutual Benefit Life Insurance Company of Newark, New Jersey.

Mutual Benefit Life is one of the oldest life insurance companies in the country, having been chartered in the State of New Jersey in 1845. We are among the 20 largest mutual life insurance companies in the United States with total life insurance in force in excess of 35 billion dollars and assets of more than 5 billion dollars.

We have achieved our position in the life insurance industry by providing over the decades a high quality portfolio of life insurance products. We have never failed to meet our contractual obligations, and we have always treated our policyholders equitably.

We are appearing today in support of Assembly Bill 2001, because we feel that its enactment is in the best interests of our policyholders. We also feel that it is in the best interests of all of those citizens of the State of New Jersey who might purchase insurance products in the future.

Mutual Benefit does not offer for sale the additional first-year premium life insurance policies (commonly referred to as "deposit term" policies) which Assembly Bill 2001 seeks to regulate for the following reasons:

- (1) Deposit term is merely a special type of endowment insurance or front-end-loaded term insurance, or a combination thereof.
- (2) We already offer term and whole life insurance policies which provide better coverage at a lower cost than is normally provided under deposit term policies.
- (3) The deposit term product is inherently susceptible to manipulation and misrepresentation.
- (4) Deposit term unfairly penalizes the policyholder who, for whatever reason, must terminate coverage prior to the end of the term.
- (5) Deposit term does not offer the flexibility of whole life plans with respect to policy loans, waiver of premiums in the event of disability and other valuable extra benefit riders.

- - -

We do not contend that the marketing of deposit term should be absolutely prohibited. We do feel, however, that the experience in the market place to date suggests the need for legislation such as Assembly Bill 2001 to extend to consumers the protection of the nonforfeiture laws previously enacted by the Legislature and to curtail abuses in the marketing of deposit term which arise from its unique features.

Rules and Regulations

[31 PA. CODE CH. 87]
Modified Premium Life Insurance

December 13, 1979

The Insurance Department, by this order, adopts an amendment to 31 Pa. Code Part IV (Life Insurance) Chapter 87 (relating to requirements for certain life insurance policies and sales practices) by amending § 87.13 (formerly relating to deposit term policies and now to be related to modified premium life insurance) as set forth in Annex A to this order.

Proposed rule making on § 87.13 was first published at 8 Pa. B. 2372 (August 26, 1978), with a notice of hearing at 8 Pa. B. 2607 (September 16, 1978), at 8 Pa. B. 3515 (December 9, 1978), and at 9 Pa. B. 1759 (June 2, 1979). Fiscal Note I-79-6 was published at 9 Pa. B. 1759 (June 2, 1979).

At 9 Pa. B. 3381 (October 6, 1979), § 87.13 was republished as proposed rule making. As a result of that notice comments were received and individually evaluated. Some comments voiced support for the amendment of § 87.13. Some unfavorable comments objected to permitting the sale of modified premium life insurance. However, the Insurance Department has concluded that with the adoption of this regulation sufficient safeguards will be present to protect a purchaser of modified premium life insurance. Other unfavorable comments related to the treatment of nonforfeiture values in the regulation. However, after review, the Insurance Department has determined that its treatment of nonforfeiture values in the regulation is justified and will prevent undue forfeiture of premium when a modified premium life insurance policy is terminated. One unfavorable comment related to additional disclosure requirements for modified premium life insurance as compared to disclosure requirements for other types of life insurance. However, it is felt that the unusual features of modified premium life insurance justify additional disclosure requirements. The final comment made a meritorious suggestion that a sentence be added at the end of paragraph (8) of subsection (c) of § 87.13; this suggestion has been incorporated in Annex A to this order.

The Department will accept modified premium life insurance filings after publication of this order; however, approval will not be given prior to the effective date of this order. To expedite filings, all modified premium life insurance filings should be accompanied by the following: all policies and riders, including annuities, which will be solicited with the modified premium life policy; "John Doe" completed disclosure forms required by § 87.13(c)(6) and (7), and a "John Doe" completed replacement form required by § 87.13(c)(8).

The regulation hereby adopted is adopted pursuant to authority contained in The Insurance Department Act of one thousand nine hundred and twenty-one, as amended (40 P.S. §§ 1-321); The Insurance Company Law of 1921, as amended (40 P.S. §§ 341-991); The Fraternal Benefit Society Code (46 P.S. §§ 1141-101-1141-1001); The Uniform Insurance Practices Act (40 P.S. §§ 1171.1-1171.15) and The Administrative Code of 1929, as amended (71 P.S. §§ 66, 186, 411 and 1121) and in conformity with the Commonwealth Court Opinion rendered in *Pennsylvania Ass'n of Mutual Life Insurers v. Insurance Department*, 410 Pa. 101, 197 A.2d 101, 20 A. Supp. 2d 101, 20 A. Supp. 2d 101, 20 A. Supp. 2d 101.

pard, Insurance Commissioner, Pa. Cmwlth 371 A.2d 564, 29 Commonwealth Ct. 459 (1977), Decree affirmed by Supreme Court, per curiam, Pa. 393 A.2d 1131 (1978); and Crown Life Insurance Company v. Commonwealth of Pennsylvania, Department of Insurance, 39 Pa. Commonwealth Ct. 94 (1978), Pa. Cmwlth 394 A.2d 1305 (1978).

The Insurance Department finds:

(1) That public notice of intention to amend the administrative regulations amended by this order has been duly given pursuant to §§ 201 and 202 of the C.D.I. (45 P.S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) That the amendment of the regulations of the Insurance Department in the manner provided in this order is necessary and appropriate for the administration and enforcement of the authorizing statutes.

The Insurance Department, acting pursuant to the authorizing statutes, orders:

(A) The regulations of the Insurance Department, 31 Pa. Code Part IV, Chapter 87, are amended by amending § 87.13 to read as set forth in Annex A.

(B) The Insurance Department shall submit this order and Annex A hereto to the Department of Justice for approval as to legality as required by law.

(C) The Insurance Commissioner shall duly certify this order and Annex A hereto and deposit the same with the Legislative Reference Bureau as required by law.

(D) This order shall take effect 60 days after publication in the *Pennsylvania Bulletin*.

By the Insurance Department

HARVEY BARTLE, III,
Insurance Commissioner
Annex A

TITLE 31. INSURANCE

PART IV. LIFE INSURANCE

CHAPTER 87. REQUIREMENTS FOR CERTAIN LIFE INSURANCE POLICIES AND SALES PRACTICES

GENERAL PROVISIONS

§ 87.13. Modified premium life insurance policies.

(a) *Description of modified premium life products.*

(1) Modified premium term insurance is a contract of insurance which involves the payment of an additional first year premium which is returned to the policyholder at the end of a selected period of years, usually eight or ten, increased by both interest and forfeitures of those who terminate their contracts during the term period.

(2) Modified premium whole life is similar to modified premium term insurance except that the term insurance benefit is converted to a whole life plan at attained age. This conversion to whole life coverage may be automatic or elected or the coverage period may be continuous. In some policies, the increased additional premium benefit is not paid out in cash upon conversion to whole life. After the conversion, the nonforfeiture values of the whole life policy may or may not be amended by the value of this additional premium. Some converted policies provide nonforfeiture values which progress so that the additional premium gradually disappears over

the life of the policy. Some modified premium whole life policies offer the policyholder the option to "roll over" the value and start a new modified premium whole life policy instead of continuing on the original contract. In this case and depending upon the policy design, some or all of the augmented premium from the original coverage is used as the initial large premium for the new coverage; thus, it is possible for a modified premium whole life insurance policy to be rolled over several times so that it in effect becomes a series of renewable modified premium life insurance policies.

(3) Any other life insurance product which is similar to a modified premium life product and is determined by the Insurance Commissioner to be a modified premium life product will be subject to the requirements of this chapter.

(b) *Explanation.* To avoid possibilities of misunderstanding of the nature of modified premium life products, such products must be carefully sold and fully explained. This section sets forth minimum disclosure requirements; also, this section sets forth minimum nonforfeiture requirements for modified premium life products.

(c) *Minimum disclosure requirements for modified premium life products.*

(1) All advertisements, sales materials, and sales presentations of modified premium life products which fail to fully and fairly inform an applicant or prospective insured as to future premium changes, benefits, and related options constitute a misrepresentation as to material facts. No misleading statements or questions shall be made in defining or comparing other types of life insurance products; furthermore, comparison used in solicitations shall be accurate, fair, and complete.

(2) A disclosure shall be included in conspicuous print on the first page or specifications page of the policy indicating that, if the policy is terminated prior to a certain policy year, all or a portion of the additional first-year premium will be forfeited.

(3) If the policy contains a provision permitting voluntary additional deposits as provided for by Chapter 86 of this title (relating to premium and retirement deposit funds), the nature thereof shall be disclosed. The disclosure shall distinguish such deposit provision and the insured's rights thereunder from the additional first-year premium.

(4) When an annuity policy or rider is solicited in connection with a modified premium life product; the following requirements apply:

(b) The nature of the annuity coverage shall be disclosed. The disclosure shall distinguish the annuity coverage and the annuitant's rights thereunder from the additional first-year premium.

(b) If provided by a policy, the annuity coverage shall provide annuity benefits which are available under annuity policies generally offered by the insurer; if provided by a rider, the rider shall provide annuity benefits which are available under annuity riders generally offered by the insurer.

"APPENDIX 'A'"

RULES AND REGULATIONS

(iii) The continuation of the annuity coverage must be independent of the continuation of the modified premium life product. If the annuity coverage is provided by a rider, the rider shall contain a right of conversion to an annuity policy which, at the option of the insured, provides benefits that are no less favorable than those contained in the converted annuity rider.

(iv) Any illustrative disclosure concerning the annuity coverage shall be based on the guaranteed interest rate or rates provided by the annuity policy or rider. Excess interest payments provided by the annuity policy or rider can be illustrated separately but only in addition to the guaranteed rate illustration.

(5) The term "deposit" shall not be used in referring to the additional first-year premium.

(6) A disclosure form shall be given to every prospective purchaser of a modified premium life product no later than the time the application form is signed by the applicant. The disclosure form shall be in addition to but can be included in the disclosure statement required by Chapter 83 of this title (relating to disclosures in solicitation of life insurance). The form shall contain amounts pertaining to the specific case and shall show the following amounts for each of the first 20 policy years and representative policy years thereafter sufficient to clearly illustrate the premium and benefit patterns. The disclosure form must also contain the following:

(i) The amount of the annual premium payable for the modified premium life policy, each insurance rider, and any annuity policy or rider, with the premium amount for each shown separately.

(ii) The guaranteed amounts payable upon death at the end of the policy year as provided by the modified premium life policy, each insurance rider, and any annuity policy or rider, with the amount for each shown separately.

(iii) The guaranteed cash surrender values at the end of the year of the modified premium life policy, each insurance rider, and any annuity policy or rider, with values for each shown separately. Any guaranteed endowment amounts provided by the modified premium life policy shall not be included in the illustrated cash values.

(iv) The cash dividends payable at the end of the policy year as provided by the modified premium life policy, each insurance rider, and any annuity policy or rider, with the amount for each shown separately. Dividends need not be illustrated beyond the 20th policy year. *

(v) Guaranteed endowment amounts payable under the modified premium life policy.

(7) If the modified premium life policy provides for policy change options, the nature of each option shall be disclosed. Such disclosure shall set forth a reasonably complete explanation of the options, including the guaranteed premium rates and insurance benefits. This disclosure must be provided to the prospective purchaser no later than the time the application form is signed by the applicant and can be included in the disclosure statement required by Chapter 83 of this title (relating to disclosures in solicitation of life insurance).

(8) In the case of replacement situations, the premium changes and policy change options shall be fully disclosed to the prospective purchaser. This disclosure can be included in the replacement statement required by Chapter 81 of this title (relating to replacement of life insurance and annuity policies). In addition, a copy of the disclosure statement required by paragraph (6) of this subsection shall be furnished to the replaced company on request.

(d) *Certifications and maintenance of disclosure form delivery.*

(1) The agent or representative shall submit to the insurer with or as a part of the insurance application a statement, signed by him, certifying that the written disclosure form was given no later than the time that the application was signed by the applicant.

(2) The insurer shall maintain the agent or representative's certification of disclosure-form delivery in its appropriate files for at least three years or until the conclusion of the next succeeding regular examination by the Insurance Department of its domicile, whichever is later. The absence of the certification from the appropriate files of the insurer shall constitute *prima facie* evidence that no disclosure form was provided to the applicant of a modified premium life policy.

(e) *Minimum nonforfeiture requirements for modified premium life products.*

(1) In the case of modified premium term insurance, nonforfeiture values shall be at least as great as those calculated by applying section 410A of The Insurance Company Law of 1921 (40 P. S. § 510.1) to the policy. The present value of the future guaranteed benefits used in the calculation of the adjusted premiums for the policy shall be equal to: to present value, at the date of issue of the policy, of the sum of the guaranteed term insurance benefits provided for by the policy up to the end of the term period plus the pure endowment benefit provided for by the policy at the end of the term period.

(2) In the case of modified premium whole life insurance, minimum nonforfeiture value requirements shall be determined by applying section 410A of The Insurance Company Law of 1921 (40 P. S. § 510.1) separately to the term coverage period and the whole life coverage period. If a pure endowment is not paid out in cash to the policyholder upon conversion to whole life insurance, minimum nonforfeiture values for the whole life insurance policy shall be not less than those computed under section 410A of The Insurance Company Law of 1921 (40 P. S. § 510.1) for the whole life insurance coverage plus the value of the pure endowment benefit accumulated at a rate of interest specified in the policy for accumulating that benefit.

(3) In the case of modified premium life products which differ from those described in paragraphs (1) and (2) of subsection (a) of this section, the procedures for determining minimum nonforfeiture value requirements under this subsection shall be consistent with the requirements of paragraphs (1) and (2) of this subsection and the intent of section 410A of The Insurance Company Law of 1921 (40 P. S. § 510.1).

(4) In no event shall the calculation procedures set forth in this subsection be construed as permitting any nonforfeiture value lower than those which would otherwise be required in the absence of this subsection.

(f) *Fraternal benefit societies.* The provisions of this section apply to all fraternal benefit societies authorized to transact the business of life insurance in this Commonwealth.

(g) *Compliance.* Only those modified premium life insurance policies which are in complete compliance with the requirements of this subchapter may be sold and issued in this Commonwealth.

(h) *Penalties.* Failure to comply with provisions of this section will subject the violator to penalties prescribed by section 354 of The Insurance Company Law of 1921 (40 P. S. § 477b) and all other statutes and regulations which apply.

[P. S. B. Doc. No. 79-1880 Filed December 28, 1979.
9:00 a.m.]

November 3, 1980

Hal M. Wolfe
14 Cobblestone Court
Howell, New Jersey
07731

In June of 1980 I had my whole life insurance replaced with Modified Premium whole life through Charter Security Life Insurance Company. The insurance amount remained the same but the options for the use of your money are more towards the consumer's favor. I am now able to use my cash value accumulating in the policy without having to pay interest as was the case with my Aetna and Prudential Policies. Should I use any part of my savings it is not deducted from the face amount of my policy as it would have with my old policies. Also in the event of my death my family will receive the face amount PLUS all savings which doubles my death benefit. Aetna and Prudential would of only paid the face amount and my cash value would have not been paid to my family! Please investigate my old companies as to why they rip-off the public like they do. Also, my new agent educated me to the true differences in the insurance industry.

BRODART, INC.	Cat. No. 23-221

BRODART, INC.

Cat. No. 23-221



